

Order 14-17/18

Passage: 6-3 (Batson, Duson, and Ray) on 7/24/2017

Effective 8/3/2017

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**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
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**ORDER REFERRING
THE INCLUSIONARY ZONING AMENDMENTS
TO THE HOUSING COMMITTEE**

ORDERED, that the City Council hereby refers the proposed inclusionary zoning amendments, attached hereto, to the Housing Committee; and

BE IT FURTHER ORDERED, that the Housing Committee review the proposed ordinance and provide its final recommendation on this issue to the City Council.

DIVISION 30. AFFORDABLE HOUSING

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Sec. 14-485. Definitions.

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including 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.

Low-income housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning 80% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD); and
- (b) Annual rent increases for that unit are limited ~~in perpetuity~~ by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

Low-income housing unit for sale means a dwelling unit for which:

- (a) The sale price is affordable to a household earning ~~80~~100% or less of the HUD AMI; and
- (b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit to an amount that is affordable to a household earning ~~120~~100 ~~80~~% of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size, as calculated for the year in which the sale takes place.

Development fees means:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and
- (b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

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

Eligible project means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;
- (c) That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or ~~workforce housing for sale~~, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project; and
- (d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").

Workforce housing unit for rent means a dwelling unit which:

- (a) Is affordable to a household earning 100% or less ~~than 100%~~ of HUD AMI; and

- (b) Annual rent increases for that unit are limited by deed restriction or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce housing unit for sale means a dwelling unit for which:

- (a) The purchase price is affordable to a household earning at 120% or less of HUD AMI; and
- (b) The resale price is limited by deed restriction or other legally binding agreement for ~~all~~ future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

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Sec. 14-487. Ensuring Workforce Housing.

a) *Purpose.* Based on the city's Comprehensive Plan and the housing study completed in 2015, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of Portland citizens.

b) ~~*Applicability/Conditional Use Requirement/Sunset.*~~ This division shall apply to development projects that create ten or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. This division shall not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to its effective date.

c) *All Developments of Ten Units or More Conditional Uses.* Notwithstanding any language to the contrary in Chapter

14, all developments of ten units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section, 14-487 unless they are within the India Street Form Based Code district, in which case staff shall determine compliance with this section.

~~This section 14-487 shall be in effect for six years following its passage, at which time the overall effectiveness of this section shall be assessed by city planning staff or their agent and either this expiration date shall be deleted or the entire section shall be removed from the Code of Ordinances.~~

d) ~~Workforce~~Low-Income Housing Minimum. At least ~~ten~~ twenty percent (~~12~~20%) of the units in the project shall meet the definition of workforce low-income housing unit for sale or for rent. ~~The number of units required is rounded down to a whole number if providing units as per (c)2. below, or shall include a fractional value in cases where a project prefers to pay a fee-in-lieu as per (c)3. below.~~The project shall have the option of paying a partial fee-in-lieu as per (c)3 below for the fractional value, or providing an additional unit on site.

e) Standards.

1. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.
- ~~2.~~ Workforce Low-income housing units are encouraged to be integrated with the rest of the development, should use a common entrance and should provide no indications from common areas that these units are workforce housing units.
- ~~3.~~ Workforce Low-income units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ~~12~~20 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development~~this section,~~ for every 400 square feet in ~~each~~ market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.~~if the actual number of~~

~~bedrooms in the unit is lower.~~

4. As an alternative to providing workforce low-income housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be ~~\$100,000~~ 102,500 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.
- ~~5. Workforce Low-income housing units for sale, if converted to workforce low-income housing units for rent, shall become subject to the income limits and other requirements of such units.~~
6. If at least 33 percent of the units in a development are workforce or low-income housing units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.
7. The term of affordability for the required ±20 percent workforce low-income housing units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
10%	Longest term permitted under federal, state and local laws and ordinances
25%	30 years
50%	20 years
100%	10 ears

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