

# What is the hotly contested Green New Deal for Portland? Here's the proposal

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By Randy BillingsStaff Writer

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Question C on the city ballot asks residents to approve a Green New Deal for Portland. But what does that mean?

Despite its name, the proposal is unrelated to the national Green New Deal reform package being pushed by progressive leaders, such as Rep. Alexandria Ocasio-Cortez, D-N.Y.

The proposed ordinance touches on three distinct policy areas. It updates and changes energy efficiency and roofing requirements in the city's Green Building code; increases workforce housing requirements in certain new development projects while simultaneously lowering the allowable rents and sales prices, as well as the income limits for people qualifying for those units; and adds an apprenticeship requirement for city-funded projects that was previously rejected by the City Council.

Proponents say the wide-ranging ordinance would lead to more energy-efficient, solar-ready buildings and increase affordable housing production.

Opponents, however, say the ordinance is unclear and misses the mark and would only increase construction costs and make it impossible to compete for necessary state and federal tax credits to build affordable housing.

The ordinance's sweeping impact on several different policies appears to be unique among U.S. cities, said Kate Sykes, a council candidate and former co-chair of the Southern Maine Democratic Socialists of America, which formed the People First Portland political action committee to campaign for five of the six referenda on the Nov. 3 ballot.

"It's a 15-page document that covers a lot of ground and that's intentional," Sykes said. "We have to start looking at climate change as embedded in the systems that are creating it. It's a global problem related to development and human actions, and global capitalism more broadly. These piecemeal solutions are not actually going to address the problem."



Building a Better Portland is a PAC formed to oppose three of DSA's referendum initiatives, including Question C. They say the ordinance unintentionally reduces sustainability benchmarks for larger development projects and that increased development costs associated with the ordinance will halt affordable housing production in the city, especially if it passes along with other proposals on the ballot. They say the ordinance could push affordable housing development outside of Portland and increase sprawl.

The new ordinance may also affect the city's elementary school renovation projects, which are costing more than originally anticipated.

Ethan Boxer-Macomber is one of the PAC's leaders. As someone with experience working as a city planner and as a nonprofit affordable housing developer, Boxer-Macomber said he is "helping defend the city against something that could be quite destructive." He described it as a "cluster bomb approach to public policy" and a "Trojan Horse."

"It's not green. It's not new. And it's not a good deal," Boxer-Macomber said. "When I read these ordinances I can tell you – and I usually like to concede if I see something partially right – but I can't find a line in these ordinances that isn't misguided or damaging to the city."

If approved, the council would not be able to amend or repeal the ordinance for at least five years. Instead, any changes during that period would have to be done through another referendum, which could be initiated by the council.

On Tuesday, Portland Mayor Kate Snyder and the City Council, with the exception of Pious Ali, announced their opposition to all five of the DSA's referenda, including Question C.

## **NONPROFITS OPPOSED**

Nonprofit affordable housing developers and providers in Portland, including Community Housing of Maine, Avesta Housing, Shalom Housing and the Portland Housing Authority, and the Maine Affordable Housing Coalition, also are opposing the referendum.

Greg Payne, director of the Maine Affordable Housing Coalition, said in a written statement that this is the first time the organization has taken a position on a local referendum, because of the threat it poses to affordable housing production.

"The people behind Question C are trying to rewrite affordable housing laws without ever talking to practitioners," Payne said. "Portland's green new deal is so poorly written, it will cause the housing crisis to get worse. There are hundreds of affordable apartments in the pipeline in Portland, and we're concerned that they simply won't be built if Question C passes."

So far, opponents have reported a significant fundraising and spending advantage.

Through Sept. 30, Building a Better Portland has received \$262,885 in cash and in-kind support, including two polls costing about \$39,000 each by the Chicago-based National Realtors Association. Of the PAC's 97 cash donors, 39 businesses and individuals contributed \$1,000 or more, including six businesses or organizations giving \$10,000. The Maine Association of Realtors made a \$25,000 donation. And the PAC has over \$81,100 remaining.

That dwarfs what's been received by proponents. People First Portland PAC had raised over \$23,000 in support of its campaign to pass all five referendum questions they put on the ballot. About two-thirds of that support, \$15,000, has come from unions, while the bulk of individual donations came from people donating under \$50. The campaign had a little more than \$9,700 remaining for the final month of the campaign.

## **GREEN BUILDING CODE**

The City Council adopted the Green Building Code in 2009. It required new or renovated city-owned and operated buildings larger than 2,000 square feet to earn LEED silver certification, a recognition of energy efficiency and sustainability. Private development projects over 10,000 square feet receiving a city subsidy of \$200,000 had to meet certain energy efficiency requirements, but not achieve LEED certification.

Working within that framework, People First Portland is trying to make both of those provisions apply to both city-owned and operated buildings and city-subsidized projects. And it expands the types of private development projects to those more than 5,000 square feet receiving a subsidy of \$50,000.

How the ordinance would affect larger projects is open to debate.

Mary Costigan, an attorney advising Building A Better Portland, was a city attorney when the Green Building Code was drafted and adopted and now represents developers and other property owners on land use issues in Portland. She said the proposal has the unintended consequence of reducing efficiency standards for projects over 5,000 square feet, because only projects between 2,000 square feet and 4,999 square feet would have to be certified LEED silver.

"They try to work within the existing framework and I think they have made a mistake," Costigan said. "If this had been vetted properly, they would have found that mistake."

Sykes says that's not true. She said the intent was to require all buildings over 2,000 square feet to be LEED certified, with buildings over 5,000 square feet being subject to additional energy efficiency standards.

Darren Port is the buildings and community solutions manager for the Northeast Energy Efficiency Partnerships, a nonprofit regional energy efficiency organization that is not taking a position on the ordinance. He said it's not entirely clear and that larger projects may not have to include additional sustainability measures under the LEED program, including water efficiency, materials used, and the like.

