10-1989


City of Portland, Maine

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CHAPTER 14

City of

PORTLAND, MAINE

Looseleaf Supplement

This Supplement is a reprint of the changes in Chapter 14, Land Use, of the Code of Ordinances of the City of Portland, Maine, as they appear in Supplement No. 18 to the main volume.

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Place this instruction sheet inside front cover of Pamphlet. Retain until each subsequent Supplement is inserted.

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ARTICLE III. ZONING*

DIVISION 1. GENERALLY

Sec. 14-46. Purpose.

This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city. This article is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community. (Code 1968, § 602.1.A)

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

Accessory uses: Uses which are customarily incidental and subordinate to the location, function and operation of permitted uses.

Apartment: See "dwelling unit."

Apartment house: See "multifamily dwelling."

Arcade: A covered passageway, generally occurring at the street level of a building, running parallel and adjacent to the street or as a through-block pedestrian connection, which is intended to provide sheltered access to directly adjoining commercial or other uses. Arcades are provided physical definition by the regular placement of structural elements throughout their length which support enclosed building uses above.

*Editor's note—Ord. No. 109-88, adopted July 19, 1988, provided that Ord. No. 79-88 through Ord. No. 99-88, all adopted July 19, 1988, which amended various sections within this chapter, "shall take effect immediately as an emergency, pursuant to Article II, § 5 of the Portland City Charter, to avoid a gap between the expiration of the moratorium ordinance previously controlling residential development and the implementation of the new development standards and map as adopted" and further provided that "notwithstanding the provisions of 1 M.R.S.A. § 302, this amendment and items 79 through 99 shall be applicable to applications for permits filed on or after July 19, 1988." Ord. No. 99-88 has not been set out herein but is on file in appropriate city offices. The specific amendments effected by Ord. No. 79-88 through Ord. No. 98-88 are too extensive to enumerate herein; for the specific disposition of such ordinances, see the Comparative Table following this Code.

Cross reference—Ordinances pertaining to rezoning saved from repeal, § 1-4(13).

State law reference—Zoning ordinances, 30 M.R.S.A. § 4962.
Assembly: A joining together of completely fabricated parts to create a finished product.

Billboard: A structure, either freestanding or attached to a building, the surface of which is available for hire for advertising purposes.

Building, height of: The vertical measurement from grade to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Business service: Establishments primarily engaged in rendering services to other business establishments on a fee or contract basis such as advertising, mailing services, building maintenance services, employment services, management and consulting services, protective services, personnel services and similar businesses.

Clinics: Any establishment where patients are admitted for examination and treatment by one (1) or more professionals such as, but not limited to, physicians, dentists, psychologists or social workers.

Commercial vessel: Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit or emergency purposes; but not including pleasure craft used principally for recreational purposes.

Community living arrangements: A state approved, authorized, certified or licensed group home for eight (8) or fewer mentally handicapped or developmentally disabled persons.

Day care facility: A facility which provides a regular program of care and protection for children under the age of sixteen (16), for consideration, for any part of the day.

Drinking establishment: Means and includes any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full-course meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes.

Dwelling, one-family: A detached building used exclusively for occupancy by one (1) family.

Dwelling, two-family: A detached building or pair of attached buildings used exclusively for occupancy by two (2) families living independently of each other.

Dwelling, multifamily: A building or portion thereof containing three (3) or more dwelling units.

Dwelling unit: One (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit.

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Emergency operations: Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Essential services: Gas, electrical, communication facilities, steam, fuel or water supply, transmission or distribution systems.
dwelling unit. A story which exceeds eighteen (18) feet in height shall be counted as two (2) stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Street: A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the city.

Street line: The line of demarcation between a street and the abutting land.

Structure: Anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

Theaters: Any establishment devoted to showing motion pictures, or for dramatic, musical or live performances.

Tourist home: A building in which more than one (1) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests.

Truck terminal: A building and premises devoted to handling and temporary warehousing of goods, which may include facilities for the maintenance and repair (except body repairs, frame straightening and painting), fueling and storage of trucks or tractor-trailer combinations.

Use: The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Utility substation: Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.

Warehousing: The storage of goods, wares and merchandise in a warehouse.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands: Those areas which have two (2) or more of the following:
(1) A water table at or near the surface during the growing season;
(2) Very poorly drained soils, including Sebago mucky peat; or
(3) Obligate wetland vegetation.

For purposes of this definition, "very poorly drained soils" and "obligate wetland vegetation" shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986), a copy of which is on file with the planning authority.

Wholesale: Sale for resale, not for direct consumption.

Yard: A space on a lot which is required by this article to be maintained open, unoccupied and unobstructed between lot lines and any structure, except as permitted in this article. In
determining the front, rear or side of any accessory building, the orientation of the principal building shall be controlling.

**Yard, front:** A yard adjoining the front lot line, extending between side lot lines, the depth of which shall be the least distance between the front lot line and any structure.

**Yard, rear:** A yard adjoining the rear lot line, extending between side lot lines, the depth of which shall be the least distance between the rear lot line and any structure.

**Yard, side:** A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and any structure.

(Code 1968, § 602.27; Ord. No. 625-70, 12-21-70; Ord. No. 499-74, § 11, 8-19-74; Ord. No. 276-77, 5-16-77; Ord. No. 431-82, §§ 3, 4, 2-22-82; Ord. No. 610-82, § 3, 7-7-82; Ord. No. 94-83, 8-3-83; Ord. No. 540-84, 5-7-84; Ord. No. 259-84, § 1, 12-17-84; Ord. No. 548A-85, § 1, 5-6-85; Ord. No. 33-85, §§ 1–3, 7-15-85; Ord. No. 363-85, 5-4-88; Ord. No. 300-88, 5-31-88; Ord. No. 87-88, § 1, 7-19-88; Ord. No. 129-88, 9-7-88; Ord. No. 311-89, 1-30-89)

**Editor's note**—Ord. No. 87-88, adopted July 19, 1988, amended the definitions for gross area, intermediate care facility and principal building to read as herein set out and added definitions for net land area, stormwater detention area and stormwater retention area. The definition of net land area was subsequently amended by Ord. No. 129-88, adopted Sept. 7, 1988, to read as herein set out. See the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 87-88.

**Cross reference**—Definitions and rules of construction generally, § 1-2.


In order to carry out the provisions of this article, the city is hereby divided into the following classes of zones:

(1) R-1 Residential zone
(2) R-2 Residential zone
(3) R-3 Residential zone
(4) FH Flexible housing zone
(5) R-4 Residential zone
(6) R-5 Residential zone
(7) R-5A Residential zone
(8) R-6 Residential zone
(9) IR-1 Island residential zone
(10) IR-2 Island residential zone
(11) IR-3 Island residential zone
(12) R-P Residence-professional zone
(13) R-OS Recreation and open space zone

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(14) B-1 Neighborhood business zone  
(15) B-2 Community business zone  
(16) A-B Airport business zone  
(17) B-3 Business zone  
(18) I-B Island business zone  
(19) B-4 Commercial corridor zone  
(20) O-P Office park zone  
(21) I-1 Industrial zone  
(22) I-2 and I-2b Industrial zones  
(23) I-3 and I-3b Industrial zones  
(24) I-4 Industrial zone  
(25) I-P Industrial park zone  
(26) W-1 Waterfront zone  
(27) W-2 Waterfront zone  
(28) Waterfront overlay zone  
(29) R-P Resource protection zone.

(Code 1968, § 602.1.B; Ord. No. 499-74, § 1, 8-19-74; Ord. No. 536-74, § 1, 8-19-74; Ord. No. 334-76, § 1, 7-7-76)

Editor's note—Although not expressly amended by the ordinances enacted subsequent to 1976 which created the several classes of zones, § 14-48 has been expanded to encompass all zoning classifications in the city at the discretion of the editor in consultation with the corporation counsel.

Sec. 14-49. Zoning map.

The zones in section 14-48 are shown upon a map in two (2) sheets entitled "Zoning Map of the City of Portland, Mainland" and "Zoning Map of the City of Portland, Islands" dated March, 1958, with amendments, and filed in the office of the Director of Planning and Urban Development, City of Portland, Maine. Such map in two (2) sheets, with amendments, is hereby adopted as part of this article and incorporated in and made a part of this article. (Code 1968, § 602.1.C; Ord. No. 213-84, 10-1-84)

Sec. 14-50. Zone boundaries when uncertain.

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning maps, the following rules shall apply:

(1) Unless otherwise indicated, zone boundary lines are the center lines of streets, alleys, parkways, waterways or rights-of-way of public utilities and railroads or such lines extended. Unless otherwise shown, lines within blocks less than two hundred (200)
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feet wide are median lines between their sides, and lines within blocks two hundred (200) feet or more wide are one hundred (100) feet distant from the less restricted side of the block.

(2) Other zone boundary lines not listed in paragraph (1) shall be considered as lines paralleling a street and at distances from the side lines of such streets as stated on the zoning maps. (Code 1968, § 602.20.A)

Sec. 14-51. Extension of zone lines.

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district. (Code 1968, § 602.20.B; Ord. No. 35-89, 6-28-89)

Sec. 14-52. Conformity required.

No building or structure shall be erected, altered, enlarged, rebuilt, moved or used, and no premises shall be used unless in conformity with the provisions of this article. (Code 1968, § 602.1.D)

Sec. 14-53. Minimum requirements established.

In interpreting and applying the provisions of this article, they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the citizens of the city; for reducing the danger from fires; and for improving the city. (Code 1968, § 602.1.E)

Sec. 14-54. Zone change fees.

The following schedule of fees will be charged by the city for applications for changes of zone according to the following major zoning classifications and pertinent data relating to the specific zone change:

(1) **Zoning Map Changes**

<table>
<thead>
<tr>
<th></th>
<th>1–25 Units</th>
<th>26–50 Units</th>
<th>51–75 Units</th>
<th>75 &amp; Over</th>
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<tbody>
<tr>
<td>Residence zones</td>
<td>$150.00</td>
<td>$200.00</td>
<td>$250.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>Nonresidential zones</td>
<td>0–15,000 sq. ft.</td>
<td>15,000–30,000 sq. ft.</td>
<td>30,000–45,000 sq. ft.</td>
<td>45,000–60,000 sq. ft.</td>
</tr>
<tr>
<td>acres (whichever is less)</td>
<td>$150.00</td>
<td>$200.00</td>
<td>$250.00</td>
<td>$300.00</td>
</tr>
</tbody>
</table>

Applicant shall assume payment of cost of all notices, including newspaper publication.

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(2) Text changes: Minimum fee of one hundred dollars ($100.00). Applicant shall assume payment of cost of all notices, including newspaper publication.

Administrative policy: All ordinances that would cost more than the maximum to publish should be printed in separate pamphlet form and advertised only by reference.

(3) Waiver of fees: The fee for zone change applications will be waived in the case of an application submitted by any governmental body.

(4) Withdrawal of application: If a zone change application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the city. (Code 1968, § 602.1.F; Ord. No. 589-75, § 1, 10-20-75; Ord. No. 590-75, § 1, 11-19-75; Ord. No. 693-81, 5-18-81; Ord. No. 523-87, 5-18-87)

Sec. 14-55. Relation to other ordinances.

This article shall not repeal the provisions of any other ordinance relating to the use of buildings or premises; provided, however, that where this article imposes greater restrictions, it shall control. (Code 1968, § 602.26.A)

Sec. 14-56. Enforcement.

The building authority is authorized to institute or cause to be instituted by the corporation counsel in the name of the city any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article. (Code 1968, § 602.26.C)

Sec. 14-57. Violations.

Any person being the owner or occupant of, having control of or the use of any building or premises or part thereof, who violates any of the provisions of this article, shall be guilty of an offense. (Code 1968, § 602.26.D; Ord. No. 157-76, 4-21-76)

Secs. 14-58, 14-59. Reserved.

DIVISION 1.5. CONDITIONAL OR CONTRACT ZONING

Sec. 14-60. Authority and purpose.

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change
or retain a zone or a rezoning which is inconsistent with the city’s comprehensive plan. (Ord. No. 31-85, 7-15-85; Ord. No. 88-88, 7-19-88; Ord. No. 62-89, 7-17-89)

Sec. 14-61. Notice and hearing.

