

Order 124-17/18

Amended to add the language of the amendment titled “Emergency Demolition and Application-in-Process Exception”: 9-0 on 12/18/2017

Amended to add after the words “Planning Board” in the fifth from the last paragraph: “unless such applications were received prior to December 4, 2017. Notwithstanding the forgoing, staff may at its discretion review such applications as time permits”: 7-2 (Duson, Ray) on 12/18/2017

Passage as amended and as an Emergency: 7-2 (Batson, Cook) on 12/18/2017

Effective 12/18/2018

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

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

MORATORIUM
RE: DEVELOPMENT AND DEMOLITION OF STRUCTURES IN THE
R-6 ZONE ON MUNJOY HILL

WHEREAS, in or around April 2015, the City of Portland’s Land Use Code was amended to allow for more infill development and reconstruction in the City’s R-6 zone in an effort to advance the City’s goal to produce additional housing; and

WHEREAS, that change in zoning has helped meet City goals for new housing production, resulting in approximately 92 net new housing units overall; and

WHEREAS, a significant portion of the R-6 zone in the City of Portland is located on Munjoy Hill; and

WHEREAS, of the 92 net new units overall, 29 of them have been on Munjoy Hill; and

WHEREAS, this redevelopment has included the demolition of thirteen (13) housing structures on Munjoy Hill over a thirty (30) month period and the construction of larger housing structures, many of which do not adequately fit with the neighborhood context; and

WHEREAS, there are currently at least two additional buildings on Munjoy Hill planned for demolition pending site plan review and approval; and

WHEREAS, buildings for sale on Munjoy Hill are being actively marketed for their teardown potential;

WHEREAS, the rest of the R-6 zone has seen demolition of only four (4) housing structures as a result of new development; and

WHEREAS, there is a strong likelihood that the R-6 zone on Munjoy Hill will continue to be subjected to this demolition pressure; and

WHEREAS, at present there is a need for additional regulation in the City’s Land Use Code to address these aforementioned increases in demolitions and to further refine regulations regarding the character and size of permissible replacement buildings in the R-6 Zone on Munjoy Hill; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), there is concern that existing City Land Use Code provisions, regulations or other laws are inadequate to address the aforementioned development and demolition pressures in the R-6 zone on Munjoy Hill and to prevent the public harm from these demolitions, the associated residential developments, and their collective impacts on the fabric of this particular neighborhood; and

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

WHEREAS, it is typical for City staff to conduct a review of significant zoning changes after they have been in place for approximately 2 years and to recommend revisions that improve their effectiveness; and

WHEREAS, that process is underway but will require at least one hundred and eighty (180) days for City staff to fully develop and implement any necessary amendments to address negative impacts of demolitions on Munjoy Hill while also helping to achieve City housing production goals; and

WHEREAS, in the judgment of the Portland City Council, these facts and conclusions outlined above 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, BE IT ORDERED that, 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 demolition applications (as defined and except as exempted below) in the R-6 zone on Munjoy Hill depicted on the map attached hereto as Exhibit A; and

BE IT FURTHER ORDERED, that no demolition permit applications for demolition of 50% or more of the exterior surface of and/or the front façade of a structure, shall be accepted-by the City; for any and all property located in the R-6 zone on Munjoy Hill in the City of Portland (see Exhibit A) for the entire period of this Moratorium, unless that demolition is part of a site plan application submitted prior to the effective date of this moratorium or the Building Authority determines that the building is dangerous to life or property due to a condition that pre-dates the effective date of this Moratorium or is the result of fire, accidental catastrophic damage, or a natural disaster; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect and be applicable as of December 4, 2017, and remain in effect for one hundred and eighty (180) days thereafter, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that, in addition to the moratorium on demolition permits outlined above and for all of the reasons outlined above, for an interim period beginning on December 4, 2017 and lasting for sixty-five (65) days thereafter, no development applications for properties located in the R-6 zone on Munjoy Hill, specifically including any and all Level I, II or III Site Plan applications and revisions thereto, shall be accepted, reviewed, approved, or otherwise acted on by the Planning Authority or the Planning Board unless such applications were received prior to December 4, 2017. Notwithstanding the forgoing, staff may at its discretion review such applications as time permits; and

