VERSION A

(A Residential Zoning District Meetinghouse Hill Neighborhood Min. Lot Size = 6,000 s.f.)
DRAFT for 11/15/16 Planning Board Public Hearing

IN CITY COUNCIL

ORDINANCE #__-16/17

THE COUNCIL of the City of South Portland hereby ordains that Chapter 27, "Zoning," of the "Code of Ordinances of the City of South Portland, Maine," including the City's Official Zoning Map, be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

CHAPTER 27

ZONING

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ARTICLE III. Nonconformance

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Sec. 27-304. Nonconforming Residential Lots.

The following provisions govern the treatment of nonconforming residential lots of record that are described in a deed or subdivision plan recorded in the Cumberland County Registry of Deeds prior to October 21, 2007. These provisions allow for nonconforming lots of record as of that date to be treated as separate lots under certain conditions and to be sold or developed. The provisions allow the development of unimproved nonconforming lots of record in accordance with the provisions of subsections (f) and (g).

(a) *Separate unimproved nonconforming lot~~s~~ of record.*

An unimproved nonconforming lot of record that is in separate ownership, or is not in common ownership with any abutting lot that has street frontage on the same street, may be developed in accordance with the provisions of subsections (f) and (g) without a variance from the Board of Appeals. ~~If the lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City accepted street, development of the lot must also conform to (g).~~

Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area, ~~and~~ minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (f) or (g) or a variance is granted by the Board of Appeals.

(b) *Separate developed nonconforming lot~~s~~ of record.*

A nonconforming lot of record that is in separate ownership or is not in common ownership with any abutting lot that has street frontage on the same street and that is developed with a principal building may be further developed or redeveloped in accordance with the space and bulk regulations of the zoning district in which it is located except for the minimum lot area, ~~and~~ minimum street frontage, maximum net residential density and minimum area per family requirements.

(c) *Contiguous developed lots of record.*

Two or more contiguous lots of record in common ownership, each of which is improved with a principal building, shall be considered to be separate lots and may be sold as separate lots even if one or more of the lots is nonconforming. The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan ~~unless revised boundaries will make all of the lots less nonconforming with respect to the space and bulk regulations for the zoning district in which it is located~~. The division of such lots does not require a variance from the Board of Appeals.

(d) *Abutting unimproved lots of record.*

Two or more unimproved abutting lots of record in common ownership, each of which has frontage on a City accepted street and is not improved with a principal building, may be built on and/or sold as separate lots without a variance from the Board of Appeals, even if one or more of the lots is nonconforming, subject to the provisions of subsections (f) and (g). Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area, minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (d), (f) or (g).

There shall be a minimum of thirty five (35) feet of frontage on a City accepted street unless the Planning Board finds that:

(i) the average street frontage of neighboring developed residential lots in single ownership is less than thirty five (35) feet; or

(ii) the owner does not have abutting land available to increase the street frontage to at least thirty five (35) feet and said unavailability of abutting land is not the result of action taken by the owner since May 23, 2016.

The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan ~~unless revised boundaries will make all of the~~

~~lots less nonconforming with respect to the space and bulk regulations for the zoning district in which it is located~~.

~~Each lot may be developed in accordance with the provisions of (f). If a lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City accepted street, development of the lot must also conform to (g). Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area and minimum street frontage requirements unless otherwise specifically provided for in (f) or (g).~~ The Board of Appeals may not grant variances from the space and bulk requirements.

Two or more abutting unimproved nonconforming lots of record in common ownership may be aggregated to form a single larger lot that meets the space and bulk regulations for the zoning district in which it is located without the need for Planning Board review and approval.

(e) *Unimproved lot~~(s)~~ of record abutting a developed lot.*

An unimproved nonconforming lot of record that abuts and is in common ownership with a developed lot of record and that has frontage on a City accepted street may be developed and/or sold as a separate lot without a variance from the Board of Appeals subject to the provisions of subsections (f) and (g). (If there are two or more unimproved abutting nonconforming lots of record in common ownership with a developed lot of record, the requirements of subsection (d) shall also apply.) Development of the unimproved lot abutting the developed lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area, minimum street frontage, maximum net residential density and minimum area per family requirements unless otherwise specifically provided for in subsections (f) or (g).

There shall be a minimum of twelve (12) feet of separation between the proposed building on the lot to be developed and any existing principal or accessory building on an abutting lot, whichever produces the greater side or rear yard setback on the lot to be developed. There shall be no vehicular access, driveway, parking or building location easements allowed for either the lot to be developed or the abutting developed lot.