The planning board shall conduct a public hearing prior to any property being rezoned under this division. Notice of this hearing shall be posted in the city clerk’s office at least fourteen (14) days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned. (Ord. No. 31-85, 7-15-85)

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

1. Limitations on the number and types of uses permitted;
2. Restrictions on the scale and density of development;
3. Specifications for the design and layout of buildings and other improvements;
4. Schedules for commencement and completion of construction;
5. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
6. Preservation of open space and buffers, and protection of natural areas and historic sites;
7. Contributions toward the provision of municipal services required by the development; and
8. Provisions for enforcement and remedies for breach of any condition or restriction.

(Ord. No. 31-85, 7-15-85)

meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807 et seq., or the applicable zoning lot size, whichever is larger.

b. Alteration of a detached single-family dwelling to a two-family dwelling: Ten thousand (10,000) square feet.

c. Long-term, extended, or intermediate care facilities: Two (2) acres.

d. School: Two (2) acres.

e. Church or place of worship: Two (2) acres.

f. Private club or fraternal organization: Two (2) acres.

g. Municipal use: Sixty-five hundred (6,500) square feet.

h. Hospital: Ten (10) acres.

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

j. All other uses: Sixty-five hundred (6,500) square feet.

Provided that for uses specified in section 14-90(1)c. through h. above, no minimum lot area shall be required in the following cases:

i. Uses existing as of June 1, 1983;

ii. Expansion onto land abutting the lot on which the principal use is located;

iii. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

iv. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(2) Minimum lot area per dwelling unit:

PRUD: Sixty-five hundred (6,500) 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.

Other uses: Sixty-five hundred (6,500) square feet, except for alteration of a single-family dwelling to a two-family dwelling as provided in section 14-88(1)b.

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

(4) 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.)

a. Front yard:

1. Principal or accessory structures: Twenty-five (25) feet.
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b.  Rear yard:
   1. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
   2. Accessory detached structures with ground coverage of one hundred (100) 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.

c.  Side yard:
   1. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:
      
      | Height of Structure | Required Side Yard |
      |--------------------|--------------------|
      | 1 story            | 8 feet             |
      | 1½ stories         | 8 feet             |
      | 2 stories          | 14 feet            |
      | 2½ 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 eight (8) feet in width. 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 eight (8) feet.
   2. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

d.  Side yard on side streets:
   1. Principal or accessory structures: Twenty (20) feet.

(5) Maximum lot coverage: Twenty-five (25) percent of lot area.

(6) Minimum lot width: Seventy-five (75) feet, except a lot under the provisions of section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article need be only sixty-five (65) feet.

(7) Maximum structure height: Principal or accessory attached structure: Thirty-five (35) feet.
   Accessory detached structure: Eighteen (18) feet.

(8) a.  Maximum number of units in a building (PRUD of five (5) acres or more): Six (6) units.
   b.  Maximum number of units in a building (PRUD of less than five (5) acres): Two (2) units.

(9) Maximum average number of units in a building (PRUD of five (5) acres or more): Five (5) units.

(10) Maximum length of building (PRUD): One hundred (100) feet for buildings without garages; one hundred forty (140) feet for buildings with integral garages.
(11) Minimum building setback from external subdivision property lines (PRUD):
   a. Three (3) or fewer dwelling units in building: Twenty-five (25) feet.
   b. Four (4) or more dwelling units in building: Thirty-five (35) feet.

(12) Minimum distance between detached PRUD dwelling units: Sixteen (16) feet.

(13) Reserved.

(14) Minimum recreation open space area (PRUD): Three hundred (300) square feet per
dwelling unit of common area designated on the site for passive or active recreation
purposes. Such recreation areas shall be located at least twenty-five (25) feet from
dwelling units.

(15) No habitable space in a PRUD shall be below grade, except basements that are a part
of and below ground units. (Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 5, 7-19-88; Ord.
No. 385-89, §§ 1, 2, 4-3-89)

Editor's note—Ord. No. 81-88, § 5, adopted July 19, 1988, amended § 14-90 to read as
herein set out. See also the editor's note to Art. III of this chapter for additional provisions
relative to Ord. No. 81-88.

Sec. 14-91. Other requirements.
[Other requirements are as follows:]

(1) Off-street parking: Off-street parking is required as provided in division 20 (off-street
parking) of this article.

(2) Shoreland regulations: No building or structure shall be erected, altered, enlarged,
rebuilt or used, and no premises shall be used within the land area situated between
the shoreland zone line and the normal high-water mark of the waters of the Stroudwater
River, Presumpscot River, Fore River, Portland Harbor, Back Cove, and the bays,
coves, sounds, inlets and open waters of Casco Bay, as shown on the city zoning map
and on all areas of all islands not having a shoreland zone line on the city zoning
map, which does not comply with the requirements of division 26 (shoreland regula-
tions) of this article.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on
the premises for a period not exceeding thirty (30) days. (Ord. No. 534-84, 5-7-84)

Secs. 14-92, 14-93. Reserved.

DIVISION 4.5. FH FLEXIBLE HOUSING ZONE

Sec. 14-94. Purpose.

The intention of this division is to establish an overlay zone in which manufactured
housing development is permitted as a conditional use in addition to those uses permitted in
the underlying R-1, R-2 or R-3 residential zone. The purpose of this division is to accommodate
additional housing types in appropriate areas of the city, while protecting the value and
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Sec. 14-95. Manufactured housing park or subdivision permitted as a conditional use.

Notwithstanding any other provision of this article, no manufactured housing park or subdivision shall be permitted in any zone except as provided in this section.

(1) Manufactured housing park or subdivision, as defined in section 14-47, shall be permitted as a conditional use in the flexible housing zone, provided that, notwithstanding subsections 14-471(3), 14-474(a) or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided, further, that, in addition to the provisions of subsections 14-474(c)(2) and (3), it will not, either by itself, or considered in conjunction with any other approved or existing manufactured housing park or subdivision, have a substantial adverse economic impact on the value of adjacent or nearby property which is attributable to its character as a manufactured housing park or subdivision. Such development shall be in accordance with the space and bulk and other requirements applicable to similar uses permitted in the underlying zone, and shall also meet the following additional requirements:

a. Such development shall be located on a tract of land as defined in section 14-493, with an area of at least five (5) but not more than twenty (20) acres. Such area may not include area within either the floodway or coastal high hazard area (Zone VI through V30) as shown on the City of Portland's flood boundary and floodway map, or its equivalent, or in the case of an estuary not shown on said map as being within the floodway or coastal high hazard areas, area below the normal high water mark of coastal or inland waters.

b. Such development shall be subject to approval by the planning board with respect to each and every requirement of article IV of this chapter, including the special requirements of section 14-499.5, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

c. Where the underlying zone permits planned residential unit development, a manufactured housing park or subdivision may be a planned residential unit development, provided that it meets the requirements applicable to planned residential unit development in the underlying zone, subject also to the provisions of this section and section 14-499.5.

d. Single-component manufactured housing shall be prohibited from being horizontally or vertically attached to any other unit or structure. [Provided, however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.] (Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 263-84, § 1, 12-17-84)
DIVISION 6. R-5 RESIDENTIAL ZONE*

Sec. 14-116. Purpose.

The purpose of the R-5 residential zone is:

(1) To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood. (Ord. No. 536-84, 5-7-84; Ord. No. 83-88, § 1, 7-19-88)

Editor's note—Ord. No. 83-88, § 1, adopted July 19, 1988, amended § 14-116 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-117. Permitted uses.

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

(1) Residential:
   a. Single- and two-family dwellings; except that development of two (2) or more two-family dwellings on contiguous lots within any two-year period shall be subject to review as specified under the provisions of 14-117(1)b.v. if such lots were under single ownership at any time within the two-year period immediately prior to development of the first such lot.
   b. Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:
      i. The land area requirement for a multiplex shall be six thousand (6,000) square feet of land area per dwelling unit; except that a multiplex with two hundred fifty (250) feet or more of street frontage needs only forty-five hundred (4,500) square feet of land area per dwelling unit;
      ii. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
      iii. No open outside stairways or fire escapes above the ground floor shall be constructed;
      iv. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units;
      v. Such development shall be subject to article V (site plan) of this chapter for site plan review approval.

*Editor's note—Ord. No. 536-84, adopted May 7, 1984, repealed former Div. 6, §§ 14-116–14-119, and enacted in lieu thereof a new Div. 7, §§ 14-116–14-121. However, in order to avoid duplication of subsequent division numbers and in consultation with the city, the provisions have been retained as Div. 6. Sections 14-116–14-119 were formerly derived from Code 1968, § 602.5.A–D, and Ord. Nos. 207-72, 499-74, 193-82, 92-83, 422-83.
c. Planned residential unit development (PRUD) consisting of horizontally or vertically attached or detached dwelling units, or a series of such dwelling units. No dimensional requirements contained in section 14-120 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. 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 this chapter. 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.

d. Community living arrangements, as defined in section 14-47 (definitions) of this article, for eight (8) or fewer mentally handicapped persons or developmentally disabled persons, provided that no such use is located within fifteen hundred (1,500) feet of another such use as measured along street lines to the respective property lines.

e. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

f. 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:

i. 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.

ii. 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.

iii. 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.

iv. Each unit shall have the long side of the unit parallel to the streetline where the required street frontage is met.

v. 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 so as to visually widen the narrow dimension or proportion of the unit.

vi. 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.

vii. 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.

(2) Other:

a. Parks, and other active and passive noncommercial recreation spaces;

b. 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;

c. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;

d. Municipal uses, excluding those specifically set forth in section 14-118 of this division. (Ord. No. 536-84, 5-7-84; Ord. No. 265-84, § 1, 12-17-84; Ord. No. 98-86, § 1, 10-6-86; Ord. No. 83-88, §§ 2, 3, 7-19-88; Ord. No. 387-89, 4-3-89)

Editor's note—Ord. No. 83-88, §§ 2, 3, adopted July 19, 1988, amended subsections 14-117(1) and (2)d to read as herein set out. See also the editor’s note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-118. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

(1) Residential:

a. Reserved.

b. Sheltered care group homes for nine (9) to twenty (20) residents, provided that:
   i. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
   ii. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.
   iii. A minimum floor space of eighty (80) square feet of bedroom area per occupant shall be required with a minimum dimension of eight (8) feet.
   iv. The scale and surface areas of parking, driveways and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties.
§ 14-118 PORTLAND CODE

c. Alteration of a structure existing and not in residential use as of January 1, 1984, to three (3) or more dwelling units, provided that:

i. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;

ii. No open, outside stairways, or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;

iii. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;

iv. Three thousand (3,000) square feet of land area per dwelling unit shall be required;

v. On-site parking shall be required as specified in division 20 (off-street parking) of this article, for the combined uses of the site;

vi. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any addition or exterior alterations such as facade materials, building form, and roof pitch, shall be designed to be compatible with the architectural style of the structure;

2. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.

(2) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:

a. Elementary, middle, and secondary school;

b. Long-term, extended, and intermediate care facility;

c. Church or other place of worship;

d. Private club or fraternal organization;

e. Reserved;

f. Hospital;

g. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

i. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and

ii. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
iii. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

(3) Other:

a. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;

b. Utility substations such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;

c. Nursery schools, kindergartens, and family day care facilities or home babysitting services not permitted as a home occupation use under section 14-410.

Editor's note—Ord. No. 83-88, § 4, adopted July 19, 1988, amended § 14-118 by deleting subsection (2)e. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-119. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited. (Ord. No. 536-84, 5-7-84)

Sec. 14-120. Dimensional requirements.

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

(1) Minimum lot size:

a. 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 unserved residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. section 4807, or the applicable zoning lot size, whichever is larger.

b. Sheltered care group home: Six thousand (6,000) square feet for first nine (9) residents plus one thousand (1,000) square feet for each additional resident.

c. Long-term, extended, or intermediate care facility: Two (2) acres.

d. School: Thirty thousand (30,000) square feet.

e. Church or place of worship: One (1) acre.

f. Private club or fraternal organization: One (1) acre.

g. Municipal use: Six thousand (6,000) square feet.

h. Hospital: Five (5) acres.

i. College, university, trade school: Two (2) acres.

