



**Memorandum**  
**Planning and Urban Development Department**

**To:** Mayor Brennan and Members of the City Council  
**From:** Christine Grimando, Senior Planner  
**Date:** June 1, 2015  
**Re:** 58 Fore Street Amendments

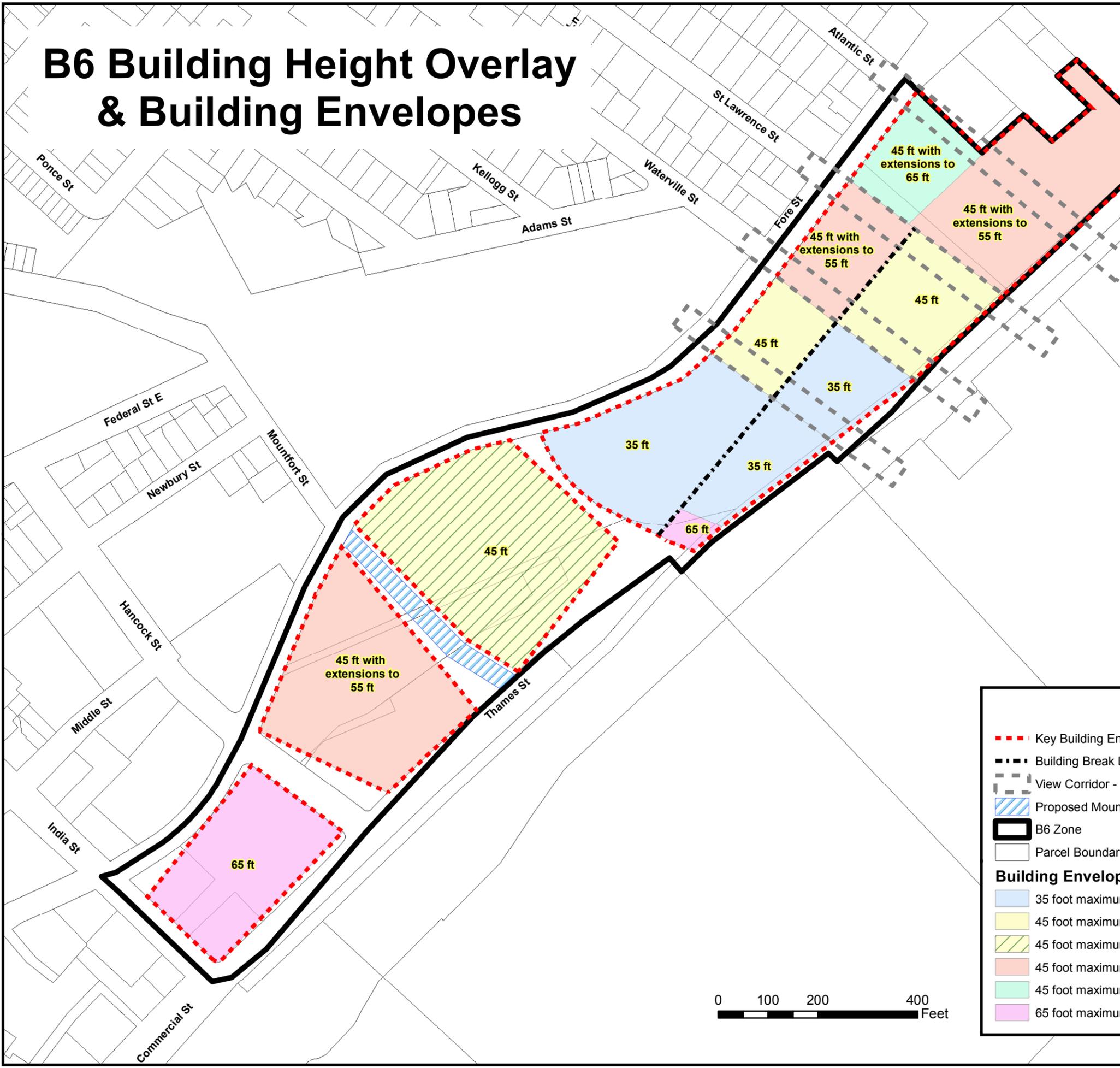
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A number of alternate amendments have been suggested since early April by members of the City Council. Below is a list of the alternate or additional amendments that are attached for the Council's consideration.