The division of the lots shall conform to the original lot boundaries as described in a recorded deed or subdivision plan ~~unless revised boundaries will make all of the lots less nonconforming with respect to the space and bulk regulations for the zoning district in which they are located~~. If an existing structure on the developed lot is rendered nonconforming as to setback (or is rendered more nonconforming as to setback) by such a division, said structure shall be entitled to the protections afforded by this ordinance to preexisting nonconforming structures.

~~Each unimproved lot may be developed in accordance with the provisions of (f). If a lot has less than five thousand (5,000) square feet of lot area or less than fifty (50) feet of street frontage on a City accepted street, development of the lot must also conform to (g). Development of the lot must conform to the space and bulk regulations for the zoning district in which it is located except for the minimum lot area and minimum street frontage unless otherwise specifically provided for in (f) or (g).~~ The Board of Appeals may not grant variances from the space and bulk requirements.

(f) *Standards for the development of all nonconforming lots of record.*

The development of any unimproved nonconforming lot of record that does not meet the minimum lot area, minimum street frontage, maximum net residential density or minimum area per family requirements ~~including lots with less than five thousand (5,000) square feet of area~~ must comply with all of the following unless otherwise specifically provided for in this section:

(1) The principal building must be a single-family detached dwelling used solely for residential purposes including home occupations.~~;~~

(2) Each building on the lot shall not exceed twenty-eight (28) feet in height, the height to be measured, notwithstanding the definition of building height in Sec. 27-201, from the peak or highest point on the roof line.~~;~~

(3) Total building coverage shall not exceed twenty-five (25) per cent of the lot.~~;~~

(4) At least twenty-five percent (25%) of the area of the lot must be vegetated and permeable, or naturally impermeable (*e.g.*, naturally occurring ledge), open space.

(5~~4~~) Each building on the lot shall comply with the side and rear setback requirements of the district in which the lot is located, except that ~~in the Residential G District the principal building shall comply with the side yard setback requirements of the Residential A District or~~ there shall be a minimum of twelve (12) feet separation between the new building and~~from~~ any existing principal or accessory building on an abutting lot, whichever produces the greater side and rear yard setbacks on the lot.~~;~~

(6~~5~~) The principal building shall be connected to the public sewer system either directly or via a private sewer which is connected to the public sewer system.~~; and~~

(7) Any building located in a combined sewer area shall not have a basement.

(8~~6~~) Building site plans submitted pursuant to Sec. 5-58 of the Code shall include a Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.

(9) Notwithstanding any other provision of this ordinance to the contrary, there shall be no vehicular access, driveway or parking easements allowed to benefit or burden the lot to be developed.

(10) The proposed design and development of the lot and the buildings and structures on the lot shall be consistent with the established character of the neighborhood. In determining if the proposed development meets this criterion, the Planning Board must find that the following are met, if they are applicable to the location:

(i) If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal building to the street, the principal building must be located on the lot so that it has a similar relationship to the street as other neighboring principal buildings on the same side of the street. If this requires the building to be closer to the front lot line than the required front yard setback, the building may encroach on the required yard and no variance is required.

(ii) If there is a predominate pattern in the width of buildings in relationship to the width of lots in the immediate neighborhood, the width of the front of the building must be similar to the relationship of neighboring lots on the same side of the street.

(iii) If there is a predominate pattern in the style of the roof and its orientation with respect to the street in the immediate neighborhood, the roof of the building must be similar to the relationship of buildings on neighboring lots on the same side of the street. If the predominant pattern is for the ridgeline of the roof to be perpendicular to the front property line, the portion of the proposed building facing the street must maintain this relationship.

(iv) If there is a predominate pattern in the height of buildings in the immediate neighborhood, the height of the building based upon existing grade must be consistent with the height of the buildings on neighboring lots on the same side of the street. If the predominant pattern is for buildings to have more than one story, the proposed building must have more than one story for the portion of the building facing the street.

(v) The appearance of the wall of the building facing the street must be consistent with buildings on neighboring lots on the same side of the street. If there is a predominant pattern in the immediate neighborhood for these walls to be treated as the front of the building with a front door and windows, the front wall of the proposed building must be treated as the front of the building. If there is a predominant pattern for neighboring buildings to have a front porch, the design of the proposed building must be consistent with this pattern.

