

DIVISION 30. AFFORDABLE HOUSING

Sec. 14-484. Purpose.

It is in the public interest to promote an adequate supply of affordable housing for the city's 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, or the demonstrated increase in affordable housing needs resulting from the creation of new lower-income jobs, 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.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 134-18/19, 1-23-2019)

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);
- (b) The unit is rented to a household earning 80% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance..

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

which:

- (a) The sale price is affordable to a household earning 100% or less of AMI;
- (b) The unit is sold to a household earning 100% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for future sales for the applicable length of time in this ordinance.

Development fees means:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; impact 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 single-family or multi-family dwelling, or subdivision consisting of a group of dwellings, 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 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").

Hotel Project means any hotel, inn or motel, as defined in Section 14-47 of Chapter 14 of the Portland City Code, consisting of 10 or more guest rooms for rent. Any such development that exists prior to the effective date of this Section but expands by 10 or more rooms within any 5 year period will also be considered a hotel project.

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

- (a) The rent is affordable to a household earning 100% or less than of AMI
- (b) The unit is rented to a household earning 100% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

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

- (a) The purchase price is affordable to a household earning 120% or less of AMI;
- (b) The unit is sold to a household earning 120% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

(Ord. No. 98-06/07, 12-4-06; Ord. No. 84-08/09, 10-20-08; Ord. 82-15/16, 10-19-2015; Ord. No. 196-15/16, 3-21-2016; Ord. No. 247-17/18, 6-18-2018; Ord. No. 98-18/19, 11-19-2018; Ord. No. 134-18/19, 1-23-2019)

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 low-income or workforce units	Percentage discount of development fees	Cost of Work (Building Permit) Fees in lieu of Section 617 (a) 1 & 3
5% up to but not including 10%	5% reduction	\$10.50 per \$1,000
10% up to but not including 15%	10% reduction	\$9.90 per \$1,000
15% up to but not including 20%	15% reduction	\$9.35 per \$1,000
20% up to but not including 25%	20% reduction	\$8.80 per \$1,000
25% or more	25% reduction	\$8.25 per \$1,000

The planning and urban development department 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 and urban development department 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.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 196-15/16, 3-21-2016)

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.* 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.

(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 the review will be conducted administratively or by the Planning Board in accordance with the thresholds of site plan review for the district.

(d) *Workforce Housing Minimum.* At least ten percent (10%) of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The project shall have the option of paying a partial fee-in-lieu as per (e)4 below for any 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 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 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 no less than 10 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development, 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.

4. As an alternative to providing workforce 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 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.
5. Workforce housing units for sale, if converted to workforce 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 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 10 percent workforce 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 years

(f) Implementing Regulations. Regulations to further specify the details of this section shall be developed, including, but not limited to:

1. Specific methodology for income verification;
2. Situations where less than permanent affordability might be considered; and
3. Guidelines for meeting the requirement that off-

site units be "in the same neighborhood".

(g) *Reporting to City Council.* In conjunction with the annual report on the Housing Trust, city planning staff shall annually report on developments subject to this section, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this section in achieving its stated purpose.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 247-17/18, 6-18-2018)

Sec. 14-488. Density, parking and dimensional bonuses and reductions.

Notwithstanding any other provision of this chapter to the contrary, in order to encourage low income and workforce units in designated growth areas, eligible projects may avail themselves of the following options.

(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.

Eligible projects in all B-1, B-1b, B-2, B-2b, B-2c, B-3, B-3b, B-3c, B-5, R-7, and R-P Zones

Percentage Low Income Units for Sale/Rent	Percentage Workforce Units for Sale/Rent	Density Permitted*	Additional Height Permitted***	Setback Reductions**
10%	20%	1.1 x base	N/A	N/A
20%	40%	1.2 x base	10 feet	N/A
30%	60%	1.3 x base	10 feet	5'
50%	100%	2.0 x base	15 feet	5'
75%	N/A	2.5 x base	25 feet	10'

*: "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.

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

*** *The maximum additional height permitted in the B-1 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.*

(b) *Off-street parking.* Off-street parking is required as provided in Division 20 (off-street parking) of this article.

(c) *Reserved.*

(d) *Planned Residential Unit Developments (PRUDs).* In order to promote orderly development of low- and moderate-income development as PRUDs, any project 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%;
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 sf 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 section.

(e) *Unit Size and Term of Affordability.* In order to be eligible for this section, the low income and workforce housing units must:

1. Meet Section 14-487 Ensuring Workforce Housing, subsection (e) *Standards* 1,2 and 3; and
2. Be affordable for the longest term permitted under federal, state and local laws.

(f) *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 section must (1) hold a public meeting noticed to all properties within 500 feet of their site and (2) 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 (Department of Planning and Urban Development website link). The Planning Board may adopt regulations regarding the content and processes for noticing as part of the Technical Manual.

(g) *Projects under 14-487.* Projects that are subject to 14-487 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 is also subject to 14-487, the applicant shall have the option of utilizing either this bonus or any bonuses they are eligible for under 14-488.1 but not both.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015; Ord. No. 31-17/18, 9/6/2017)

14-488.1 Inclusionary Zoning for Hotel Projects.

(a) *Purpose.* This section 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 a need for new affordable housing. This need is the result of the fact that hospitality developments necessarily create a number of jobs that do not pay employees at a rate sufficient to allow those employees to afford market-rate housing in the City of Portland.

(b) *Hotel Projects Conditional Uses.* Notwithstanding anything to the contrary in Chapter 14, all hotel projects are conditional uses subject to Planning Board review on the

condition that they comply with the requirements of this Section 14-488.1.

(c) *Low Income Housing Minimum.* All hotel projects shall provide one unit of Low Income Housing for rent in the City of Portland for every 28 rooms in the hotel project which shall meet the standards outlined in Section 14-487 and in the implementing regulations governing Low Income Units. This amount shall be rounded up to the nearest increment of 28 rooms. These units shall be deed restricted for the longest period permitted by law; shall not be used for Short Term Rentals of less than 30 days; and must be provided with distinct entrances from the street to delineate them from the hotel itself.

(d) *Fee-in-Lieu Alternative.* As an alternative to providing Low Income Housing units under subsection (c) above, a Hotel Project may pay a fee-in-lieu of \$3,806 per hotel guest room. This amount shall be paid into the City's Housing Trust and used for the purposes set forth in the ordinance and regulations applicable to that trust.

(e) *Annual Adjustments.* The amounts in (d) above shall be adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

(f) *Regulations.* The Planning Board may promulgate implementing regulations based on this ordinance.

(g) *Applicability.* Notwithstanding the provisions of 1 M.R.S. § 302, Sec. 14-488.1 shall apply retroactively and include any and all actions and proceedings pending on September 26, 2018 or thereafter.

(Ord. No. 134-18/19, 1-23-2019)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of