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j. Multiplex: Nine thousand (9,000) square feet.

k. Planned residential unit development (PRUD): Two (2) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

l. All other uses: Six thousand (6,000) square feet.

Provided that for uses specified in section 14-120(1c. through i. above, no minimum lot area shall be required in the following cases:

i. Uses existing as of June 1, 1983;

ii. Expansion of uses onto land abutting the lot on which the principal use is located;

iii. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

iv. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(2) Minimum lot area per dwelling unit:

PRUD: Three thousand (3,000) 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.

Other uses: Three thousand (3,000) square feet, except as provided for a multiplex.

(3) Minimum street frontage: Fifty (50) feet.

(4) 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.)

a. Front yard:

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

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

b. Rear yard:

1. Principal or attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.

2. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

Setbacks from swimming pools shall be as provided in section 14-432 (swimming pools) of this article.
c. **Side yard:**

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

<table>
<thead>
<tr>
<th>Height of Structure</th>
<th>Required Side Yard</th>
</tr>
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<tbody>
<tr>
<td>1 story</td>
<td>8 feet</td>
</tr>
<tr>
<td>1½ stories</td>
<td>8 feet</td>
</tr>
<tr>
<td>2 stories</td>
<td>12 feet</td>
</tr>
<tr>
<td>2½ stories</td>
<td>14 feet</td>
</tr>
</tbody>
</table>

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 eight (8) feet in width. 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 eight (8) feet.

2. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

d. **Side yard on side streets:**

1. Principal or accessory structures: Fifteen (15) feet.

(5) **Maximum lot coverage:** Forty (40) percent of lot area.

(6) **Minimum lot width:**

- **Multiplex:** Ninety (90) feet.
- **Other uses:** Sixty (60) feet.

(7) **Maximum structure height:**

- **Principal or attached accessory structure:** Thirty-five (35) feet.
- **Accessory detached structure:** Eighteen (18) feet.
- **Principal and accessory attached structure (PRUD):** Thirty-five (35) feet.

(8) a. **Maximum number of units in a building (PRUD):** Twelve (12) units.

   b. **Maximum number of units in a multiplex building:** Six (6) units.

(9) **Maximum length of building (PRUD):** One hundred forty (140) feet.

(10) **Maximum length of accessory garage structure (PRUD):** Sixty (60) feet.

(11) **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 greater than one hundred (100) feet:** Thirty-five (35) feet.

(12) **Minimum recreation open space area (PRUD):** Three hundred (300) square feet per dwelling unit of common area designated for passive or active recreation purposes. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.
(13) No habitable space in a PRUD shall be below grade, except basements that are part of and below aboveground units. (Ord. No. 536-84, 5-7-84; Ord. No. 98-86, § 2, 10-6-86; Ord. No. 83-88, § 5, 7-19-88; Ord. No. 386-89, §§ 1, 2, 4-3-89)

Editor's note—Ord. No. 83-88, § 5, adopted July 19, 1988, amended § 14-120 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-121. Other requirements.

[Other requirements are as follows:]

(1) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(2) Shoreland regulations: No building or structure shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used within the land area situated between the shoreland zone line and the normal high-water mark of the waters of the Stroudwater River, Presumpscot River, Fore River, Portland Harbor, Back Cove, and the bays, coves, sounds, inlets and open waters of Casco Bay, as shown on the city zoning map and on all areas of all islands not having a shoreland zone line on the city zoning map which does not comply with the requirements of division 26 (shoreland regulations) of this article.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days. (Ord. No. 536-84, 5-7-84)


DIVISION 6.5. R-5A RESIDENTIAL ZONE*

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

(1) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-

*Editor's note—Ord. No. 537-84, adopted May 7, 1984, repealed a nonexistent Div. 6.5 and enacted a new Div. 8. However, in order to avoid duplication of division numbers and in consultation with the city, the provisions have been included as a new Div. 6.5, §§ 14-126—14-131.

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(4) The following manufacturing activities provided that they are conducted wholly within a building:
   a. Bakeries or baking plants;
   b. Canvas products, fabrication and sales;
   c. Cabinetry or carpentry shop;
   d. Creamery or bottling works;
   e. Cosmetics and perfume, compounding and packaging only;
   f. Printing, publishing and related manufacture of cardboard or paper boxes.

(5) Any manufacturing activity not involving scrap metal processing or storage meeting the performance standards below and employing ten (10) persons or less in direct manufacturing;

(6) Billboards as specified in division 22 of this article;

(7) Signs as specified in division 22 of this article;

(8) Accessory buildings and uses customarily subordinate or incidental to a conforming principal building or use;

(9) The following conditional uses if and as authorized by the board of appeals:
   Heliport as regulated in section 14-409. (Code 1968, § 602.10.A; Ord. No. 452-72, § 2, 7-17-72; Ord. No. 294-88, 5-23-88)

Sec. 14-217. External effects.

Every use in a B-3 zone, unless expressly exempted, shall be subject to the following limitations:

(1) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in open air.

(2) Noise: The volume of sound, measured by sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), inherently and recurrently generated shall not exceed seventy (70) decibels at lot boundaries, excepting air raid sirens and similar warning devices.

(3) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.

(4) Heat, glare, radiation or fumes: Heat, glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

(5) Smoke: Smoke shall not be emitted by any use at a density in excess of that classified as Ringelmann Number 2.

(6) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust, constitute a fire
hazard, or be edible or otherwise attractive to rodents or insects if stored out-of-doors shall be only in closed containers.

(7) Storage of vehicles: Storage of more than ten (10) unregistered derelict automotive vehicles on the premises for more than sixty (60) days, and outdoor storage of more than fifty (50) used automotive tires on the premises for more than thirty (30) days shall not be permitted. (Code 1968, § 602.10.B; Ord. No. 334-76, § 6, 7-7-76)

Sec. 14-218. Space and bulk.

No building or structure shall be erected, altered, enlarged, rebuilt or used in a B-3 zone which does not comply with the following requirements:

(1) Minimum rear yards: For residential uses, twenty (20) feet; for nonresidential uses, rear yards are not required except where the rear line abuts a residence zone where they shall be twenty (20) feet.

(2) Minimum side yards: Ten (10) feet for residential uses and for business uses where side yards abut residential zones.

(3) Minimum front yards: Ten (10) feet for residential uses; none required for nonresidential uses.

(4) Minimum lot area per dwelling unit: Two hundred fifty (250) square feet.

(5) Maximum building coverage: For residential uses, seventy (70) percent of the lot area.

(6) Maximum height: Eight (8) stories or one hundred (100) feet for residential uses; ten (10) stories or one hundred twenty-five (125) feet for nonresidential uses, except as provided below:

a. In the areas depicted on Attachment A-1 and detailed on Attachments B through F, which are hereby incorporated by reference, height shall be as indicated on Attachments A-1 through F.

b. The following requirements shall apply in the area of the B-3 zone bounded by Franklin Street Arterial, Congress Street, Myrtle Street and Cumberland Avenue:

1. Minimum building setbacks: No exterior building wall within sixty (60) feet of a public street shall extend to a height in excess of ninety (90) feet above grade without at least one (1) building setback at an upper story of at least fifteen (15) feet, which shall be located between the fifty (50) feet and ninety (90) feet height levels. In addition, the following setbacks shall apply to any buildings or structures situated along streets bounding or running through this area:

A. Congress street:

(i) (a) All buildings and structures shall be set back a minimum of thirty-five (35) feet from the edge of the street right-of-way, except that between Wilmot Street and the Franklin Street Arterial the setback shall be measured from a line which is a prolongation of the right-of-way line between Pearl Street and Wilmot Street. (b) Exte-
rior building surfaces above fifty (50) feet in height shall be set back to at least fifty (50) feet from said line. (c) Exterior surfaces above ninety (90) feet in height shall be set back to at least sixty-five (65) feet from said line.

(ii) (a) No more than thirty (30) percent of the total area of the street wall surface within the first fifty (50) feet of building height shall be set back more than four (4) feet from the minimum setback in A(i)(a) above. The street wall surface is that portion of the building providing a generally continuous building facade and may include arcades, provided that enclosed occupied space meeting the street wall surface occurs above the arcade. (b) Where a development is proposed to be constructed in phases such that the development’s street wall along Congress Street, as provided in A(i)(a) and (ii)(a) above, is to be constructed in phases as well, each phase shall be fully delineated on the site plan, and no more than fifty (50) percent of the total area of the street wall surface within the first fifty (50) feet of building height of any such phase shall be set back more than four (4) feet from the minimum setback in A(i)(a) above, and in no event shall the total percentage of the total area of the street wall surface within the first fifty (50) feet of building height for the full length of Congress Street frontage of the entire proposed development exceed the thirty (30) percent identified in A(ii)(a) above.

B. Cumberland Avenue:

(i) Exterior surfaces above fifty (50) feet in height shall be set back at least twenty-five (25) feet from the street right-of-way.

(ii) Exterior surfaces above ninety (90) feet in height shall be set back at least fifty (50) feet from the street right-of-way.

C. Myrtle Street, Wilmot Street: Exterior surfaces above fifty (50) feet in height shall be set back at least twenty-five (25) feet from the street right-of-way.

D. Pearl Street: Exterior surfaces above ninety (90) feet in height shall be set back at least fifteen (15) feet from the street right-of-way.

2. Maximum building height: For the purposes of restricting maximum building height, this area is divided into two (2) zones by a north-south line running through the area and located one hundred twenty-five (125) feet to the east of, and parallel to, the center line of Pearl Street, comprising the east zone and the west zone:

A. East zone: Maximum building height shall be one hundred ninety (190) feet;

B. West zone: Maximum building height shall be one hundred fifty (150) feet;

C. Vertical extensions: On buildings situated easterly of Pearl Street, vertical extensions up to forty (40) additional feet in excess of such height
restrictions shall be permitted to add visual interest to the vertical termination of the building through provision of a distinctive top of the building which visually conveys a sense of slenderness by progressively reducing the size of the top of the building within the vertical extension. Such an extension shall not be used for human occupancy. Notwithstanding section 14-430, this vertical extension shall be used to enclose mechanical equipment, heating, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or any other rooftop elements not intended for human occupancy which are a part of the building as designed and constructed.

3. Maximum building coverage and area limit for upper levels: The maximum building coverage of that building portion exceeding one hundred twenty-five (125) feet in building height shall not exceed twenty-five (25) percent of the lot area. The maximum gross floor area for each floor which is situated above one hundred twenty-five (125) feet in building height shall not exceed fifteen thousand (15,000) square feet in area. The maximum horizontal dimension of any floor situated above one hundred twenty-five (125) feet in building height shall not exceed two hundred (200) feet.

4. Signage: No exterior building surface which is situated in excess of one hundred twenty-five (125) feet in height shall bear exterior signage in either written or graphic form. (Code 1968, § 602.10C; Ord. No. 429-83, § 1, 4-25-83; Ord. No. 364-88, 5-4-88; Ord. No. 34-89, 6-28-89)

Editor's note—The attachments to Ord. No. 34-89, adopted June 28, 1989, referred to in subsection 14-218(6) above have not been set out herein but are available for inspection in the appropriate city offices.


Except where additional parking is required pursuant to article V (site plan), no off-street parking shall be required in a B-3 zone. (Code 1968, § 602.10.D; Ord. No. 173-87, § 1, 3-4-87)

Sec. 14-220. Off-street loading.

Off-street loading in a B-3 zone is required as provided in division 21 of this article. (Code 1968, § 602.10.E)

Sec. 14-221. Shorelands.

No building or structure shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used in a B-3 zone within the land area situated between the shoreland zone line and the normal high water mark of the waters of the Stroudwater River, Presumpscot River, Fore River, Portland Harbor, Back Cove, and the bays, coves, sounds, inlets, and open waters of Casco Bay, as shown on the city zoning map and on all land areas of all islands not having a shoreland zone line on the city zoning map, which does not comply with the requirements of division 26 of this article. (Code 1968, § 602.10.F; Ord. No. 499-74, § 5, 8-19-74)

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DIVISION 12.1. I-B ISLAND BUSINESS ZONE

Sec. 14-222. Purpose.

The purpose of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-223. Permitted uses.

