

Order 221-16/17

Amended to delete, in Section 14-281(g), "Amendments brought forth by the city will require a supermajority of the City Council to take effect.": 9-0 on 5/1/2017

Passage as amended: 9-0 on 5/1/2017

Effective 5/31/2017

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 14  
Re: INSTITUTIONAL OVERLAY ZONE**

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

*That Chapter 14, Sections 14-277 to 14-282 of the Portland City Code are hereby amended as follows:*

- Art. I. In General, § 14-1--14-15**
- Art. II. Planning Board, § 14-16--14-45**
- Art. III. Zoning, § 14-46--14-490**

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Div. 16. Waynflete School Overlay Zone, § 14-276--14-276.10

Div. 16.1. Institutional Overlay Zone (IOZ), § 14-277--14-293

Div. 17. B-7 Mixed Development District Zone, § 14-294-14-304

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**DIVISION 16.1. INSTITUTIONAL OVERLAY ZONE (IOZ)**

**14-277.—Reserved. Purpose of the Institutional Overlay Zone**

The Institutional Overlay Zone (IOZ) designation provides a regulatory mechanism available to the city's four major medical and higher education campuses where an improved regulatory structure is needed to facilitate a consistent, predictable, and clear growth management process. The purposes of the Institutional Overlay Zone are to:

(a) Acknowledge that the city's major academic and medical institutions play a prominent role in the health and well-being of

the local and regional community, and in order to sustain that role, these institutions need flexibility to change and grow;

(b) Encourage proactive planning for institutional change and growth which identifies and addresses likely long-term institutional needs and cumulative impacts while leveraging potential benefits at the neighborhood, city, and regional level;

(c) Ensure that institutional change and growth both complements and, as appropriate, integrates adjacent or surrounding neighborhoods through carefully planned transitions;

(d) Support the formation and continuation of mutually beneficial public-private cooperation;

(e) Support an ongoing public engagement process that benefits both the institutions and nearby neighborhoods;

(f) Reflect Comprehensive Plan and other policy objectives;  
and

(g) Provide a consistent regulatory approach to all major institutions which allows unique regulatory requirements that balance the particular needs of institutions with the needs of the surrounding neighborhood and wider community.

#### **14-278.—Reserved. Location and Applicability**

The city's four primary medical and higher education institutions are eligible to apply for designation as Institutional Overlay Zones. The Eligible Institutions are the two major hospital institutions of Maine Medical Center and Mercy Hospital and the two major academic institutions of University of Southern Maine and University of New England, their successors and assigns. Designation as an IOZ is the preferred mechanism where the Eligible Institution's proposed development is inconsistent with the existing zoning.

#### **14-279.—Reserved. Establishment of an Institutional Overlay Zone**

(a) Application for an Institutional Overlay Zone. Where the Eligible Institution seeks designation as an IOZ, they shall submit a zone change application consisting of two components:

1. An Institutional Development Plan (IDP) (see Section 14-280).

2. A Regulatory Framework (see Section 14-281) that would, when and if adopted, be the text and map amendment to the City's Land Use Code and Zoning Map.

(b) Required Public Involvement. At least two neighborhood meetings shall be required. The first shall be held prior to the formal submission of a zone change application for an Institutional

Overlay Zone and the second shall be held during the City's review. Meetings shall identify the concerns, if any, of affected residents and property owners, and inform the development of the Institutional Development Plan (IDP) and Regulatory Framework. Meetings shall be held in a convenient location proximate to the institution. The applicant shall provide written notification to property owners of record within 500 feet of the proposed IOZ boundary at least ten days prior to the meeting dates and maintain written records of the meetings.

(c) Required Scoping Meeting. The Eligible Institution shall meet with the Planning Authority after the first required neighborhood meeting and prior to submission of the zone change application to confirm the focus of the Institutional Development Plan (IDP) and Regulatory Framework, including associated study areas that may be outside of the proposed IOZ boundary. The IDP and Regulatory Framework will vary in detail and focus depending on the Eligible Institution and its particular context. The content requirements in Sections 14-280 and 14-281 and the comments from neighborhood meeting(s) shall provide direction for the content of the IDP. The Planning Authority or Planning Board may require additional information or modify content requirements as is relevant to the Eligible Institution (see Section 14-280(c)).

(d) Reviewing Authority.