(vi) The exterior materials must be visually compatible with adjacent and nearby buildings where a predominate pattern in the exterior materials exists, except where unacceptable materials predominate. This provision shall not be used to exclude materials that are visually similar to existing materials but are made differently. The determination shall be based upon Sec. 27-1568(H), Materials and Colors.

(11~~7~~) If the nonconforming lot of record is located within the Shoreland Area Overlay District, including the Shoreland Resource Protection Overlay Subdistrict and the Stream Protection Overlay Subdistricts, the lot must be developed, and all buildings and structures located, in full compliance with the water setback requirements and performance standards of those districts.

(12~~8~~) If the nonconforming lot of record is located within a special flood hazard zone, the lot must be developed, and all buildings and structures located, in full compliance with the requirements of Article IV of Chapter 5 of the Code of Ordinances.

(g) *Planning Board review~~Additional~~ requirements~~ for the development of lots of record with less than 5,000 square feet of lot area or less than fifty (50) feet of street frontage~~.*

~~If an unimproved, nonconforming lot of record has a lot area of less than five thousand (5,000) square feet or less than fifty (50) feet of street frontage, development of the lot must conform to the following in addition to the requirements of (f):~~

~~(1) Planning Board Approval Required – Development of a lot of record with less than 5,000 square feet of lot area or fifty (50) feet of street frontage may occur only after the proposed development plans are approved by the Planning Board.~~

~~(2) Approval Standards – The Planning Board shall approve the development of a lot of record with less than 5,000 square feet of lot area or fifty (50) feet of street~~

~~frontage only if it finds that the proposed design and development of the lot and the buildings and structures on the lot are consistent with the established character of the neighborhood. In determining if the proposed development meets this criterion, the Planning Board must find that the following are met if they are applicable to the location:~~

~~(i) If there is a predominate pattern of development in the immediate neighborhood with respect to the relationship of the principal building to the street, the principal building must be located on the lot so that it has a similar relationship to the street as other neighboring principal buildings on the same side of the street. If this requires the building to be closer to the front lot line than the required front yard setback, the building may encroach on the required yard and no variance is required.~~

~~(ii) If there is a predominate pattern in the width of buildings in relationship to the width of lots in the immediate neighborhood, the width of the front of the building must be similar to the relationship of neighboring lots on the same side of the street.~~

~~(iii) If there is a predominate pattern in the style of the roof and its orientation with respect to the street in the immediate neighborhood, the roof of the building must be similar to the relationship of buildings on neighboring lots on the same side of the street. If the predominant pattern is for the ridgeline of the roof to be perpendicular to the front property line, the portion of the proposed building facing the street must maintain this relationship.~~

~~(iv) If there is a predominate pattern in the height of buildings in the immediate neighborhood, the height of the building based upon existing grade must be consistent with the height of the buildings on neighboring lots on the same side of the street. If the predominant pattern is for buildings to have more than one story, the proposed building must have more than one story for the portion of the building facing the street.~~

~~(v) The appearance of the wall of the building facing the street must be consistent with buildings on neighboring lots on the same side of the street. If there is a predominant pattern in the immediate neighborhood for these walls to be treated as the front of the building with a front door and windows, the front wall of the proposed building must be treated as the front of the building. If there is a predominant pattern for neighboring buildings to have a front porch, the design of the proposed building must be consistent with this pattern.~~

~~(vi) The exterior materials must be visually compatible with adjacent and nearby buildings where a predominate pattern in the exterior materials exists, except where unacceptable materials predominate. This provision shall not be used to exclude materials that are visually similar to existing materials but are~~

~~made differently. The determination shall be based upon Sec. 27-1568.H. Materials and Colors.~~

~~(vii) At least twenty-five percent (25%) of the area of the lot must be landscaped open space.~~

(1~~3~~) Application – The owner of the lot of record or the owner's agent, or other person with right, title, or interest in the property, including a valid purchase and sale agreement, must make a written application to the Planning Board requesting approval to develop on a nonconforming lot of record that does not meet the minimum lot area, minimum street frontage, maximum net residential density or minimum area per family requirements ~~with less than 5,000 square feet of lot area or less than fifty (50) feet of street frontage~~. The application must be made on forms provided by the City. The application must be accompanied by the following documentation:

(i) An existing conditions plan prepared by a land surveyor or other qualified professional licensed in the State of Maine and drawn to scale showing the boundaries of the lot of record, any improvements on the lot including buildings, structures, or paving, the location of buildings and other improvements on the abutting lots, the topography and direction of drainage of the parcel, any existing easements, and the location of all utilities on the lot or in adjacent streets.