The following uses are permitted in the I-B island business zone:

(1) Single-family detached dwellings;
(2) Retail or service establishments, excluding those listed below:
   a. Automobile service stations;
   b. Inns;
(3) Marinas and yacht clubs;
(4) Lodging houses;
(5) Wharves, piers, docks, or landing ramps;
(6) Off-street parking;
(7) 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 including but not limited to home occupations. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-224. Conditional uses.

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(1) Two-, three- or four-family dwelling, provided that:
   a. No open, outside stairways, or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
   b. A lower level dwelling shall have a minimum of one-half of its floor to ceiling height above the average adjoining ground level;
   c. The land area requirement for dwellings served by public sewer shall be four thousand (4,000) square feet of land area per dwelling unit, while dwellings not served by a public sewer shall have six thousand five hundred (6,500) square feet of land area per dwelling unit for the first two (2) dwelling units and ten thousand (10,000) square feet of land area for each additional dwelling unit;
   d. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the
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architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties;

e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;

f. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;

g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations;

h. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources;

(2) Automobile service stations;

(3) Inns;

(4) Schools;

(5) Nursery schools, kindergartens and day care centers for seven (7) or more children;

(6) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

(7) Churches or other places of worship;


Sec. 14-225. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-226. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulation and exceptions) of this article, lots in the I-B zone shall meet the following minimum requirements:
authority, and provided, further, that in addition to the provisions of section 14-474(c)(2), they shall also meet the following additional requirements:

(1) Commercial:

a. Automobile service stations and convenience stores with gasoline pumps provided that they are located at least two thousand (2,000) feet from other such uses.

b. Marinas, provided that:
   1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition or with necessary maintenance or rehabilitation. In determining whether such space could be used, the cumulative effect of deferred maintenance shall not be a factor. In assessing the impact on quality of berthing space, the planning board shall consider, among other elements, the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas; lease terms, availability of utilities, parking and safety;
   2. Any new linear pier line footage, not subject to paragraph 1. above, shall designate and reserve for the use of commercial vessels one-third of such new linear footage, which will be made available for use by commercial vessels on the same basis as the replacement footage required in paragraph 1. above; and
   3. The planning authority shall maintain a file of all marina site plans, showing the location of commercial vessel berthing developed pursuant to this section.

(2) Residential:

a. Residential uses in new building construction, buildings constructed after April 25, 1983, provided that:
   1. They do not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition or with necessary maintenance or rehabilitation. In determining whether such space could be used, the cumulative effect of deferred maintenance shall not be a factor. In assessing the impact on quality of berthing space, the planning board shall consider, among other elements, the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas; lease terms, availability of utilities, parking and safety;

b. Residential uses above the first story of existing buildings (buildings in existence on or before April 25, 1983), on the southerly side of Commercial Street, provided that:
   1. They do not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition or with
necessary maintenance or rehabilitation. In determining whether such space could be used, the cumulative effect of deferred maintenance shall not be a factor. In assessing the impact on quality of berthing space, the planning board shall consider, among other elements, the following: access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety. (Ord. No. 426-83, § 1, 4-25-83; Ord. No. 385-87, 4-6-87)

Sec. 14-309. Prohibited uses.

Uses which are not permitted as permitted uses or conditional uses are prohibited. (Ord. No. 426-83, § 1, 4-25-83)

Sec. 14-310. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the W-1 zone shall meet or exceed the following minimum requirements:

(1) **Minimum lot size:** None.
(2) **Minimum frontage:** None.
(3) **Minimum yard dimensions:**
   - Front setback: None.
   - Side setback: None.
   - Rear setback: None.

Except setback from pier line: A minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on within the structure, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

(4) **Maximum lot coverage:** One hundred (100) percent.
(5) **Maximum residential density:** Sixty (60) dwelling units per acre.

Except development may exceed the maximum density, to a maximum of one hundred forty (140) dwelling units per acre, if, in the judgment of the planning board, such density would not create an undue negative impact on: Existing or proposed public utility systems; vehicular and pedestrian circulation; and existing or proposed public streets and ways. Approval to exceed the maximum residential density standard shall be sought and obtained by the applicant through the site plan review process.

(6) **Maximum building height:**
    - South of Commercial Street: Forty-five (45) feet.
    - North of Commercial Street: Sixty-five (65) feet. (Ord. No. 426-83, § 1, 4-25-83; Ord. No. 36-89, § 1, 6-28-89)
Sec. 14-311. Performance standards.

All uses conforming or otherwise shall comply with the following standards:

1. **Outdoor storage of materials:** Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including run-off contaminants and residual material, within a designated area within the lot boundary.

2. **Noise:** Every use, except vessels, railroad traffic, air-raid sirens or similar warning devices, shall be so operated that the volume of sound inherently and recurrently generated, measured by a sound level meter and frequency weighting network (manufactured according to standards prescribed by the American Standard Association), at the off-premises source of complaint, does not exceed seventy-five (75) decibels, as measured on the A Scale.

3. **Vibration:** Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

4. **Federal and state environmental regulations:** All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.

5. **Discharges into harbor areas:** No discharge into harbor water areas shall be permitted, except as permitted by the department of environmental protection under a waste discharge license and as approved by the department of parks and public works as authorized by chapter 24, article III of this Code. All private sewage disposal systems or private waste water treatment works shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding waste water discharges.

6. **Storage of vehicles:** Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days, and outdoor storage of any used automotive tires on the premises for more than thirty (30) days shall not be permitted.

7. **Landfill of docking and berthing areas:** Landfill of docking and berthing areas shall be governed by the Alteration of Coastal Wetlands Act, M.R.S.A. Title 38, Section 471-8, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

8. **Off-street parking:** Except where additional parking is required pursuant to article V (site plan), off-street parking is required at fifty (50) percent of the required number...
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of parking spaces for specified uses as otherwise provided in division 20 of this article.

(9) **Off-street loading:** Off-street loading is required as provided in division 21 of this article.

(10) **Shoreland regulations:** No building or structure shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used within the land area situated between the shoreland zone line and the normal high water mark of the waters of the Stroudwater River, Portland Harbor, Back Cove and the bays, coves, sounds, inlets and open waters of Casco Bay, as shown on the City of Portland Zoning Map, which does not comply with the requirements of division 26 of this article.

(11) **Lighting:** All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor.

(12) **Roof signs:** No roof sign which is not integral to the architectural form of a building roof shall be erected.

(13) **Storage of pollutants and oily wastes:** On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days. (Ord. No. 426-83, § 1, 4-25-83; Ord. No. 174-87, § 1, 3-4-87)

**Sec. 14-312. Definition.**

For the purposes of the W-1 waterfront zone, a use shall be deemed to be “marine” or “marine-related” if a substantial portion of the goods or services which it provides are derived from fishing or other water or waterfront dependent activities, or if a substantial portion of the goods or services which it provides are designed to be used in connection with such activities. (Ord. No. 426-83, § 1, 4-25-83)

**DIVISION 18.5. W-2 WATERFRONT ZONE**

**Sec. 14-313. Purpose.**

[The purpose of the W-2 zone is:]

(1) To reserve a substantial portion of the waterfront for uses which are waterfront dependent, such as marine and fishing-related activities.

(2) To protect commercial water dependent uses from other competing but incompatible uses. (Ord. No. 427-83, § 1, 4-25-83; Ord. No. 385-87, 4-6-87)

**Sec. 14-314. Permitted uses.**

The following uses are permitted in the W-2 waterfront zone:

(1) **Marine:**
   a. Marine products, wholesaling and retailing;
   b. Marine repair services and machine shops;
   c. Tugboat, fireboat, pilot boat and similar services;

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d. Harbor and marine supplies and services and ship supply such as fueling and bunkering of vessels;

e. Marine industrial welding and fabricating;

f. Shipbuilding and facilities for construction, maintenance and repair of vessels;

g. Marine transport services, including ferries, public landings, commercial vessel berthing and excursion services;

h. Cargo handling facilities, including docking, loading and related storage;

i. Boat repair yards;

j. Boat storage facilities;

k. Seafood processing;

l. Seafood packing and packaging;

m. Seafood loading and seafood distribution;

n. Fabrication, storage and repair of fishing equipment;

o. Ice-making services;

p. Facilities for marine construction and salvage;

q. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;

r. Fabrication of marine-related goods.

(2) Commercial:

a. Publicly-owned intermodal transportation facilities principally for vessels with regularly-scheduled destination service, and the on-premises provision of restaurant, retail and service establishments;

b. Retail and service establishments which are principally marine or fishing-related, excluding marinas and yacht clubs;

c. Cold storage facilities;

d. Warehousing and storage of goods which are awaiting shipment via cargo carriers;

e. Professional, business or general offices which are principally marine or fishing-related.

(3) Public:

a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;

b. Public uses including pedestrian parks and other similar outdoor pedestrian spaces.

(4) Other:

a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. (Ord. No. 427-83, § 1, 4-25-83; Ord. No. 355-85, § 1, 1-7-85; Ord. No. 438-86, § 1, 4-7-86; Ord. No. 385-87, 4-6-87)

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the W-2 waterfront zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of Supp. No 18

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this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided, further, that in addition to the provisions of section 14-474(c)(2), they shall also meet the following additional requirements:

1. Commercial:
   a. Restaurants and other eating and drinking establishments, provided that they are a part of and within the lot lines of a marine-related use, other than vessel berthing facilities;
   b. Off-street parking lots and garages provided that they are a part of and within lot lines of a marine-related use.

2. Industrial:
   a. Storage of goods in existing structures;
   b. Facilities for combined marine and general construction.

3. Marine:
   a. Fish by-products processing, provided that:
      1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and
      2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
   b. Marine museums and aquariums. (Ord. No. 427-83, § 1, 4-25-83; Ord. No. 189-87, § 3, 12-7-87)

Sec. 14-316. Prohibited uses.

Uses which are not expressly allowed as permitted uses or conditional uses are prohibited. (Ord. No. 427-83, § 1, 4-25-83)

Sec. 14-317. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the W-2 waterfront zone shall meet or exceed the following minimum requirements:

1. Minimum lot size: None.
2. Minimum frontage: None.
3. Minimum yard dimensions:
   Front setback: None.
   Side setback: None.
   Rear setback: None.
   Except setback from pier line: A minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on within the structure but
shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

(4) *Maximum lot coverage:* One hundred (100) percent.

(5) *Maximum building height:* Forty-five (45) feet. (Ord. No. 427-83, § 1, 4-25-83; Ord. No. 36-89, § 2, 6-28-89)

**Sec. 14-318. Performance standards.**

All uses conforming or otherwise shall comply with the following standards:

(1) *Outdoor storage of material:* Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including run-off contaminants and residual material, within a designated area within the lot boundary.

(2) *Noise:* Every use, except vessels, railroad traffic, air-raid sirens or similar warning devices, shall be so operated that the volume of sound inherently and recurrently generated, measured by a sound level meter and frequency weighting network (manufactured according to standards prescribed by the American Standard Association), at the off-premises source of complaint, does not exceed seventy-five (75) decibels, as measured on the A Scale.

(3) *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.

(4) *Federal and State environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.

(5) *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, except as permitted by the department of environmental protection under a waste discharge license, and as approved by the department of parks and public works, as authorized by chapter 24, article III of this Code. All private sewage disposal systems or private waste water treatment works shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding waste water discharges.

(6) *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days, and outdoor storage of any used automotive tires on the premises for more than thirty (30) days shall not be permitted.

(7) *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by the Alteration of Coastal Wetlands Act, M.R.S.A. Title 38, Section 471-8, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be under-
taken using methods approved by the department of parks and public works and be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

(8) **Off-street parking:** Except where additional parking is required pursuant to article V (site plan), off-street parking is required at fifty (50) percent of the required number of parking spaces for specified uses as otherwise provided in division 20 of this article.

(9) **Off-street loading:** Off-street loading is required as provided in division 21 of this article.

(10) **Shoreland regulations:** No building or structure shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used within the land area situated between the shoreland zone line and the normal high water mark of the waters of the Stroudwater River, Portland Harbor, Back Cove and the bays, coves, sounds, inlets and open waters of Casco Bay, as shown on the City of Portland Zoning Map, which does not comply with the requirements of division 26 of this article.

(11) **Lighting:** All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor.

(12) **Roof signs:** No roof sign which is not integral to the architectural form of a building roof shall be erected.