1. The Planning Board shall review the zone change application, including the IDP and Regulatory Framework. At least one public workshop and a public hearing before the Planning Board are required.
2. Upon recommendation of the Planning Board, the City Council shall review and consider adoption of the Institutional Overlay Zone and the accompanying Regulatory Framework as an amendment to the city's code of ordinances.

(e) Future Institutional Development.

1. All new development by the Eligible Institution within the boundary of the IOZ shall be compliant with the IOZ and accompanying Regulatory Framework, consistent with the IDP, consistent with the Comprehensive Plan, and meet applicable site plan standards, unless such standards are superseded by the Regulatory Framework.
2. Any use/development proposed by the Eligible Institution outside the IOZ boundary that complies with the zoning for permitted uses in that location shall be reviewed under the standards of that zone. Any use/development proposed by an Eligible Institution outside of the IOZ boundary that is

proposed in a residential zone and is functionally related to the operations within the IOZ shall be addressed by the IDP and require an amendment to the IDP.

**14-280.—Reserved. Institutional Development Plan (IDP)**

(a) Purpose. Any use conducted by an Eligible Institution and any construction by an Eligible Institution in an Institutional Overlay Zone shall be consistent with an Institutional Development Plan (IDP) approved by the Planning Board in accordance with this ordinance. The purpose of the IDP is to establish baseline data about institutional land uses, facilities, and services and measure, analyze, and address the anticipated or potential impacts of planned institutional growth and change. The IDP shall serve as a background document that supports the proposed Regulatory Framework and frames subsequent site plan review(s).

(b) Planning Horizon. An IDP shall provide the city and abutting neighborhoods with a clear outline of the anticipated or potential growth and change of the Eligible Institution for the short- to medium-term (e.g. 1-5 and 5-10 years respectively), as well as a conceptual growth plan for the long-term (e.g. 10 years or more); however, the specific planning horizons for each institution will be determined as part of the IDP approval process.

(c) Content. The IDP submission shall address the following elements unless specifically modified by the Planning Authority or Planning Board, with the scope and level of detail to be clarified at the required Scoping Meeting:

1. Context Information

- a. The institution's adopted mission, vision, or purpose statement
- b. A summary of relevant baseline data on the institution, including:
  - i. A neighborhood context plan;
  - ii. An inventory of current programs and services;
  - iii. A current census of the number of people using the institution (e.g., employees, enrollment, patients), with an indication of maximums and minimums over time;
  - iv. An inventory and/or plan of all existing property holdings within the main campus

and within the City of Portland, including an indication of functional land use links between off-campus properties and the main campus (e.g. remote parking);

v. An inventory and/or plan of existing facilities, including data on use, floor area, and any existing functional connections between facilities.

c. A summary of the baseline characteristics of the existing campus and context of the institution, based on identified study areas, including:

i. A summary of existing resources, such as historic, open space, and natural resources;

ii. A summary of the existing transportation system, including vehicular, pedestrian, transit, bicycle, and parking supply, demand, and utilization;

iii. A summary of existing public infrastructure supporting the institution, including demand, utilization and any capacity issues;

iv. Relevant municipal plans, projects, and studies that may influence the IDP study area and opportunities for integrating institutional growth.

d. A summary of public involvement in the development of the IDP, including major areas of public concern.

2. Assessment of Future Institutional Growth and Change

a. A description of institutional needs and areas of future institutional growth and change, including:

i. Projected census of users (e.g., enrollment /employment/patient/visitor figures and anticipated variations over time);

ii. Institutional objectives for property both within and outside the IOZ boundary (e.g. acquisition and/or disposition), including an indication of any functional land use connection for sites outside the IOZ boundary to the main campus; and

iii. A Development Plan addressing anticipated or potential institutional needs and

physical improvements, including the proposed boundary of the IOZ and any phasing of the development.

b. Analysis and associated plans that address the following elements in terms of anticipated growth or potential impacts within the identified study area, and support the development parameters as set out in the Regulatory Framework:

i. Transportation and access

a. An analysis of the projected changes in parking demand, supply, and impacts to the off-street and on-street parking capacity, including an explanation of the proposed parking plan;

b. An analysis of the projected changes in vehicular, pedestrian, transit, and bicycle access routes and facilities, their capacity, and safety;

c. A transportation, access, and circulation plan, representing the synthesis of the analysis, and including a program of potential improvements or set of guidelines to address access deficiencies to and within the IOZ. The plan should outline proposed mechanisms and potential strategies to meet transportation objectives, including transportation demand management, phasing, and when a Traffic Movement Permit (TMP) may be required.