1. Alternate Height Overlay 1. Dated April 3, 2015. This map overlay had been proposed as an alternative to the proposed Height Overlay in anticipation of the April 6<sup>th</sup> public hearing. This version substitutes existing note #3 (which states currently that no building east of Mountfort Street extension shall exceed 35 feet above Fore Street, for a depth of 100 feet) with the following language: *No building east of Waterville Street shall exceed the grade of Fore Street. Additional height allowances shall be proportionally allowed elsewhere within the easternmost key building envelope, amounts and locations to be determined by the Planning Board in the course of Master Development Plan and/or Site Plan review.*
2. Alternate Height Overlay 2. Dated May 28, 2015. This version includes a new note #5 that states: *For buildings located east of Mountfort Street (extension), building height shall be measured from floodplain.*
3. Alternate Height Overlay 3, Dated May 29, 2015. This version includes the following changes: It strikes existing note #3; it includes the following provisions for the area between Atlantic and Waterville Streets, indicated by a red hatched area:  *Indicates no building shall exceed the grade of Fore Street and that building height shall be measured from floodplain;* it includes additional height allocations, ten feet in each case, for two building envelopes, one from 35ft to 45 ft, and another from 45 ft with extensions to 55 ft, to 55 ft with extensions to 65 ft. Lastly, it includes a word change to map note 1 that would accommodate the building height changes, currently worded so that any portion of a building over 45 feet is treated as an "extension".

4. Alternate Height Overlay 4, Dated June 1, 2015. This version includes all the changes in Overlay 3, as well as an additional note that states: *No solid fences or other visually impermeable structures shall exceed the grade of Fore Street.*
5. Amendment 10A, Inclusionary Zoning With A Buyout Provision. **Yellow.**
6. Amendment 10B. Inclusionary Zoning Without A Buyout Provision. **Pink.**
7. Additional Site Design Standards, specifically incorporating view protection into Planning Board review standards. **Light purple.**
- 8, 9 & 10. These are three additional amendments that had been originally been proposed consideration for the April 6<sup>th</sup> hearing. These include: 1) a requirement for master development plans in the B-6 zone; 2) an earlier inclusionary zoning amendment; 3) additional public access requirements. **Orange.**

# B6 Building Height Overlay & Building Envelopes



**B6 Building Height Overlay Notes:**

- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mounfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) No building east of Waterville Street shall exceed the grade of Fore Street. Additional height allowances shall be proportionally allowed elsewhere within the easternmost key building envelope, amounts and locations to be determined by the Planning Board in the course of Master Development Plan and/or Site Plan review.
- 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

**Legend**

- - - Key Building Envelope
- Building Break Line
- View Corridor - No Build Above Relative Fore Street Elevation
- Proposed Mounfort Street Extension
- B6 Zone
- Parcel Boundary