(13) **Storage of pollutants and oily wastes:** On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days. (Ord. No. 427-83, § 1, 4-25-83; Ord. No. 174-87, § 2, 3-4-87)

**Sec. 14-319. Definition.**

For the purposes of the W-2 waterfront zone, a use shall be deemed to be “marine” or “marine-related” if a principal portion of the goods or services which it provides are derived from fishing or other water or waterfront dependent activities, or if a principal portion of the goods or services which it provides are designed to be used in connection with such activities. (Ord. No. 427-83, § 1, 4-25-83)
Sec. 14-320. Purpose; prohibited uses.

(a) Purpose. In order to secure the Portland waterfront or marine uses, no uses shall be permitted within the area bounded by the Tukeys Bridge and the Veteran’s Memorial Bridge lying between and including the waters of the Fore River, Portland Harbor and Casco Bay, excluding the Casco Bay Islands, and the water side of a line running down the middle of Commercial Street, India Street, Fore Street and the Eastern Promenade, other than those accessory to fishing activities, maritime activities, functionally water-dependent activities or authorized public uses, as these terms are defined in section 14-320.1 below.

(b) Prohibited uses. Without limitation and notwithstanding the provisions of the Portland Land Use Code, particularly division 4 (R-3 residential zone); division 8.5 (R-OS recreational and open space zone); division 14 (I-2 and I-2b industrial zones); division 15 (I-3 and I-3b industrial zones); division 18 (W-1 waterfront zone); division 18.5 (W-2 waterfront zone); and any other division, zone or section of the Code purporting to authorize pier and/or land uses of any kind, there shall not be permitted in the area described in paragraph (a):

(1) Hotels, motels, boatels and residential uses;

(2) Office, industrial, commercial, research and institutional uses and facilities which are not accessory to the activities defined in section 14-320.1 below. (Ref. of 5-5-87)

Sec. 14-320.1. Definitions.

(a) Fishing activities means activities required for, supportive of or commonly associated with fishing, such as fin fish and shell fish processing, storage, marketing and handling, the manufacturing and sale of bait, nets and other fishing supplies, and the manufacture, sale, installation and repair of fishing boats, engines and equipment, and ground-level parking incidental to any such uses.

(b) Maritime activities means activities required for, supportive of or commonly associated with the construction, repair, operation, storage, loading and unloading of boats, waterfront dock and port facilities, marinas, navigation aids, boat fuel and equipment supply, ground-level parking incidental to such uses and other activities the primary purpose of which is to facilitate maritime trade.

(c) Functionally water-dependent activities means activities that require, for their primary purpose, a location on the waterfront or that require direct access to the water and which cannot relocate away from the water.

*Editor's note—A referendum of May 5, 1987, passed and approved by the voters of the city, secured the area of the city waterfront for specified marine uses, thereby amending this chapter. Such provisions have been included, as enacted, in Div. 18.7 of Art. III, §§ 14-320—14-320.2, at the discretion of the editor and in consultation with the city’s corporation counsel. The final paragraph of the referendum ballot has not been set out herein but provided for severability of the amendments provisions, similar in wording and intent to the provisions of § 1-4 of this Code.

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(d) Authorized public uses means uses of facilities which are publicly owned and designed for a public purpose, together with public utility facilities and equipment storage and other facilities necessary for public safety. (Ref. of 5-5-87)

Sec. 14-320.2. Applicability.

Because of the significance of this division to development activities within the defined waterfront area and the potential for long-run harm which development inconsistent with this division will have for all of the citizens of the City of Portland, the provisions hereof shall be applicable to all pending proceedings, applications and petitions commenced after December 22, 1986. (Ref. of 5-5-87)

DIVISION 19. R-P RESOURCE PROTECTION ZONE

Sec. 14-321. Use.

No building shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used, in a R-P resource protection zone except for the following uses:

(1) Nonintensive recreational uses not requiring structures, such as fishing and hiking;

(2) Motorized and nonmotorized vehicular traffic on roads, trails and rails, as appropriate;

(3) Fire prevention activities;

(4) Wildlife management activities;

(5) Soil and water conservation activities;

(6) Surveying and natural resource analysis;

(7) Emergency operations as defined in section 14-47;

(8) Harvesting of wild crops;

(9) Nonresidential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet;

(10) Public and private parks and recreational areas, including one (1) or more structures containing a total maximum floor area of not more than ten thousand (10,000) square feet;

(11) Permanent and temporary piers, docks, wharves, breakwaters, causeways, marinas, bridges and uses projecting into water bodies, as allowed in section 14-449(4);

(12) Boathouses;

(13) Storehouses for fishermen’s gear;

(14) Tree clearing for approved building construction and other site improvements and alterations, as allowed in section 14-449(2);

(15) Essential services as defined in section 14-47 accessory to the uses permitted herein;

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Sec. 14-322. Space and bulk.

No building or structure shall be erected, altered, enlarged, rebuilt, or used in a R-P resource protection zone which does not comply with the following requirements:

1. **Minimum rear yards:** Principal building or structure, other than a boathouse or storehouse for fishermen's gear: Seventy-five (75) feet.

2. **Minimum side yards:**
   - Principal building or structure: Fifteen (15) feet.
   - Accessory building or structure: Five (5) feet.

3. **Minimum side yard on side streets:**
   - Principal building or structure: Twenty (20) feet.
   - Accessory building or structure: Twenty (20) feet.

4. **Minimum front yards:**
   - Principal building or structure: Twenty-five (25) feet.
   - Accessory building or structure: Twenty-five (25) feet.

5. **Maximum height:**
   - Principal building or structure: Two (2) stories or twenty-five (25) feet.
   - Accessory building or structure: One (1) story or fifteen (15) feet.

6. **Maximum building area:** Principal building or group of buildings: Ten (10) percent of lot area.

7. **Minimum lot area:** Twenty thousand (20,000) square feet.

8. **Minimum width of lot:** One hundred (100) feet.

9. **Minimum lot frontage on street or shoreline:** One hundred (100) feet.

10. **Minimum shoreline setback:** All principal structures other than permitted piers, docks, wharves, breakwaters, causeways, bridges, boathouses and storehouses for fishermen's gear: Seventy-five (75) feet. (Code 1968, § 602.13A.B; Ord. No. 499-74, § 6, 8-19-74)
§ 14-323 OFF STREET PARKING

Sec. 14-323. Off-street parking.

Any off-street parking in a R-P resource protection zone is required as provided in division 20 of this article. (Code 1968, § 602.13A.B; Ord. No. 499-74, § 6, 8-19-74)


DIVISION 20. OFF STREET PARKING

Sec. 14-331. Defined.

Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical and Design Standards and Guidelines, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone. (Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 1, 4-3-89)


Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

1. Residential structures:
   a. For new construction, two (2) parking spaces for each single-family dwelling unit. In the case of new two-family, three-family and multifamily dwellings as defined by section 14-47, one and one-half (1½) parking spaces for each dwelling unit.
   b. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, one (1) additional parking space for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each existing dwelling unit.

2. Tourist home, tourist court, motel, cabins: One (1) parking space for each sleeping room.

3. Hotels and lodging houses: One (1) parking space for each four (4) guest rooms.

4. Schools providing instruction for students up to and including those fifteen (15) years of age: One (1) parking space for each room used for purposes of instruction.

5. Schools providing instruction for students sixteen (16) years of age and over: One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
(6) **Hospitals**: One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.

(7) **Auditoriums, theaters, assembly halls, funeral homes**: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.

(8) **Retail stores**: One (1) parking space for each one hundred fifty (150) square feet or major fraction thereof, of first floor area in excess of three thousand (3,000) square feet not used for bulk storage and one (1) parking space for each four hundred (400) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.

(9) **Restaurants or establishments constructed and intended for the dispensing of food and drink as the principal activity**: One (1) parking space for each one hundred (100) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

(10) **Offices; professional and public buildings**: One (1) parking space for each four hundred (400) square feet or major fraction thereof, of floor area exclusive of cellar not used for bulk storage.

(11) **Church and accessory uses located on same or contiguous lots**: One (1) parking space for each five (5) fixed seats; or if no fixed seats, one (1) parking space for each twenty-five (25) square feet, or major fraction thereof, of area in sanctuary or principal place of assemblage for worship in the church.

(12) **For that part of every business, manufacturing, and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet**: One (1) parking space for each one thousand (1,000) square feet of floor area, or major fraction thereof.

(13) **Beds**: One (1) parking space for each eight (8) beds, or major fraction thereof.

(14) **Longterm, extended care facilities**: One (1) parking space for each five (5) beds, or major fraction thereof, plus one (1) parking space per each employee normally present during one (1) weekday morning shift. (Code 1968, § 602.14.B; Ord. No. 268-77, 5-16-77; Ord. No. 431-82, § 2, 2-22-82; Ord. No. 575-86, §§ 1, 2, 5-19-86; Ord. No. 65-87, 11-2-87)

Sec. 14-333. To be located on lot with principal use in residence zones; exceptions.

Required off-street parking in all residence zones and accessory off-street parking in R-1 through R-5 zones shall be located on the same lot with the principal building or use, except that the board of appeals may permit such off-street parking to be located at a distance of not more than three hundred (300) feet from the principal building or use, measured along lines of public access where it can not reasonably be provided on the same lot if the premises to be used for parking are held under the same ownership or lease as the building or use served and if said premises are located in the same or a less restricted zone as the building or use served. Evidence of such control, either deed or lease, shall be required. (Code 1968, § 602.14.C) Supp. No. 18
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Sec. 14-334. To be located on lot with principal use in nonresidential zones; exceptions.

Required off-street parking in all nonresidential zones shall be located on the same lot with the principal building or use, or within one hundred (100) feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the board of appeals may permit such off-street parking to be located a reasonable distance from the principal building or use measured along lines of public access if the premises to be used for parking are held under the same ownership or lease. Evidence of such control, either deed or lease, shall be required. (Code 1968, § 602.14.D; Ord. No. 430-83, § 1, 4-25-83)

Sec. 14-335. Off-street parking restricted.

Off-street parking shall not include:

1. More than one (1) commercial motor vehicle in any residence zone, the R-P zone or any B-1 zone;
2. More than six (6) commercial motor vehicles in any B-2 zone;
3. Loading, sales, dead storage repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal building or use when located in an I-2, I-2b, I-3 zone and I-3b zone;
4. Except in the case of a car dealer, more than one (1) unregistered motor vehicle stored outside for a period in excess of thirty (30) days in any residence zone, the R-P zone or any business zone;
5. Notwithstanding (1) above, any truck body, commercial trailer or similar commercial vehicles in any residence zone or the R-P zone. (Code 1968, § 602.14.E; Ord. No. 298-88, 5-31-88)

Sec. 14-336. Location in residence zones for six or fewer vehicles.

Where off-street parking for six (6) or fewer vehicles is required or provided in any residence zone, it shall not be located closer than fifty (50) feet to any street line if less than five (5) feet from any lot line and shall not be closer to any street line than the required depth of the front yard for the same lot, except on a corner lot where the minimum depth from the line of the side street shall be the minimum width of the side yard on the side street. (Code 1968, § 602.14.F)

Sec. 14-337. Location in residence zones for more than six vehicles.

Where off-street parking for more than six (6) vehicles is required or provided for nonresidential uses in residence zones, it shall not be located closer than twenty-five (25) feet to any residential structure on an adjoining lot. (Code 1968, § 602.14.G)

Sec. 14-338. When located within required open yard areas in residence zones.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be open yard.
be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

(1) A continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or lot line involved, either above or below the impact surface.

(2) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved. (Code 1968, § 602.14.H)

Sec. 14-339. When located adjacent to a street or a residential use.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

(1) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that bumpers of vehicles cannot project beyond its face toward the street line involved either above or below the impact surface.

(2) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved. (Code 1968, § 602.14.I)

Sec. 14-340. Construction requirements when more than six vehicles parked.

Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:

(1) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the traffic engineer.

(2) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6)
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inches in depth, well compacted, and with a wearing surface equivalent in quantities of compaction and durability to fine gravel.

(3) A system of surface drainage shall be provided in such a way that the waste run-off shall not run over or across any public sidewalk or street.