(ii) A site plan prepared by a land surveyor or other qualified professional licensed in the State of Maine at the same scale as the existing conditions plan showing the proposed improvements to the lot including buildings, structures, paving, landscaping, easements, and utilities.

(iii) Building plans for the principal building and any accessory buildings including, at a minimum, the first floor plan, and elevations for all sides of the building showing the architectural treatment of the property.

(iv) Perspective drawings or photo simulations showing how the proposed building will appear when seen from the street and how it will fit into the streetscape.

(v) A written and visual analysis of the existing character of the immediate neighborhood within five hundred (500) feet of the parcel that is within the same zone focusing on the factors identified in subsection (f)(10)~~(2)~~. This should include aerial photos and pictures of the existing lots in the neighborhood.

(vi) A written and visual analysis demonstrating how the proposed development of the lot meets the standards of subsection (f)(10)~~(2)~~.

(vii) A Drainage Plan meeting the requirements of Sec. 27-1536(e), Standards for a Drainage Plan.

(24) Review Process – The review of an application ~~for the development of a lot with less than 5,000 square feet of lot area or fifty (50) feet of street frontage~~ shall occur as follows:

(i) Prior to submitting an application, the applicant must have a pre-application conference with the Planning and Development Department. No application shall be considered by the Planning Board unless a conference has been held. This meeting is intended to provide the applicant with an understanding of the City's standards and procedures and to allow the applicant to familiarize the staff with the proposed development.

(ii) Upon submission and acceptance of an application, the Planning Staff shall place the item on the Planning Board's agenda for consideration.

(iii) The Planning Director or the Planning Board may request a peer review of the design of the development from an architect or other design professional. This shall occur in accordance with Sec. 27-138.

(iv) The Planning Board must hold a public hearing on the application. The hearing shall be noticed and conducted in accordance with Sec. 27-1425.

(v) In the case of a nonconforming lot of record abutting a developed lot in the same ownership as of October 21, 2007, the Planning Board shall consider the existence of the previously developed lot or lots in reviewing the application.

(vi) In acting on the application, the Planning Board may impose conditions of approval on the development. These conditions must relate to the standards of subsection (~~2~~f). In all cases, the Planning Board shall include a condition requiring that the Certificate of Approval and the Findings of Fact for the development are recorded at the Cumberland County Registry of Deeds.

(vii) The development of the property must comply with the approved application, including any conditions of approval. If it is necessary to make modifications to the approved plan prior to or during development, the Planning Director may approve such modifications provided they do not amount to a waiver or substantial alteration of the approved plan, including any conditions or requirements set by the Planning Board. Any subsequent modifications to the building or site layout or use may occur only with the approval of an amended application by the Planning Board.

(3~~5~~) Performance Guarantee – The applicant shall comply with the performance guarantee requirements of Secs. 27-1429, 27-1430 and 27-1431, as appropriate.

Secs. 27-305 – 27-400. Reserved.

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ARTICLE IV. Zoning Districts

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RESIDENTIAL DISTRICT AA

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Sec. 27-514. Space and bulk regulations (AA).

Maximum net residential density when public sewers are not present: Two (2) dwelling units per net residential acre.

Minimum lot area: ~~Twenty thousand (20,000) square feet.~~The minimum lot area depends on the neighborhood in which the parcel is located, which neighborhoods are shown on the Official Zoning Map of the City of South Portland. The following table contains the minimum lot area for each neighborhood wholly or partially zoned Residential AA:

Neighborhood	**Minimum Lot Area (s.f.)**
Highland	20,000
Loveitt's Field	8,500
Ocean Street	13,500
Stanwood Park	20,000

Minimum area per family: Same as minimum lot area (s.f.)~~Twenty thousand (20,000) square feet~~.

Minimum street frontage: One hundred (100) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yard, principal building: Ten (10) feet.

Minimum rear yard, principal building: Twenty-five (25) feet.

Minimum side yard, accessory building: Six (6) feet.

Minimum rear yard, accessory building: Six (6) feet.

Buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Maximum building height: Thirty-five (35) feet.

Minimum, distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

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Secs. 27-519 – 27-530. Reserved.

RESIDENTIAL DISTRICT A

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Sec. 27-534. Space and bulk regulations (A).

