

Order 141-18/19

Passage: 8-0 (Ray absent) on 2/4/2019

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ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE CHAPTER 14  
RE: AFFORDABLE HOUSING IN ISLAND RESIDENTIAL ZONES**

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

*That Chapter 14, Sections 14-145.3 and 14-145.9 is hereby  
amended to read as follows:*

**Sec. 14-145.3. Conditional uses.**

The following uses are permitted only upon the issuance of  
a conditional use permit, subject to the provisions of section  
14-474 (conditional uses) of this article and any special  
provisions, standards or requirements specified below:

(a) *Residential:*

1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling, provided that:
  - a. The accessory unit shall be no more than thirty-five (35) percent of the gross habitable floor area of the building and shall have a minimum floor area of three ~~four~~ hundred (300400) square feet;
  - b. Lot area shall be seventy thousand (70,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;
  - c. There shall be no open outside stairways or fire escapes above the ground floor;
  - d. Any additions or exterior alterations such as facade materials, building form, roof

pitch and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;

e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;

f. Except on Peaks Island, Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bonafide temporary absences~~;~~. On Peaks Island, neither the accessory unit or the principal dwelling unit shall be used for short-term rentals as defined under Sec. 6-150.1;

g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and

h. ~~For a~~ Accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:

i. Shall remain under common ownership with the primary unit on the lot;

ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;

iii. Shall be rented to households earning up to 100% of AMI and be subject to income verification as further outlined in implementing regulations for Division 30;

- iv. Shall be rented on an annual basis and may not be used for seasonal ~~or weekly~~ rentals; and
- v. Shall be built within the principal building or as an attachment in accordance with subsection (d); and
- vi. Shall not be rented for more than the rent permitted at 80% of Area Median Income under the Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing or policy;  
and
- vii. Shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years; and
- viii. ~~Shall provide~~ The occupant of the affordable unit shall be provided with a written description of the occupancy requirements for the unit.

...

**Sec. 14-145.9. Conditional uses.**

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

- 1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling provided that:
  - a. The accessory unit shall be no more than thirty-five (35) percent of the gross floor area of the principal building and shall have a minimum floor area of three ~~four~~

hundred (~~300400~~) square feet;

- b. Lot area shall be thirty thousand (30,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;
- c. There shall be no open outside stairways or fire escapes above the ground floor;
- d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;
- e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
- f. Except on Peaks Island, ~~Either~~ the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences. ~~On Peaks Island, neither the accessory unit nor the principal unit shall be used for short-term rentals as defined under Sec. 6-150.1;~~
- g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and
- h. ~~For a~~ Accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:
  - i. Shall remain under common ownership with the primary unit on the lot;

- ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;
- iii. Shall be rented to households earning up to 100% of AMI and are subject to income verification as further outlined in implementing regulations for Division 30;
- iv. Shall be rented on an annual basis and may not be used for seasonal ~~or weekly~~ rentals; and
- v. Shall be built within the principal building or as an attachment in accordance with subsection (d) ~~;~~ and
- vi. Shall not be rented for more than the rent permitted at 80% of Area Median Income under the Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing or policy ~~;~~ and
- vii. Shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years ~~;~~ and
- viii. ~~Shall provide the~~ The occupant of the affordable unit shall be provided with a written description of the occupancy requirements for the unit.