(4) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways. (Code 1968, § 602.14.J; Ord. No. 96-88, § 1, 7-19-88)

Editor's note—Ord. No. 96-88, § 1, adopted July 19, 1988, amended subsection (1) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 96-88.

Sec. 14-341. Aisles required for six or more spaces.

In parking facilities containing six (6) or more parking spaces, there shall be provided vehicular access by one (1) or more aisles. Aisle widths shall be in conformance with the standards set forth in the City of Portland Technical and Design Standards and Guidelines, as hereafter amended. (Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 2, 4-3-89)

Sec. 14-342. Reserved.


Sec. 14-343. Board of appeals may approve joint use.

The board of appeals may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that the parking facility will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments. (Code 1968, § 602.14.L)

Sec. 14-344. Board of appeals may authorize parking in certain residence zones.

In R-3 through R-5 zones, the board of appeals may permit off-street parking for passenger cars only accessory to a use located in and conforming with the provisions of a nearby business or industrial zone (except B-1 zones) if the lot on which the use is proposed is located wholly within three hundred (300) feet, measured along lines of public access, of the principal building of the use to which the proposed use would be accessory and provided further that:

(1) The lot where the parking use is proposed shall be under the control of the owner of the use to which the parking use would be accessory. Evidence of such control by deed or lease shall be required before the certificate of occupancy is issued. If such control
case of places of public assembly, or floor area as in the case of industrial, business, manufac-
turing, institutional or recreational buildings, or accommodations as in the case of hotels,
tourist homes and tourist courts, unless required off-street parking is provided for such
addition or enlargement. (Code 1968, § 602.17.I)

Sec. 14-390. Nonconformity as to off-street loading.

A building which is nonconforming as to the requirements for off-street loading shall not
be enlarged or added to, unless off-street loading is provided sufficient to satisfy the require-
ments of this article for both the addition or enlargement and the original building or
structure. (Code 1968, § 602.17.J)

Sec. 14-391. Reserved.

Editor’s note—Section 4 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed § 14-391,
relative to the board of appeals permitting temporary nonconforming uses, which derived
from Code 1968, § 602.17.K.

Secs. 14-392—14-400. Reserved.

DIVISION 24. USE REGULATIONS AND EXCEPTIONS

Sec. 14-401. Generally.

The requirements of this article shall be subject to the use regulations and exceptions of
this division. (Code 1968, § 602.18)

Sec. 14-402. Relationship of buildings to lots.

Every building hereafter erected shall be located on a lot as defined in section 14-47.
(Code 1968, § 602.18.A)

Sec. 14-403. Street access.

(a) In general. No building intended for use as a habitation shall be erected on a lot which
has its only street frontage on a street less than thirty-five (35) feet wide. No building shall be
erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the
minimum requirements for street improvements set forth in this section. For purposes of this
section, street shall be as defined in section 14-47, except that a dedicated street which may no
longer be accepted due to lapse of time and an accepted street which may have been discon-
tinued by abandonment shall also be deemed to be streets, provided that an applicant for a
building permit respecting any lot abutting such street shall, without compensation or claim
for damages, and at his own cost and expense, first submit to the building authority (a) a deed
from the owner of such lot conveying to the city all his right, title and interest in and to such
street or any portion thereof; and (b) an agreement by such owner forever releasing the city
from any and all claims for damages for the laying out and taking of such street and
indemnifying the city against any and all other such claims, both such instruments to be

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executed and in recordable form acceptable to the corporation counsel and to encumber and run with the land.

(b) Minimum requirements for street improvements on unimproved and improved but unpaved streets. For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this chapter. Where the nearest permanently paved street does not have granite curbing, the public works authority may waive the requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur:

(1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence. (Code 1968, § 602.18.B; Ord. No. 193-84, § 1, 11-19-84; Ord. No. 178-87, 11-2-87; Ord. No. 372-89, 3-20-89)

Sec. 14-404. Accessory use.

The term "accessory use" shall include only the following:

(1) A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be "customarily incidental" if such sale occurs after sales have been conducted on the same premises for six (6) or more days previously during the calendar year.

Except where the principal use consists of the sale of alcoholic beverages for consumption on premises or where the principal structure is an airline terminal, pinball machines or amusement devices shall not be considered to be accessory uses whenever there are more than a total of two (2) such machines or devices on the premises.
(2) Off-street parking when serving conforming uses located in any zone, but not more than one (1) motor vehicle may be parked or stored per dwelling unit, except that three (3) motor vehicles may be parked on any lot used for a single or two (2) family house.

(3) Home occupations as defined in section 14-47 and section 14-410.

(4) Signs as defined in division 22 of this article.

(5) The letting of rooms within an existing dwelling unit in any residential zone, provided that:
   a. There shall be no more than two (2) persons occupying such room or rooms;
   b. There shall be not more than two (2) rooms per dwelling unit occupied for such use; and
   c. There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years. (Code 1968, § 602.18.C; Ord. No. 574-81, 4-6-81; Ord. No. 66-87, § 1, 11-2-87)


In any business zone which abuts a residence zone in such a manner that the dividing line between the zones is one hundred (100) feet or less from the main business street of such business zone, no building of nonconforming use in such residence zone shall be built and no such existing building shall be altered so as to have its front or any entrance door or any part thereof used for a nonconforming use in such residence zone facing upon any other street than the main business street unless such entrance is at a distance greater than sixty (60) feet from the nearest residence zone. (Code 1968, § 602.18.D)

Sec. 14-406. Garages.

No building in any zone shall be erected, altered or used as a garage for the storage of more than three (3) motor vehicles or for the business of repairing motor vehicles, if any part of either old or new building when completed would be closer than five (5) feet to any part of any church, public or private hospital or school; or if any part of either old or new building when completed would be less than fifteen (15) feet from the boundary line of any lot upon which any part of any church, public or private hospital or school is located. No existing garage used for the storage of more than three (3) motor vehicles or for the business of repairing motor vehicles shall be deemed to become a nonconforming use through the subsequent erection of such church, hospital or school closer than the aforesaid distance to such a garage. (Code 1968, § 602.18.E)

Sec. 14-407. Temporary stands.

No premises shall be used for business purposes consisting of temporary stands, booths, platforms or vehicles intended for the sale of merchandise or other mercantile purposes, if any part of such stand, booth, platform or vehicle is proposed to be located nearer than one Supp. No. 18
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hundred twenty-five (125) feet to any residence zone, except that stands for the sale of agricultural products shall be permitted as specified in division 2 of this article. (Code 1968, § 602.18.F)

Sec. 14-408. Exceptions to performance standards.

The operation on public streets, airports and railroad rights-of-way of motor vehicles and other vehicles for the transportation of goods or persons shall be excepted from the limitations of the sections entitled "external effects." (Code 1968, § 602.18.G)

Sec. 14-409. Heliports.

Heliports shall meet the following minimum specifications, subject to regulations of the Civil Aeronautics Administration when such regulations are greater:

1. **Roof heliport:**
   a. Take-off area: Two hundred (200) feet by two hundred fifty (250) feet minimum.
   b. Parking area: Thirty (30) feet by ninety (90) feet minimum.

2. **Ground heliport:**
   a. Take-off area: Three hundred (300) feet by seven hundred (700) feet minimum.
   b. Parking area and station building shall be located out of flight area.

3. **Maximum elevation of operational area above street:** One hundred (100) feet.

4. **Minimum clearance from lateral obstruction:** One hundred (100) feet.

5. **Minimum width of approach and departure path:** Five hundred (500) feet at landing area, tapering outward fifteen (15) degrees on each side to a width of one thousand (1,000) feet.

6. **Slope:** With emergency landing areas: One (1) to eight (8); Without emergency landing areas: One (1) to twenty (20).

7. **Curved approach:** Minimum radius to turn, six hundred fifty (650) feet.

8. **Approach zone transition area:** Slope, one (1) in two (2). (Code 1968, § 602.18.H)


**Purpose.** The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

1. In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
   a. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes,
or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;

b. There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;

c. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (1)a. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;

d. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;

e. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;

f. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;

g. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;

h. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;

i. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;

j. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.

(2) No residence shall be occupied, altered or used for any home occupation except the following:

a. Accountants and auditors;

b. Answering services (telephone);

c. Architects;

d. Artists and sculptors;

e. Authors and composers;

f. Computer programming;

g. Custodial services;

h. Custom furniture repair and upholstering;

i. Dentists, doctors, therapists, and health care practitioners;

j. Direct mail services;

k. Dressmakers, seamstresses and tailors;

l. Engineers;

m. Family planning services;
n. Hairdressers (limited to no more than two (2) hair dryers);
o. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
p. Interior decorators;
q. Lawyers, justices of the peace and notary publics;
r. Licensed family day care home or babysitting services;
s. Musicians, but not including performances or band rehearsals;
t. Office facility of a minister, rabbi, or priest;
u. Photographic studios;
v. Professional counseling and consulting services;
w. Professional research services;
x. Sales persons provided that no retail or wholesale transactions are made on the premises;
y. Small appliance repair;
z. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
aa. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
bb. Stenographic and other clerical services.

(3) A home occupation that is not listed in paragraph (2) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall be permitted as a conditional use subject to the requirements of paragraph (1) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations. (Code 1968, § 602.18.I; Ord. No. 277-77, 11-7-77; Ord. No. 548-85, § 1, 5-6-85; Ord. No. 76-85, § 1, 7-1-85; Ord. No. 66-87, § 2, 11-2-87)
Sec. 14-423. Joint occupancy.

When two (2) or more uses occupy the same building or premises, the off-street parking and loading requirements and the area per dwelling unit requirements of both uses shall be met in full. (Code 1968, § 602.19.B)

Sec. 14-424. Required open space.

No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building. (Code 1968, § 602.19.C)

Sec. 14-425. Projections in required yard areas.

A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet. (Code 1968, § 602.19.D)

Sec. 14-426. Fences.

In residence zones no wall or fence along a street line or within twenty-five (25) feet of a street line shall be more than four (4) feet in height, subject to the provisions of section 14-434. (Code 1968, § 602.19.E)

Sec. 14-427. Enclosure of porches.

Any open porch existing with a roof over the same on June 5, 1957, and encroaching upon any yard required by this article may be enclosed if the major portion of the enclosure is of glass. (Code 1968, § 602.19.F)

Sec. 14-428. Corner lots.

In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot. (Code 1968, § 602.19.G)

Sec. 14-429. Lot surrounded by streets or alleys.

Where a lot containing ten thousand (10,000) square feet or less is completely surrounded by streets or alleys, the building area may be increased twenty (20) percent. (Code 1968, § 602.19.H)
Sec. 14-430. Height limits.

(a) Roof structures. Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings.

(b) Reserved. (Code 1968, § 602.19.I; Ord. No. 428-83, § 1, 4-25-83; Ord. No. 36-89, § 3, 6-28-89)

Sec. 14-431. Yards.

The height in stories or feet of that part of the principal building adjoining a yard shall be used in determining the required width or depth of that yard, but in no case shall any higher part of the building be closer to the property line than width or depth of yard required for that height. In case an addition is to be made to a building which existed on June 5, 1957, the side yard spaces of which complied with the ordinance in effect on that date, the aggregate side yards may be the same as required on that date, provided the yard on the side where the addition is intended would comply with the minimum width required by the present ordinance. Yards as prescribed for residential uses shall be required for an apartment house or hotel erected above the ground floor of a building where the ground floor is designed exclusively for business purposes. (Code 1968, § 602.19.J)
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Sec. 14-504. Enforcement, conveyance, markers and recording.

(a) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the planning board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(b) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the public works authority. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received planning board approval.

(c) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a fine of not more than five hundred dollars ($500.00) for each such occurrence. The city may institute proceedings to enjoin any violation of this section. (Code 1968, § 603.15; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-505. Appeals.

An appeal from any final decision of the planning board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. (Code 1968, § 603.16; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the planning board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(b) Where the planning board finds that extraordinary conditions exist or that undue hardship may result from strict compliance with the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose of the land development plan and the regulations of this article. For purposes of this subsection, the planning board may, but need not, consider such circumstances as where a street is a dead-end street, or where an
alternative walking route is reasonably available, or where a street is scheduled for major
reconstruction, or where the development of abutting land is substantially restricted.