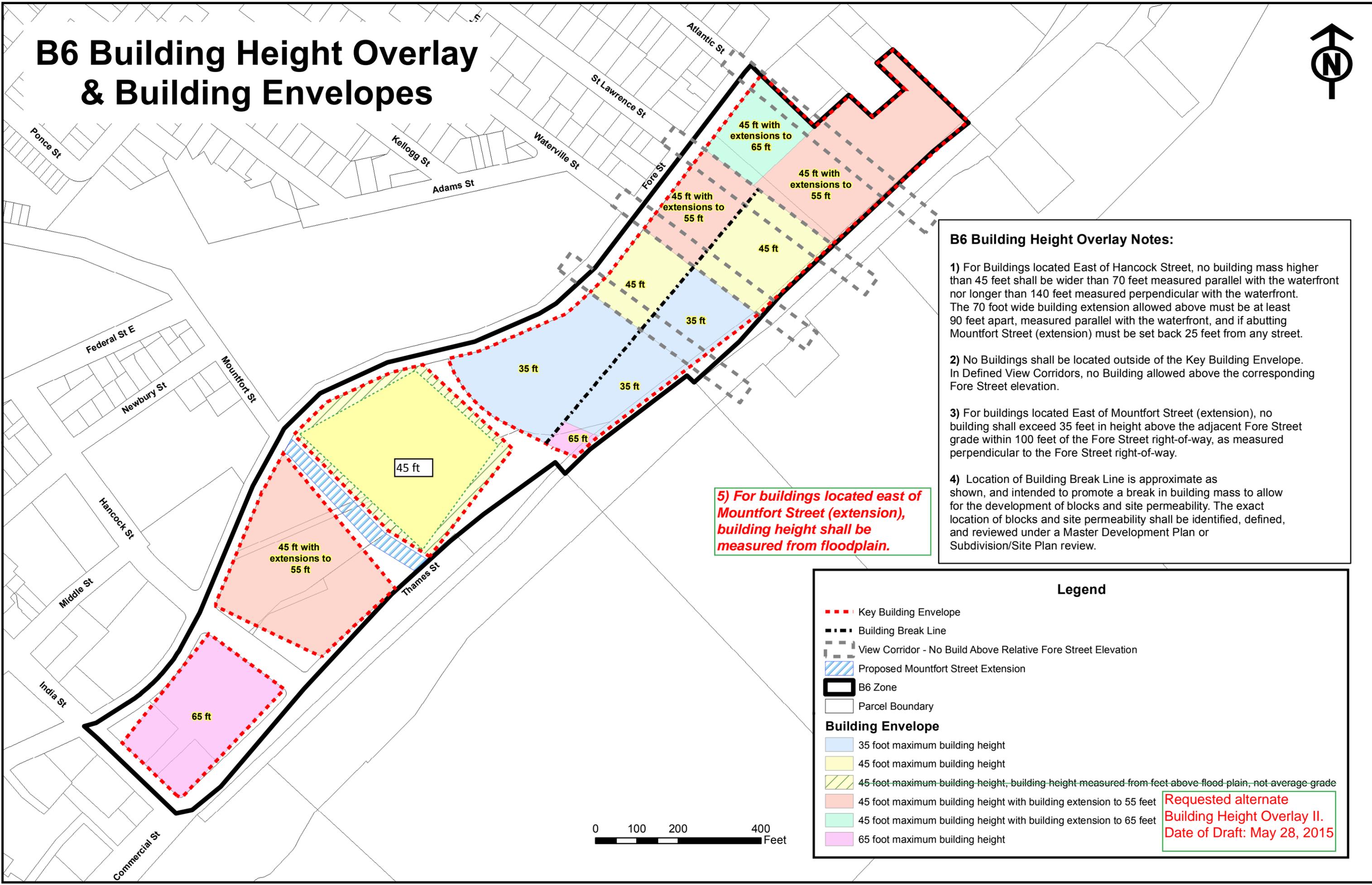
**Building Envelope**

- 35 foot maximum building height
- 45 foot maximum building height
- 45 foot maximum building height, building height measured from feet above flood plain, not average grade
- 45 foot maximum building height with building extension to 55 feet
- 45 foot maximum building height with building extension to 65 feet
- 65 foot maximum building height



Date of Draft  
April 3, 2015

# B6 Building Height Overlay & Building Envelopes



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  - 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
  - 3) For buildings located East of Mounfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
  - 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

**5) For buildings located east of Mounfort Street (extension), building height shall be measured from floodplain.**

**Legend**

- Key Building Envelope
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- - - View Corridor - No Build Above Relative Fore Street Elevation
- ▨ Proposed Mounfort Street Extension
- ▭ B6 Zone
- ▭ Parcel Boundary