ii. Environment

a. An analysis of potential cumulative impacts on natural resources and open spaces;

b. An analysis of projected energy consumption, hazardous materials generation, noise generation, and similar issues as relevant;

c. An environmental plan, representing the synthesis of the analysis and including a proposed program or set of guidelines for future preservation,

enhancement, conservation, and/or mitigation.

iii. Infrastructure

- a. An analysis of projected public utility demand and the capacity of associated infrastructure;
- b. An analysis of projected public safety needs and projected impacts to the capacity of these services;
- c. An infrastructure plan, representing the synthesis of the analysis and including a proposed program or set of guidelines to support sustainable growth.

iv. Design

- a. An analysis of projected impacts to neighboring properties and public spaces, including potential shadow, wind, and lighting impacts, impacts of height and massing, and impacts to historic resources;
- b. An analysis of transition areas between the institution and adjoining neighborhoods, including identification of key character defining components of the surrounding context;
- c. An analysis of existing Crime Prevention Through Environmental Design issues and identification of how these principles would be addressed as part of the proposed campus development;
- d. A conceptual built environment/public realm plan, representing the synthesis of the analysis and including a set of guidelines for urban design, landscape, open space, and streetscape treatments, with particular attention to the treatment of edges (both within and abutting the IOZ boundary) to achieve compatible transitions.

v. Neighborhood Engagement

- a. A plan for ongoing community engagement that represents best

practices, promotes collaborative problem solving around community concerns, fosters transparency, and identifies mechanisms for neighborhood feedback and institutional accountability;

- b. A property management framework that identifies the institution's process for handling operational property issues with neighbors;
- c. Strategies for assuring communication pertaining to property acquisition and disposition in surrounding neighborhoods;
- d. A set of construction management principles, to apply to all institutional construction, that represent best practice, aim to minimize short- and long-term construction impacts on surrounding residents and businesses, and ensure a clear communication strategy is in place in advance of construction.

(d) Standards of Review. The IDP shall:

- 1. Address all content requirements, unless explicitly modified by the Planning Authority or Planning Board;
- 2. Reflect the issues/topics identified in the required public process;
- 3. Demonstrate consistency with the city's Comprehensive Plan and the purpose of this ordinance;
- 4. Demonstrate how the property ownership, proposed growth, and requested Regulatory Framework relate to the institution's mission;
- 5. Demonstrate that traffic and parking impacts have been anticipated and that the proposed parking provision is justified as based on an assessment of options for reducing traffic and parking demands;
- 6. Outline an approach to open space, natural, and historic resources that supports preservation and enhancement.
- 7. Demonstrate that potential cumulative environmental impacts have been anticipated and can be minimized or satisfactorily mitigated;

8. Demonstrate that utility impacts have been anticipated and can be minimized or satisfactorily mitigated;
9. Reflect a comprehensive design approach that ensures appropriate transitions with the existing or future scale and character of the neighboring urban fabric;
10. Promote compatibility with existing or future uses in adjacent neighborhoods, maintain housing, and support local amenities;
11. Anticipate future off-site improvements that would support the integration of the institution into the community and city-wide infrastructure;
12. Conform with Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within one hundred (100) feet of designated landmarks, historic districts, or historic landscapes, the IDP shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity; and
13. Incorporate strategies to support clear communication and ongoing public engagement between institutions and nearby neighbors.

(e) Approval. Upon finding that an Eligible Institution's IDP meets the standards of review, the Planning Board shall approve, approve with conditions, or deny an IDP.

(f) Monitoring. The IDP shall establish a schedule for reporting on IDP implementation at regular intervals of not more than ten years from the date of approval of the initial or amended IDP, and identify thresholds for IDP amendments;

(g) Amendments. An approved IDP shall guide campus development unless and until amended. If at any time the Eligible Institutions request minor amendments to an approved IDP, the Planning Authority may approve such minor amendments, provided that they do not constitute a substantial alteration of the IDP and do not affect any condition or requirement of the Planning Board. The applicant shall apply with a written statement of the proposed amendment and proposed amended IDP to the Planning Authority, whose decision as to whether the amendment is minor shall be final. Major amendments shall be reviewed by the Planning Board. When the IDP is amended, the baseline data in the IDP shall be updated as appropriate.