(c) The standards and requirements of this article may be modified by the planning board
in the case of a plan and program for a planned unit development which in the judgment of the
planning board provides adequate public spaces and improvements for the circulation, recrea-
tion, light, air and service needs of the tract when fully developed and populated, and which
also provides such covenants or other legal provisions as will assure conformity to and
achievement of the land development plan.

(d) If at any time before or during the construction of the required improvements the
subdivider demonstrates to the satisfaction of the project engineer and the public works
authority that unforeseen conditions make it necessary or preferable to modify the design of
the required improvements, the public works authority may authorize modifications provided
that the modifications do not amount to a waiver or substantial alteration of the function of
any improvements required by the planning board. (Code 1968, § 603.17; Ord. No. 158-68, §
10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, §§ 2, 3, 6-18-84)

Sec. 14-507. Conditions.

In granting variances and modifications, the planning board and city council may require
such conditions as will, in their judgement, secure substantially the objectives of the stan-
dards or requirements so varied or modified. (Code 1968, § 603.18; Ord. No. 158-68, § 10,
5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-508. Exemptions.

(a) This article does not apply to subdivisions approved prior to June 6, 1979, nor to
subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally
recorded in the registry of deeds prior to June 6, 1979.

(b) A division accomplished by devise, condemnation, order of court, gift to a person
related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid
the objectives of this article, or by transfer of any interest in land to the owner abutting
thereon shall not be considered to create a lot or lots for purposes of this article. (Code 1968, §
603.19; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Secs. 14-509—14-520. Reserved.
ARTICLE V. SITE PLAN*

Sec. 14-521. Purposes.

(a) In an era of increasing complexity in urban life, the development of private land can have a profound impact upon the cost and efficiency of public services and upon those facilities and environmental qualities conducive to the well-being of citizens, such as open space and the efficiency and safety of vehicular and pedestrian movement. While the regulations of the zoning ordinance in article III of this chapter and the subdivision ordinance in article IV of this chapter may be sufficient to advance those objectives and to protect the health, safety, convenience and general welfare of the citizens of the city where development involves only the construction of single-and two-family dwellings, those regulations need to be supplemented when development involves commercial, retail, industrial, institutional uses or multiple-family residential development.

(b) Therefore, in order to further the purposes set forth in section 14-46; to ensure that those purposes will not be frustrated by increasingly complex urban growth; to require the use of the best planning by private developers in an age where there is available sophisticated technology in building and design; to promote the growth of the city in a manner that will provide its citizens with a safe, healthy and beneficial environment, including minimizing the effects of traffic, noise, dust and other pollution, and to protect property values and thereby secure the fiscal base for public services, this article is hereby enacted. (Ord. No. 355-89, 7-17-89)

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

*Editor’s note—Ord. No. 355-89, adopted July 17, 1989, amended Art. V, site plan, in its entirety, in effect repealing former §§ 14-521-14-530 and enacting similar new provisions in lieu thereof as §§ 14-521-14-528. The ordinance was enacted as an emergency in order for the planning board to have the necessary tools to protect the health, safety and welfare of the citizens and further provided that such amendments would be applicable to any alterations, modifications, revisions, amendments or filed changes to any previously approved site plan as provided in the article but would not be construed to invalidate any prior approval. Formerly, Art. V derived from §§ 604.1-604.6, 604.7.B, 604.8 and 604.9 of the city’s 1968 Code, as amended by the following:

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Approval by any board or department under this article shall include any approval with conditions.

Building addition means any attached structure which increases the total floor area of the structure.

Change of use means and includes any change in use from any use listed in article III, section 14-463(5) to any other use.

Construction means any act of building and includes, but is not limited to, the creation of any new parking area and the paving or expansion of any existing parking areas.

Development means and includes any construction or change of use which is either major or minor development.

Major development means and includes:

1. The construction of any new structure(s) having a total floor area of ten thousand (10,000) square feet or more;
2. The construction of any surface parking area(s) for more than fifty (50) vehicles except in the case of temporary parking;
3. The construction of any building addition(s), cumulatively having either a total floor area of ten thousand (10,000) square feet or more or which is larger than the original structure, within any three-year period; or
4. A change in the use of a total floor area of ten thousand (10,000) square feet or more in any existing building cumulatively within any three-year period; or
5. The construction of any structure for industrial use which is more than forty-five (45) feet high.

Minor development means and includes any of the following unless (1) the development is major development; or (2) the development is single- or two-family development subject to the provisions of section 14-524(b):

1. The construction of any new structure(s) having a total floor area of less than ten thousand (10,000) square feet;
2. The construction of any parking area;
3. The construction of any temporary parking area or paving of any existing surface parking area(s) in excess of one thousand (1,000) square feet cumulatively within a three-year period;
4. The construction of any building addition(s) having a total floor area of up to ten thousand (10,000) square feet cumulatively within a three-year period;
5. The alteration of a watercourse, drain or swale;
6. A change in the use of a total floor area of between five thousand (5,000) and ten thousand (10,000) square feet in any existing building cumulatively within any three-year period;
(7) When vehicle access is proposed from more than one (1) street;

(8) Multiple-family development;

(9) Two (2) or more two-family dwellings as provided in section 14-117(1).

Multiple-family development means and includes the construction or creation of three (3) or more dwelling units on any parcel of land or the addition of two (2) or more dwelling units cumulatively within a three-year period.

Owner means any person that has any interest, legal or beneficial, in any parcel proposed for development.

Site means and includes all contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.

Temporary parking means and includes the parking of vehicles permitted by a temporary certificate of occupancy for a limited period of time in anticipation of future development. (Ord. No. 355-89, 7-17-89)

Sec. 14-523. Approval required.

No person shall undertake any development without obtaining approval therefor under this article.

(1) Major development shall require the approval of the planning board, except as otherwise expressly provided by this article.

(2) Minor development shall require the approval of the planning authority only, except as otherwise expressly provided by this article.

(3) Those approvals required by section 14-524(b) shall require the approval only of the building authority. (Ord. No. 355-89, 7-17-89)

Sec. 14-524. Application.

(a) This article shall apply to all proposals for development throughout the city, except proposals for development of detached single- and two-family dwellings and uses customarily accessory thereto on lots described on a recorded subdivision plat approved on or after June 5, 1968 (hereinafter an "exempt subdivision"). This article shall apply to any exempt subdivision where the planning board conditioned subdivision approval upon site plan approval of individual sites within the subdivision.

(b) With respect to all development of detached single- and two-family dwellings and uses customarily accessory thereto on lots described in any subdivision which is not an exempt subdivision, such development shall be deemed minor development for purposes of this article regardless of its size. Development in a nonexempt subdivision shall not be subject to review under the standards set forth in section 14-526(a)(2), (3), (4), (6), (7), (9), (10), (12), (13), (14), and (15), except as provided in article III, or to conditions imposed under section 14-526(c) only, or to those submission requirements set forth in section 14-525 as relate solely thereto, but shall

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be exempt from the performance guarantee and inspection fee provisions set forth in section 14-525, except as provided by section 14-403. Except as provided herein, such development shall otherwise be fully subject to the provisions of this article.

(c) The city council may from time to time establish by order, reasonable application fees to defray the costs of administering this article. (Ord. No. 355-89, 7-17-89)

Sec. 14-525. Final site plan.

(a) Filing. Every application submitted to the building authority for a building permit for development shall be accompanied by seven (7) blue or black line copies of the proposed site plan and seven (7) copies of the written statement required by this section. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as any original submission. The building authority shall make a preliminary review for compliance with article III of this chapter. If the preliminary review results in a determination that the application is in compliance, and contains all of the required information as provided in subsections (b) and (c) below, the proposed site plans and statements, or applicable component plans and statements, shall be transmitted forthwith to the authorities and departments for their review. A copy of the site plan and statements shall be retained by the building authority. Additional copies of any plan shall be furnished by the applicant if requested by any authority or department. Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under chapter 6 for any use which would violate the provisions of article III of this chapter.

Notwithstanding the submission of a complete application, any applicant shall delineate on the plan or supply such other information, studies or reports from qualified professionals when determined by the planning board or the planning authority to be reasonably necessary to make any of the determinations required by this article, or to impose or effectuate conditions which may be imposed pursuant to section 14-526 including, without limitation: a drainage plan showing the proposed contours at the same intervals as the site plan, drainage patterns and facilities, and those erosion and sedimentation control measures and devices to be employed either during construction and as part of the final development; a parking study; a traffic study; a noise study; and an environmental impact study; a sun shadow study; a study of particulates, dust and any other noxious emissions; and an analysis of wind impacts on surrounding properties.

The applicant shall submit such additional required information within one hundred twenty (120) days after the planning board or planning authority requests such information. Failure to submit such information within one hundred twenty (120) days of the date upon which the request was made shall cause the application to expire and be deemed null and void.

(b) Contents. Any final or proposed site plan for a major or minor development shall include:

(1) A standard boundary survey prepared by a registered land surveyor at a scale of not less than one (1) inch to one hundred (100) feet and shall set forth:
a. Name and address of the applicant and name of the proposed development;
b. Scale and north points;
c. Boundaries of the site;
d. Total land area of the site;
e. Topography, showing existing and proposed contours at intervals of not more than two (2) feet or, in the case of a minor site plan, at intervals determined by the public works authority to be sufficient to properly evaluate existing and proposed drainage patterns and systems;

(2) Plans and maps prepared by competent professionals, based upon the boundary survey, including the following additional information:

   a. Existing soil conditions;
   b. Location of watercourses, marshes, rock outcroppings and wooded areas;
   c. Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used;
   d. Approximate location of buildings or other structures on parcels abutting the site;
   e. Location of on-site solid waste receptacles, public utilities, water and sewer mains, culverts, drains, existing and proposed; showing size and direction of flows;
   f. Location, dimensions and ownership of easements, public or private rights-of-way, both existing and proposed;
   g. Location and dimensions of on-site pedestrian and vehicular accessways, parking areas, loading and unloading facilities, designs of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines;
   h. Landscape plan showing location, type, quantity and approximate size of plantings, areas of existing vegetation to be preserved, preservation measures to be employed, and details of planting and preservation specifications;
   i. Location and dimensions of all fencing and screening;
   j. Location and intensity of outdoor lighting system;

(3) In the case of a change of use of an existing building, the planning authority or the board may waive required submissions as to the exterior of the building or to the lot if there are no exterior or outside changes proposed or required.

(c) Written statements. All site plans shall be accompanied by a written statement by the applicant that shall set forth the names and addresses of all owners of the parcels proposed to be developed and the estimated cost of the development. The applicant shall also provide written statements containing the following:

   (1) A description of the proposed uses to be located on the site, including, quantity and type of residential units, if any;
   
   (2) The total land area of the site and the total floor area and ground coverage of each proposed building and structure;
(3) General summary of existing and proposed easements or other burdens now existing or to be placed on the property;

(4) Method for handling solid waste disposal;

(5) The applicant's evaluation of the availability of off-site public facilities, including sewer, water and streets;

(6) A description of any problems of drainage or topography or a representation that, in the opinion of the applicant, there are none;

(7) An estimate of the time period required for completion of the development;

(8) A list of all state and federal regulatory approvals to which the development may be subject, the status of any pending applications, and the anticipated time frame for obtaining such permits or that a determination of no jurisdiction from the agency will be requested;

(9) Evidence of financial and technical capacity to undertake and complete the development including, but not limited to, a letter from a responsible financial institution stating that it has reviewed the planned development and would seriously consider financing it when approved, if requested to do so.

(d) Approval or disapproval. Within ninety (90) days after receipt of a complete final site plan or applicable component plans and accompanying statements for minor development, the planning authority shall approve or disapprove the plan and shall advise the building authority and applicant in writing of its action. When a site plan requires approval by the planning board, a public hearing shall be scheduled within ninety (90) days after receipt of a complete site plan, unless such time period is extended in writing by the applicant and the authority. The planning board shall notify the applicant in writing of its approval or disapproval of the project within thirty (30) days after the board's final vote to approve or disapprove the project.