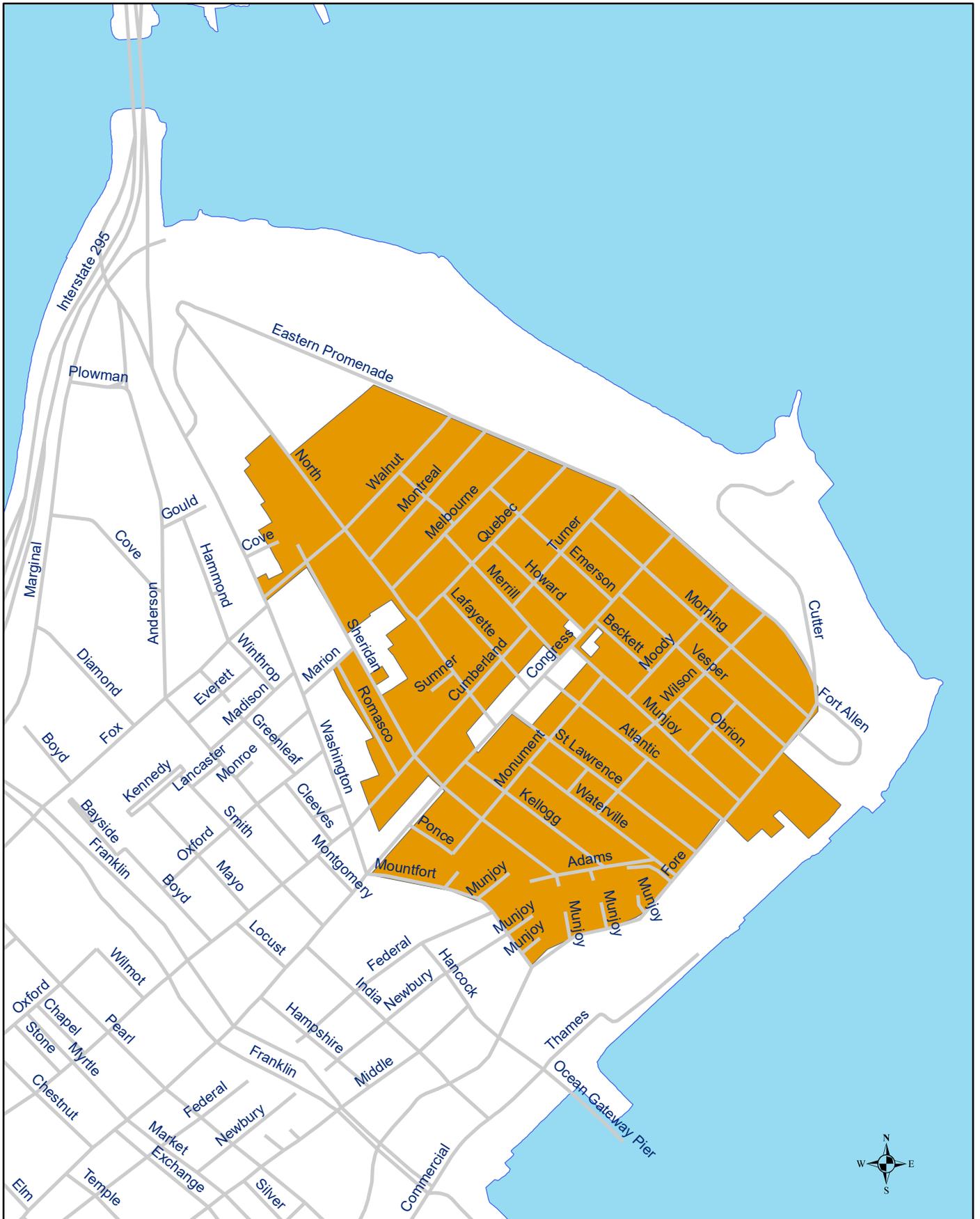
BE IT FURTHER ORDERED, that in that interim period the City's Department of Planning and Urban Development shall draft an interim ordinance to govern development in the R-6 zone during the remaining one hundred and fifteen (115) days of the aforementioned demolition Moratorium for review and approval by the City Council; and

BE IT FURTHER ORDERED, that the interim ordinance shall only apply to applications received after the effective date of this Moratorium and that any site plan applications, together with any revisions thereto, submitted prior to December 4, 2017, or demolition applications submitted prior to December 4, 2017 or associated with a site plan application submitted prior to December 4, 2017, shall be reviewed in accordance with the ordinance and regulations in effect on the date of submission; 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.

Exhibit A: Area of R-6 Zone on Munjoy Hill



0 500 1,000 2,000 Feet

 R-6 Munjoy Hill