Maximum net residential density: Four (4) dwelling units per net residential acre.

Minimum lot area: ~~Twelve thousand five hundred (12,500) square feet.~~The minimum lot area depends on the neighborhood in which the parcel is located, which neighborhoods are shown on the Official Zoning Map of the City of South Portland. The following table contains the minimum lot area for each neighborhood wholly or partially zoned Residential A:

Neighborhood	**Minimum Lot Area (s.f.)**
Cash Corner	8,000
Country Gardens	12,500
Highland	12,500
Knightville	7,500
Ligonia	6,500

Meadowbrook	8,500
Meetinghouse Hill	6,000
Ocean Street	8,000
Pleasantdale	6,000
Stanwood Park	7,000
Sunset Park	7,000
Thornton Heights	7,000
Willard	6,000

Minimum area per family: Same as minimum lot area (s.f.)~~Ten thousand (10,000) square feet~~.

Minimum street frontage: Seventy-five (75) feet.

Minimum front yard, all buildings: Twenty (20) feet.

Minimum side yards: Six (6) feet.

Minimum rear yards: Twenty (20) feet.

Except that buildings higher than thirty (30) feet shall have side and rear yards not less than fifty (50) per cent of building height.

Accessory buildings: Six (6) feet rear yard.

Accessory buildings: Six (6) feet side yard.

Maximum building height: Thirty-five (35) feet

Maximum building coverage: Twenty-five (25) per cent.

Minimum distance between principal buildings on same lot: The height equivalent of the taller building.

Shoreland and floodplain management regulations: Any lot or portion of a lot located within the shoreland area or in a special flood hazard zone shall be subject to the provisions of Article XIII of this Chapter and/or Article IV of Chapter 5 of the Code.

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Secs. 27-539 – 27-550. Reserved.

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VERSION A

(A Residential Zoning District Meetinghouse Hill Neighborhood Min. Lot Size = 6,000 s.f.)

DRAFT for 11/15/16 Planning Board Public Hearing

Amend the Official Zoning Map of the City of South Portland dated September 8, 2010, as provided under Section 27-402 of the Zoning Ordinance, to show those neighborhood areas of the Residential AA and Residential A zoning districts, all as more particularly shown on the attached sketch map. (The attached sketch map is for general reference purposes only. The Official Zoning Map amendment is available for review and inspection at the City Clerk's Office and the Planning Department.)

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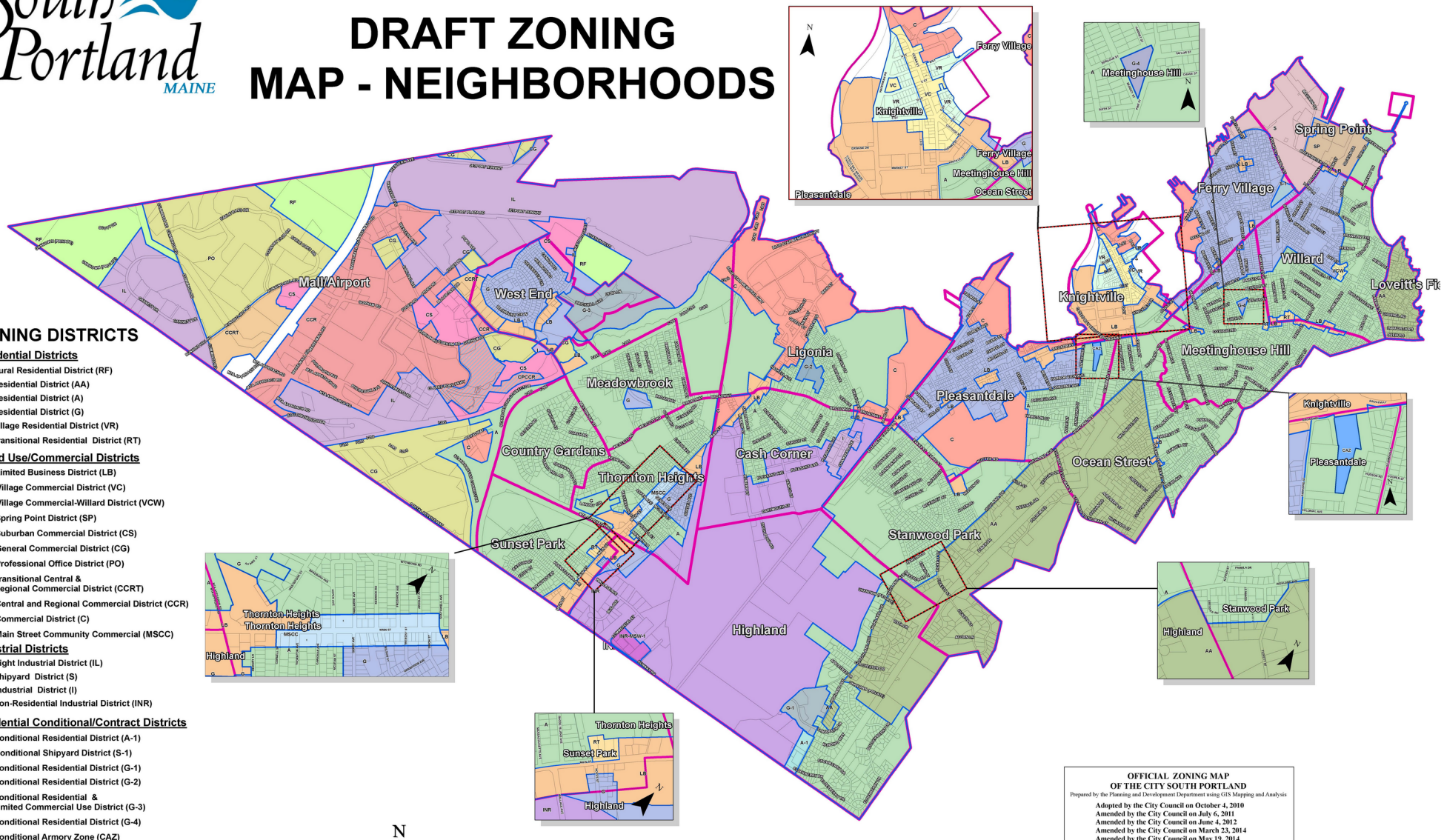
Fiscal Note: Less than $1,000