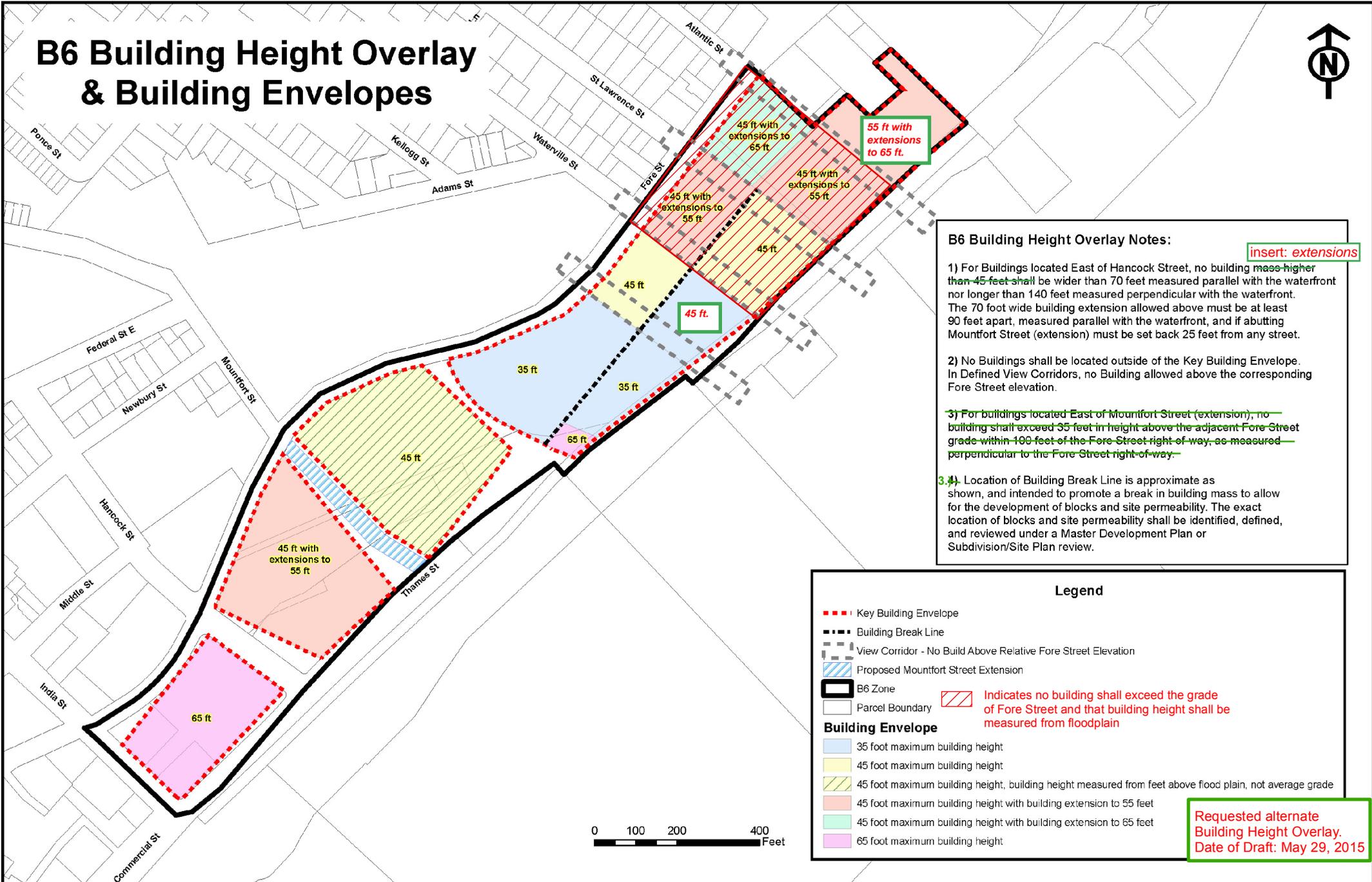
**Building Envelope**

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- ▭ 45 foot maximum building height
- ▨ 45-foot maximum building height, building height measured from feet above flood plain, not average grade
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**Requested alternate Building Height Overlay II.  
Date of Draft: May 28, 2015**



# B6 Building Height Overlay & Building Envelopes



## B6 Building Height Overlay Notes:

*insert: extensions*

1) For Buildings located East of Hancock Street, no building ~~mass higher than 45 feet shall~~ be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.

2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.

