

Order 73-16/17

Postponed to 11/21/2016; 9-0 on 11/7/2016

Amended to extend the Moratorium till February 6, 2016: 9-0 on 11/22/2016

Passage as amended as an emergency: 9-0 on 11/21/2016

Effective: 11/21/2016

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
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JUSTIN COSTA (4)

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)

Moratorium
Re: City Parks and Public Grounds in the
R-6 Zone on the Portland Peninsula

WHEREAS, the Comprehensive Plan for the City of Portland acknowledges that “Being virtually encircled by water, Portland owes much of its beauty to the surrounding water bodies including freshwater rivers, the ocean, a working harbor and an enclosed cove”; and

WHEREAS, the Comprehensive Plan further describes the importance of “Vistas from Promenades and High Points,” stating that City parks were established on the Eastern and Western Promenades “precisely because of the scenic views they afforded of Casco Bay, the Fore River, the surrounding countryside, and the White Mountains”; and

WHEREAS, Fort Sumner, which was first listed as a City park in 1934, offers unparalleled views not only of the cityscape but also of the Back Cove and Mount Washington while also providing Portland residents and visitors with the ability to experience open space, a view of the shoreline, long sightlines, and a feeling of expansiveness not often achieved in a public space in an urban environment; and

WHEREAS, a City master plan for Fort Sumner completed in 2006 includes elements designed to highlight the park’s most valued asset: its view; and

WHEREAS, at present there is a lack of regulation in City Code to ensure that developments on parcels abutting City parks and public grounds as defined in City Code, Chapter 18, section 18-11 in the R-6 Zone of the 1st Council District (hereinafter “District 1”) on the City of Portland Peninsula (hereinafter referred to as “City parks and public grounds”) in Portland do not infringe upon the natural beauty or compromise the quality of open space provided by such City parks and public grounds; and

WHEREAS, development pressure concentrated in District 1 on the Portland Peninsula, which contains many public parks, has resulted in two (2) recent citizen initiative petitions to address and preserve parks and view corridors; and

WHEREAS, this development pressure has not been adequately accounted for in the existing Portland City Code; and

WHEREAS, there is a strong likelihood that District 1 on the Portland Peninsula, and specifically the R-6 zone located in that District, will continue to be subjected to this development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(A), the continued development of projects directly abutting City parks and public grounds in the R-6 Zone of District 1 on the Portland Peninsula pursuant to the existing City Code requirements could pose serious threats to the public health, safety and welfare of the residents of the City of Portland through the over-development of and overburdening of the City's public facility (i.e. public parks and grounds) which is reasonably foreseeable as a result of the development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), since the application of existing Portland City Code provisions or regulations or other applicable laws are inadequate to address the development pressure and prevent the public harm from the potential residential, commercial and/or industrial development in the R-6 zone of District 1 of the City of Portland on the Portland Peninsula; and

WHEREAS, after sufficient notice and a public hearing, there is strong support for this Moratorium on the City Council; and

WHEREAS, the City will need at least ninety (90) days to develop and implement the necessary amendments to the City Code to address these development pressures through-out the City of Portland; and

WHEREAS, in the judgment of the Portland City Council, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all site plan or subdivision proposals for property located in the R-6 zone in District 1 on the Portland Peninsula [see map attached hereto as Exhibit A] which directly abuts a City park or public ground [i.e. directly touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground]; and

BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone of District 1 on the Portland Peninsula which directly abuts a City park and/or public ground, from and after October 5, 2016 to and including February 6, 2017; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until February 6, 2017, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall only apply to any site plan or subdivision proposal or application to develop property, excluding applications for building permits, located in the R-6 zone in District 1 on the Portland Peninsula which directly abuts [i.e. touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground] a City park and/or public ground, whether or not an application or proceeding to establish said development proposal would be deemed a pending proceeding under 1 M.R.S. § 302; and

BE IT FURTHER ORDERED, that to the extent any provision of this Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium that shall remain shall be considered valid; and

BE IT FURTHER ORDERED, that in view of the emergency cited in the preamble above, that it is hereby found and determined by the Portland City Council that it is necessary that this Moratorium take effect immediately as an emergency pursuant to Article II, Section 8 of the City of Portland Charter.