Date: _____, 2016

City of South Portland MAINE

DRAFT ZONING MAP - NEIGHBORHOODS



ZONING DISTRICTS

Residential Districts

- Rural Residential District (RF)
- Residential District (AA)
- Residential District (A)
- Residential District (G)
- Village Residential District (VR)
- Transitional Residential District (RT)

Mixed Use/Commercial Districts

- Limited Business District (LB)
- Village Commercial District (VC)
- Village Commercial-Willard District (VCW)
- Spring Point District (SP)
- Suburban Commercial District (CS)
- General Commercial District (CG)
- Professional Office District (PO)
- Transitional Central & Regional Commercial District (CCRT)
- Central and Regional Commercial District (CCR)
- Commercial District (C)
- Main Street Community Commercial (MSCC)

Industrial Districts

- Light Industrial District (IL)
- Shipyard District (S)
- Industrial District (I)
- Non-Residential Industrial District (INR)

Residential Conditional/Contract Districts

- Conditional Residential District (A-1)
- Conditional Shipyard District (S-1)
- Conditional Residential District (G-1)
- Conditional Residential District (G-2)
- Conditional Residential & Limited Commercial Use District (G-3)
- Conditional Residential District (G-4)
- Conditional Armory Zone (CAZ)

Mixed Use, Commerical, Industrial Conditional/Contract Districts

- Conditional Clark's Pond Central and Regional Commercial District (CPCCR)
- Conditional Non-Residential Industrial Municipal Solid Waste Transfer District (INR-MSW-1)
- Neighborhoods

Miles: 0 0.125 0.25 0.5 0.75 1

Kilometers: 0.35 0.175 0 0.35 0.7 1.05

OFFICIAL ZONING MAP OF THE CITY SOUTH PORTLAND

Prepared by the Planning and Development Department using GIS Mapping and Analysis

Adopted by the City Council on October 4, 2010
Amended by the City Council on July 6, 2011
Amended by the City Council on June 4, 2012
Amended by the City Council on March 23, 2014
Amended by the City Council on May 19, 2014
Amended by the City Council on February 18, 2015
Amended by the City Council on February 28, 2015
Amended by the City Council on May 4, 2015
Amended by the City Council on August 3, 2015

The official copy of the Zoning Map shall be the map that bears the certification that it is true and correct and the attested or conformed signature of the City Clerk.

September 8, 2010

DRAFT MAP - OCTOBER 11, 2016