"This is really shades of gray," Port said. "It's confusing."

The ordinance could affect the city's four elementary school renovation projects, which are already running over budget because of higher than anticipated construction costs. Superintendent Xavier Botana said his staff has some concerns about the costs of additional energy efficiency and roof requirements.

"Our projects have sought to address educational needs as a priority and address energy efficiency improvements where possible," Botana said. "They are also concerned that the loads imposed by the roof requirements would likely trigger structural upgrades to our buildings where they are not currently planned."

Sykes said the ordinance was written with input from a sustainability expert, but she declined to name that individual.

## **ENERGY AND BUILDING CODES**

The ordinance would require the city to adopt a more aggressive energy code, or stretch code, associated with new standards under development by the state. But that state stretch code, which was slated to be finished by July 1, has been delayed because of the coronavirus. It won't be finished until early 2021, according to the state fire marshal.

Question C would also would direct city staff to lobby state officials annually to adopt more stringent building standards statewide. The director of planning and urban development would be required to report details about any exemptions granted under the ordinance on an annual basis.

And the city manager would be required to compile an annual fossil fuel report that must contain, at a minimum: the number of new buildings built without fossil fuel-based infrastructure; a survey of rebuilding technologies implemented as alternative energy (i.e. solar and green roofs, and projects with LEED or other certification); an assessment of the ordinance's benefits to public buildings; a survey of state and local legislation coordinating a regional plan to reduce use of fossil fuels; and proposed code changes to reduce the city's use of fossil fuels.

The proposal would add requirements to make building and electrical systems solar-ready. And at least 15 percent of a roof surface be kept clear from shading, so solar can be installed at a later date.

Boxer-Macomber said those requirements won't work in Portland and will only lead to additional costs for technology that will never be used.

## **ZONING, APPRENTICESHIP, WAGES**

The proposed ordinance seeks to increase the amount of middle-income, or workforce housing, required in new developments with 10 or more residential units. It also reduces the allowable sales and rent prices and the income limits for people qualifying for those deed-restricted units.

The current inclusionary zoning rules, adopted in 2015, require 10 percent of the units in these developments be deed-restricted for working-class households, which are defined in relation to the area median income for the Portland region.

The income requirements are currently different for rental and homeownership units. But the proposed ordinance would align those requirements and lower those thresholds by 20 and 33 percent, respectively.

The qualifying incomes and rents for such units are currently calculated based on what's considered affordable to a household earning 100 percent of area median income, currently ranging from \$70,630 for a single-person household to \$100,900 for four people. Qualifying incomes and sales prices for ownership units are calculated on what's affordable for a household earning 120 percent of area median income, currently ranging from \$84,756 for a single-person household to \$121,080 for four people.

The referendum would increase the share of affordable units to 25 percent, while calculating affordability for rentals and ownership units based on 80 percent of area median income, which currently would range from \$56,504 for a single-person household to \$80,720 for four people. It would also increase the cost developers can pay to avoid building those affordable units by more than 40 percent, from \$106,000 to \$150,000. That money goes into the city's housing trust fund, which is used to subsidize affordable housing developments.

The council has considered – and rejected – previous attempts to increase the percentage of middle-class units in such projects.

The ordinance would also enact new labor requirements on projects that receive \$50,000 or more in funding to build any building, road, highway, bridge, street, alleyways or other infrastructure. Contractors for those projects would have to pay prevailing wages, as determined by the state; provide at least 10 hours of paid safety training for all workers; and participate in a formal apprenticeship program.

Each project would need to employ a minimum number of apprentices, to the extent those apprentices are available: 10 percent of the workforce for contracts awarded between Jan. 1 and Jan. 1 2023; 17.5 percent of the workforce for contracts awarded between Jan. 1, 2023 and Jan. 1, 2025; and 25 percent for contracts awarded after Jan. 1, 2025.

Apprenticeship requirements have been strongly supported by unions in recent years, but rejected by the council.

Former Mayor Ethan Strimling was able to convince the council that prevailing wages should be paid on projects that receive tax increment financing from the city. But the council rejected the apprenticeship requirement in late 2017.

Strimling proposed a broader responsible contracting ordinance that would have applied to projects over \$50,000, but it never made its way to the full council for a vote.

## **INCREASED COSTS**

Sykes conceded that the ordinance's green building, apprenticeship and wage requirements would likely lead to increased building costs, although she wasn't sure by how much. But she said developers, including nonprofits specializing in affordable housing, are just going to have to make less profit.

"Yes, it is going to cut into their bottom line. Maybe they should reduce the salary of the CEO," she said of nonprofit developers. "That's just how it's going to have to be if we want to live on a planet that's sustainable."

But Boxer-Macomber said comments like that show that proponents don't understand the reality of housing development, which relies on a highly competitive statewide tax credit program that prioritizes lower-cost developments. He said affordable housing developers in Portland are already at a disadvantage because land is more expensive and more difficult to develop here, due to existing zoning codes and the built-up urban environment. Increasing costs further will only push housing developments out to the suburbs, where fewer development barriers exist.

"That's going to increase sprawl and pollution and continue Portland's legacy as the city that's always expected to provide the regional services without every benefiting from new residential taxes," he said.

Cullen Ryan, executive director of CHOM, a nonprofit affordable housing developer and manager, agreed. Ryan said the council has done well to ensure that affordable housing developers remain competitive in the market and he worries that this initiative will undo all of that progress.

“I get really scared of small unfocused and un-inclusive efforts like these ballot initiatives,” Ryan said. “They will box-out affordable housing development out of the mix entirely and undo the work that the City Council has worked so hard to create.”

The full ordinance can be read on the [city’s website](#).

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