~~3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.~~

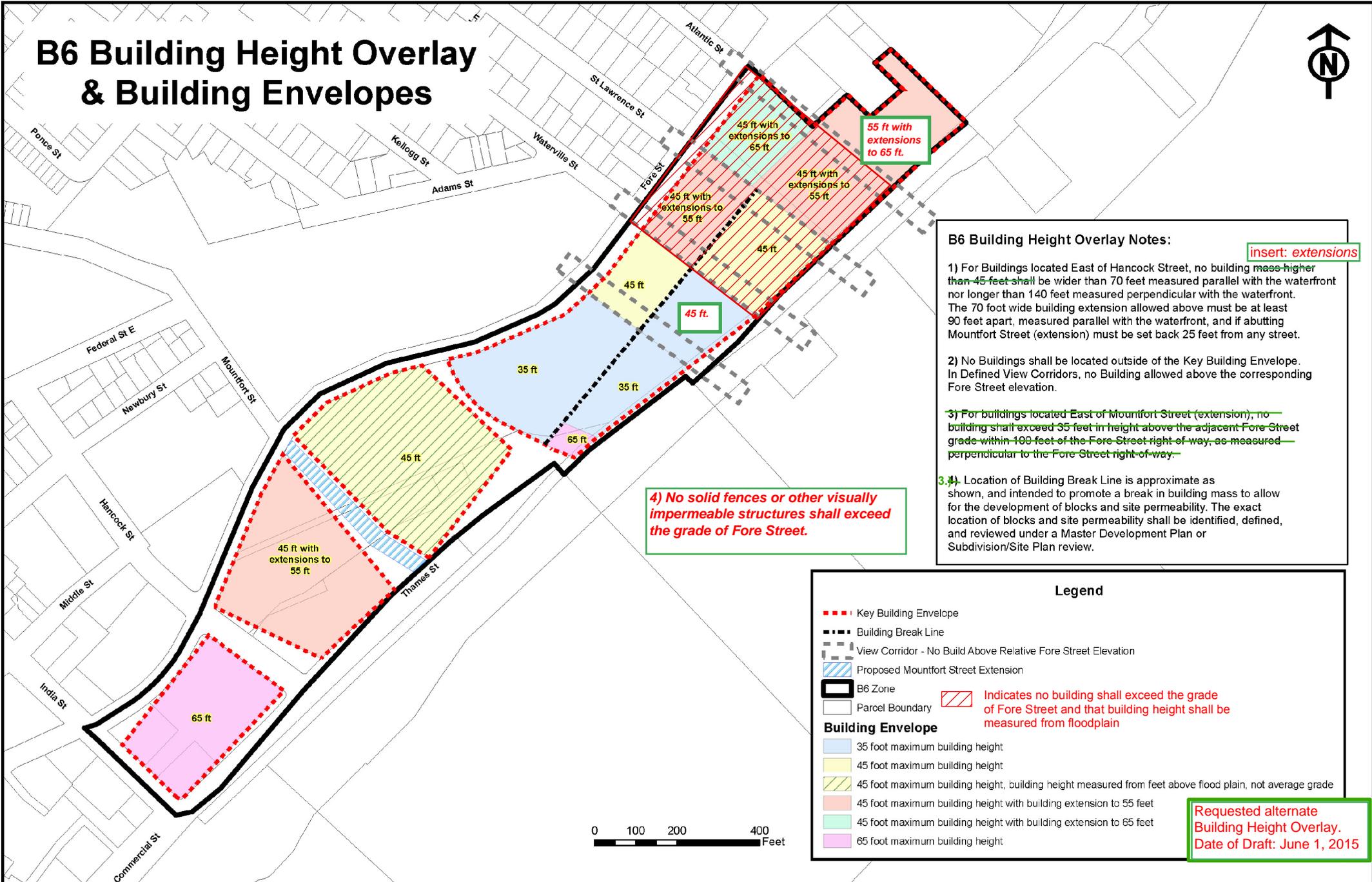
3.4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

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**Requested alternate Building Height Overlay.**  
Date of Draft: May 29, 2015

# B6 Building Height Overlay & Building Envelopes



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- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
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- 3.4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

4) No solid fences or other visually impermeable structures shall exceed the grade of Fore Street.

