

Order 276-14/15

Passage: 5-3 (Duson, Mavodones, Brenerman opposed, Marshall absent) on 6/15/2015

Effective 7/15/2015

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**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE ARTICLE III. ZONING
and ARTICLE V. SITE PLAN
Re: R-5A Zone**

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

*That Chapter 14, Article III, Division 1, Section 14-47,
Division 6.5, Sections 14-127 and 14-130 and Article V, Section 14-
523 of the Portland City Code are hereby amended to read as follows:*

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~ residential ~~unit~~ development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregated care living unit.

The population of a congregated care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;
- ~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

- ~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:

 - ~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~
 - ~~2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~
 - ~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~~~
- ~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

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DIVISION 6.5. R-5A RESIDENTIAL ZONE

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Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) *Residential:*

1. Single-, two-and three-family dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b)

manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;

4. Municipal use;
5. Intermediate, extended and long-term care facilities.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

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Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two- and three-family dwellings: 1,600 SF. Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

Min. Yard
Dimensions for
Single-, two-and
three-family
dwellings²

1. Front yard: Principal or accessory structures: 25 feet.

2. Rear yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.

b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. (continued)

3. Side yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

Height of Structure Required Side Yard

1 story 10 feet

1 1/2 stories 10 feet

2 stories 14 feet

2 1/2 stories 16 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.

b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.

4. Side setback on side streets: Principal or accessory structures: 20 feet.

² Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.

<u>Maximum Structure Height</u>	<u>Principal residential (single, two and three-family) or attached accessory structure: 35 feet.</u> <u>Accessory detached structure: 18 feet.</u> <u>Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.</u>
<u>Max. Lot Coverage</u>	<u>30%</u>
<u>Minimum Lot Width</u>	<u>60 feet</u>
<u>Minimum building setback from external subdivision property lines</u>	<u>PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care:</u> <u>a. Building length of one hundred (100) feet or less: 25 feet.</u> <u>b. Building length of greater than one hundred (100) feet: 35 feet.</u>
<u>Minimum recreation open space area</u>	<u>PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.</u>

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development:~~

~~Fifty (50) feet.~~

~~(d) Minimum yard dimensions:~~

~~(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. Front yard:~~

~~Principal or accessory structures: Twenty-five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(e) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

~~a. Building length of one hundred (100) feet or less:
Twenty-five (25) feet.~~

~~b. Building length of greater than one hundred (100) feet:
Thirty-five (35) feet.~~

~~(g) Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

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14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.