#### 14-281. Regulatory Framework

(a) Purpose. The Regulatory Framework translates the IDP into a set of clear and specific zoning requirements for the IOZ that constitute the text and map amendments to the City's Land Use Code and Zoning Map. The zoning requirements are anticipated to include parameters that guide the growth and change of the institution as well as broad strategies to address potential impacts, with plans and details to be developed under site plan review.

(b) Applicability. The Regulatory Framework shall apply only to properties that are within the IOZ boundary and to which the Eligible Institution holds right, title, or interest. For these properties, the Institutional Overlay Zone shall supersede the underlying zoning, and all new institutional development shall be conducted in compliance with the Regulatory Framework and the approved Institutional Development Plan. Properties located within the Institutional Overlay Zone not subject to right, title, or interest of the Eligible Institution shall continue to be governed by the regulations of the underlying zoning designation.

(c) Uses. Institutional uses, including hospitals and higher education facilities, shall be permitted, as shall uses that are functionally integrated with, ancillary to, and/or substantively related to supporting the primary institutional use, consistent with the applicable approved IDP.

(d) Content. The Regulatory Framework shall reflect the information and analysis of the IDP. The content shall be tailored to address the particular issues associated with the institution and its neighborhoods. The Regulatory Framework should be succinct and use tables and graphics as possible to address the following, if applicable:

1. Zoning boundary of the IOZ: The area to which the regulations apply, as shown on the zoning map, subject to other provisions of this ordinance (i.e. the map amendment to the City's Zoning Map);
2. Phasing and schedules: Requirements that relate to particular proposed phases; a chart showing the schedule or thresholds for submitting an amended IDP (or elements of an IDP, such as a Transportation Demand Management (TDM) Plan);
3. Uses: Clarification, as necessary, on permitted uses.
4. Dimensional Requirements: Graphics, sketches, or standards, including details for transition zones within the IOZ boundary;
5. Transportation: Elements such as TDM trip reduction targets or contribution to area-wide TDM measures; broad parameters for ensuring pedestrian, vehicular, bicycle and transit access and safety; parking ratios

and management strategies; thresholds for access improvements;

6. Environment: The approach to the inclusion of open space and preservation of environmentally-sensitive areas;

7. Mitigation measures: The broad approach to identified mitigation measures, which would be addressed in greater detail in the site plan review process; thresholds for addressing deficiencies; goals for preservation/protection;

8. Design: Graphics and standards to clarify building placement and envelope (height and massing); guidelines for integration of site features; required treatments for transition zones and treatment for all edges (both within and abutting the IOZ boundary); guidelines for establishing campus identity; and

9. Neighborhood Integration: Thresholds and strategies for neighborhood engagement; mitigation of impacts on neighboring properties, including construction impacts; buffering requirements; objectives for pedestrian linkages and safety; other requirements that address community concerns.

10. Monitoring: A schedule for regular monitoring reports on IDP implementation in accordance with the IDP.

(e) Standards of Review: The Regulatory Framework shall:

1. Be consistent with the Comprehensive Plan and the Institutional Development Plan;

2. Provide a clear zoning framework, using graphics and tables as appropriate, to apply to future site plan reviews;

3. Provide specific regulatory statements as appropriate that respond to concerns raised during the required public involvement; and

4. Outline measurable goals and thresholds for improvements or other actions identified in the IDP to be advanced in subsequent site plan applications.

(f) Approval/Adoption. The Planning Board shall review the proposed Regulatory Framework against the standards of review and make a recommendation on the institution's IOZ designation and Regulatory Framework to the City Council for adoption as part of this zoning ordinance.

(g) Amendments. A Regulatory Framework and IOZ boundary as adopted by the City Council shall remain in force unless and until amended. Amendments to a Regulatory Framework and/or IOZ boundary may be brought forth by the city or Eligible Institution. Proposed

amendments to the IOZ boundary or Regulatory Framework shall be reviewed by the Planning Board and adopted by the City Council subject to the provisions of this ordinance.

14-282. Reserved.

\* Editor's note. Order No. -16/17, adopted May , 2017, provided that the Regulatory Frameworks, as they are adopted by the City Council for each Eligible Institution, shall be codified within this section.