### Legend

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  - Building Break Line
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Requested alternate Building Height Overlay.  
Date of Draft: June 1, 2015

**AMENDMENT 10A  
INCLUSIONARY ZONING WITH A BUYOUT PROVISION**

**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 insurance and 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: (1) the rent is affordable a household earning 80% or less of Area Median Income (AMI) as defined by the U.S. Department of Housing and Urban Development (HUD); 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.

"Low-income housing unit for sale" means a dwelling unit for which: (1) the sale price is affordable to a household earning 80% or less of the HUD AMI; 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; condominium conversion permit 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) to which the City has not committed nor will commit any funding, reduced-interest loans or other subsidies or incentives other than those described in this Division; and (2) 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.

“Workforce housing unit for rent” means a dwelling unit which: (1) Is affordable to a household earning less than 100% of HUD AMI and (2) Annual rent increases for that unit are limited by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development 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 (1) the purchase price is affordable to a household at 120% of HUD AMI and (2) 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.

...

## **Sec. 14-487a. Ensuring Workforce Housing on The Portland Company site.**

### 1. 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, promoting the health, safety, and welfare of Portland citizens.

### 2. Applicability/Conditional Use Requirement

This division applies to all developments in the B-6 zoning district Easternmost Key Building Envelope (the Portland Company complex) 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.

Notwithstanding any language to the contrary in Article 14, all such developments are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section 14-487.

### 3. Workforce Housing Minimum

At least ten percent of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The number of units required is rounded down to a whole number if providing units as per 4.b. below, or shall include a fractional value in cases where a project prefers to pay a fee-in-lieu as per 4.c. below.

### 4. Standards

a. 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.

b. 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.

c. 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 10 percent of the total number of bedrooms in the development. For the purposes of this section, for every 400 square feet in a market rate unit will count as a bedroom if the actual number of bedrooms in the unit is lower.

d. 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.

e. 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.

f. 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.

g. 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

#### 5. Implementing Regulations

Regulations to further specify the details of this section shall be developed, including, but not limited to:

- Specific methodology for income verification;
- Situations where less than permanent affordability might be considered;
- Guidelines for meeting the requirement that off-site units be "in the same neighborhood"

**AMENDMENT 10B  
INCLUSIONARY ZONING WITHOUT A BUYOUT PROVISION**

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Notwithstanding any language to the contrary in Article 14, all such developments are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section 14-487.

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c. 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 10 percent of the total number of bedrooms in the development. For the purposes of this section, for every 400 square feet in a market rate unit will count as a bedroom if the actual number of bedrooms in the unit is lower.

d. 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.

e. 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.

f. 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
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100%	10 years

#### 5. Implementing Regulations

Regulations to further specify the details of this section shall be developed, including, but not limited to:

- Specific methodology for income verification;
- Situations where less than permanent affordability might be considered;
- Guidelines for meeting the requirement that off-site units be "in the same neighborhood"

**Proposed amendments from Land Use Code regarding massing and permeability in B-6 and EWPZ**

14-526(d) *Site Design Standards*

9. *Zoning Related Design Standards:*

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

- (i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual.

New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

Consideration will be given to the impact of new construction within the Eastern Waterfront on

critical natural and historic viewsheds. Minimizing view impacts will be prioritized through review of building scale, height, massing, and orientation, open space design, and comprehensive site layout.

Date of Draft: April 3, 2015

**Sec. 14-524. Site plan review processes.**

...

3. *Level II and level III site plan review:*

...

(v.) Master Development Plans in the B-6 Eastern Waterfront Mixed Zone. Proposed developments on three or more acres in common ownership shall be submitted and reviewed as a Master Development Plan. Projects shall not be segmented to avoid this requirement.

Date of Draft: April 3, 2015

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

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**Sec. 14-274. Affordable Housing**

Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site plan review application on the Portland Company (58 Fore Street) portion of this zone received after April 1, 2015.

Date of Draft: April 3, 2015

**Sec. 14-498. Technical and design standards.**

...

(b) *Street plan:*

...

2. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

In the event a development proposal includes internal circulation through private ways, a primary circulation system shall be provided for public vehicular and pedestrian ingress and egress to public infrastructure, such as trails and public streets, as may be determined by the Planning Board in review of a Master Development Plan or Level III site plan application.

...