(e) Approved plan prerequisite to issuance of permits. No building permit, certificate of occupancy or street opening permit shall be issued until a final site plan, or applicable components thereof, has been approved under this article and a copy of the approved site plan is filed in the office of the building authority and such permit is determined to be consistent with the plan and any conditions of approval. In the event of any inconsistency between the approved site plan and any permit issued, the approved site plan shall control; provided, however, site plan approval shall not excuse failure to meet any independent requirement of any other law or ordinance.

(f) Expiration of approval prior to commencement of development. Unless a development which has been approved by the planning board or planning authority shall have commenced within one (1) year of the approval or within such other time period as may be agreed upon in writing by the planning authority and the applicant, not to exceed two (2) years from the date of approval, the approval shall be deemed to have expired, the building permit shall thereupon be revoked, and the building authority shall forthwith take the necessary steps to enforce this article. Where the approval or any related land use approval granted to the same applicant by any agency of the city with respect to the same development is appealed to any

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court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said two-year period, where the applicant has exercised due diligence with respect to defending such appeal, which extensions shall not last beyond one (1) year from entry of final judgment.

(g) Amendments to approved plans for development. If at any time before or during development the applicant requests minor amendments to an approved plan for major development, the planning authority may approve such minor amendments under the procedures for minor development, provided that they do not amount to a waiver or substantial alteration of the site plan, do not change the developer, and do not affect any condition or requirement of the planning board. The applicant shall supply a written statement of the proposed amendment(s) and proposed amended plans to the planning authority, whose decision as to whether the amendment is minor shall be final.

(h) Referral of plans for minor development to planning board. If at any time before approval or disapproval of a plan for minor development the planning authority determines that, due to its nature or location, the development should be reviewed by the planning board, the planning authority may refer the plan to the planning board, whose decision shall be substituted for the planning authority's unless it declines jurisdiction. The planning board may decline jurisdiction and refer the matter back to the planning authority at any public meeting, including a workshop.

(i) Improvements made in accordance with public works standards. All improvements which would otherwise be subject to the standards of the public works authority if the development were a subdivision within the meaning of article IV of this chapter shall be made or constructed in accordance with the technical and design standards promulgated by the public works authority pursuant to section 14-498(a). In applying said standards, the planning board or authority, as applicable, may vary or modify them as provided in section 14-506.

(j) Site plan performance guarantee and site plan improvement inspection fee. The developer shall pay a site plan improvement inspection fee, which shall consist of the actual costs, including administrative costs, of inspection by the public works authority of all required site plan improvements, which improvements include, but are not limited to, sanitary sewers, storm drains, drainage and erosion control, catch basins, manholes, other improvements constructed chiefly below grade, curbing, paving, sidewalks, lighting and landscaping. Following site plan approval and prior to the issuance of a building permit, the developer shall post with the city a performance guarantee in the form and amount specified in section 14-501 specifying the completion of the improvements within two (2) years from the date of such guarantee. The developer shall provide a one-year defect bond upon completion of the improvements. The amount of the defect bond shall be ten (10) percent of the amount of the performance guarantee. At the same time that the developer posts a performance guarantee, the developer also shall pay to the public works authority the site plan improvement inspection fee equal to one and seven tenths (1.7) percent of the estimated cost of required site plan improvements.

(k) Occupancy prior to completion of certain improvements. Notwithstanding sections 14-463, 14-524(b) or any other provision of this Code, a certificate of occupancy may be issued
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for a development or portion of a development which has otherwise been completed in accordance with final site plan approval and all applicable provisions of this Code where the applicant submits a written request therefor to the planning authority and public works authority for their review and approval, stating those improvements which remain to be completed and the reasons why such improvements have not been completed. In no event shall any certificate of occupancy be issued (1) where conditions exist which would justify denial of a certificate of occupancy under chapter 6; or (2) where required improvements to the city right-of-way remain to be completed by the developer and any required lighting is not yet operational; or (3) all access roads and any other roads and driveways required for the building or building(s) for which the certificate(s) are requested have not been improved to a passable condition. Where a certificate of occupancy is sought for a portion of any development prior to the completion of the entire development, the following standards shall be met, in addition to all applicable requirements set forth above, prior to the issuance of any certificate of occupancy:

(1) Those parking area required for the portion of the development for which a certificate of occupancy is sought shall be available for use. Alternative arrangements must be made on-site for parking for any periods during which such parking areas will not be available for use.

(2) All foundation plantings and other landscaping required for the portion of a development for which a certificate of occupancy is sought shall be installed prior to the issuance of a certificate of occupancy. This requirement may only be waived where, in the opinion of the public works authority, landscaping improvements cannot practically be completed due to seasonal weather conditions.

(3) No certificate of occupancy shall be issued to any portion of a residential development where, in the opinion of the building authority and the public works authority, the work required to complete the rest of the development will endanger the health or safety of inhabitants of the completed portion.

All improvements which are not completed prior to the issuance of any certificate of occupancy must be completed prior to the completion date specified in the performance guarantee required by section 14-525(j) or by the temporary certificate of occupancy, whichever occurs first. The developer shall be eligible to receive reductions in the performance guarantee equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced (1) by less than two hundred thousand dollars ($200,000.00) or fifty (50) percent of initial amount of the performance guarantee, whichever is less, at any one time; or (2) in any line item where improvements remain to be completed; or (3) to a value which is less than the estimated cost of completing all remaining prescribed improvements as determined by the public works authority. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect bond to be posted upon completion of the improvements.

Where any person accepts a temporary certificate of occupancy and does not complete the improvements as specified in the certificate, the city is authorized to enter upon such property itself or through its agents or contractors to complete such improvements with no liability
therefore and may recover the costs thereof through the mechanic's lien procedure for the improvement of real property to the extent that the guarantee may be inadequate.

(l) **Site plan revisions.** The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the planning board or the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or planning board, and field changes approved by the public works authority as provided herein, by any authority or department shall authorize any such modification or alteration. Field changes by the public works authority are limited to minor variation necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the planning board.

(m) **Expiration of application.** A site plan application must be diligently pursued from the date of submission. The planning authority shall notify the applicant in writing whether the application is complete. If an application is not complete, the written notice shall set forth those items which have not yet been submitted and that the applicant will have one hundred twenty (120) days to complete its application. An application for development which is not yet complete may be scheduled for an informational workshop session with the planning board, which shall not be considered a substantive review under this article. The applicant must submit all items which are outstanding within one hundred twenty (120) days of the date of the notice from the planning authority requiring additional information, a revision of the plan, or other submissions. If the applicant fails to submit any item specified within one hundred twenty (120) days of the date of said notice from the planning authority, the application shall expire and shall be deemed null and void. Nothing in this section shall prevent the planning board or planning authority from requiring additional information as otherwise permitted or required by the terms of the article.

(n) **Post-approval submissions.** Following site plan approval and prior to issuance of any building permit, the developer shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all streets, sewers, drainage structures and landscaping, for the review and approval of the public works authority for compliance with its technical standards. Thereafter, all departures from such plans shall be approved by the public works authority as field changes pursuant to subsection (l) above. Nothing herein shall diminish the obligation of the developer to supply plans or specifications as provided in this article. (Ord. No. 355-89, 7-17-89)
Sec. 14-526. Standards.

(a) Requirements for approval. The planning board or planning authority shall not approve a site plan unless it meets the following criteria:

1. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways; and the incremental volume of traffic will not create or aggravate any significant hazard to safety at or to and including intersections in any direction where traffic could be expected to be impacted; and will not cause traffic congestion on any street which reduces the level of service below Level "D" as described in the 1985 Highway Capacity Manual published by the Transportation Research Board of the National Research Council, a copy of which manual is on file with the public works authority, or substantially increase congestion on any street which is already at a level of service below Level "D";

2. Where construction is proposed of new structures having a total floor area in excess of ten thousand (10,000) square feet, or building additions having a total floor area in excess of five thousand (5,000) square feet, and the provisions for off-street parking under article III (zoning) do not require off-street parking or are determined to be insufficient, the site plan shall provide sufficient parking to satisfy the reasonably foreseeable demand for parking which will be generated by the proposed development;

3. The bulk, location or height of proposed buildings and structures and the proposed uses thereof will not cause health or safety problems as to existing uses in the neighborhood, including without limitation health or safety problems resulting from any substantial reduction in light and air, any significant wind impact, and any significant snow loading on any neighboring structure, where setbacks from property lines are not required by article III;

4. The bulk, location or height of proposed buildings and structure minimizes, to the extent feasible, any substantial diminution in the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed;

5. The development will not overburden the sewers, sanitary and storm drains, water, solid waste disposal or similar public facilities and utilities;

6. The on-site landscaping provides adequate buffering between the development and neighboring properties so as to adequately protect each from any detrimental features of the other;

7. The site plan minimizes, to the extent feasible, any disturbance or destruction of significant existing vegetation;

8. The site plan does not create any significant soil and drainage problems, whether on- or off-site, and adequately provides for control of erosion and sedimentation during construction and afterward;
(9) The provision for exterior lighting will not be hazardous to motorists traveling on adjacent public streets; is adequate for the safety of occupants or users of the site; and such lighting will not cause significant annoyance, glare or undesirable spill-over onto adjacent properties;

(10) The development will not create fire or other safety hazards and provides adequate access to the site and to the buildings on the site for emergency vehicles;

(11) The proposed development is designed so as to be consistent with off-premises infrastructure, existing or planned by the city;

(12) Any industrial development will prevent undue adverse environmental consequences, including without limitation any substantial diminution to the value or utility of neighboring structures or significant hazard to the health or safety of persons residing in the vicinity by controlling the sound levels, particulates, and other emissions it generates;

(13) For development within the R-P zone, where there is a consistent established architectural style or character to the existing structures in the immediate vicinity in which the development is proposed, that the concurrently visible architectural style or character of the proposed development would not be incongruous to that established style or character;

(14) Planned residential unit developments in the R-3, R-5 or R-5A residential zones shall meet the following standards:

a. Design relationship to site: The layout and design of buildings, roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms and other site improvements are organized to complement and accentuate the natural topography, vegetation, streams, water features, and other existing features of the site, and the solar orientation provides natural light within dwelling units, in outdoor open space and in recreation areas;

b. Internal design character and relationship to surrounding neighborhood: The design and layout of the development and buildings exhibit a cohesive design character and complement existing development in the surrounding neighborhood by virtue of such features as architectural style, height, scale and massing, character of exterior facades and roofs, circulation, open space, landscaping, and the transition of scale and massing with the surrounding neighborhood. Buildings with more than two (2) dwelling units or greater than forty (40) feet in length shall provide variation in roof and facade character through changes in facade setback, roof configuration, and projecting or recessed building elements.

c. Recreation and open space: All open spaces on the site shall be integrated into the development and designated on the site plan. Each development shall have the following features:

1. External buffers: An effective and permanent screening from neighboring properties and roadways;
2. *Internal buffers*: Areas planted, maintained and located in such a manner as to provide privacy between units and buildings and paved areas and screening of parking, utilities, roadways, waste collection facilities and storage facilities;

3. *Passive recreational open space*: Open spaces, designated and improved with such features as gardens, picnic areas, walking trails, benches and lawn and seating areas;

4. *Active recreational open space*: Open spaces designated and improved for active recreational use with facilities such as tennis courts, basketball courts, multipurpose athletic fields, swimming pools, and recreational buildings;

5. *Private open spaces*: Open spaces designated for the individualized use of unit owners such as yards, decks and patios;

(15) Multiple-family development shall meet the following standards:

- a. The exterior design of the proposed structures, including architectural style, facade materials, roof pitch, building form and height, is not incongruous to that of developed neighboring residential properties, if any;
- b. The scale and surface area of parking, driveways and paved areas are arranged and landscaped to properly screen vehicles from adjacent properties and streets;

(16) Development located within the B-3 zone shall also meet the following standards:

- a. *Buildings or structures within the B-3 business zone*:
  1. *Roof top appurtenances*: All mechanical equipment, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or other roof top elements not intended for human occupancy shall be fully enclosed in a manner consistent with the character, shape and materials of the principal building;
  2. *Shadow impact on open space*: The location, massing and orientation of portions of buildings in excess of sixty-five (65) feet in height shall be such that substantial shadow impacts on public plazas, parks and other publicly accessible open space are avoided. In determining the impact of shadows, the following factors shall be taken into account: the amount of area shadowed, the time and duration of the shadow, and the importance of sunlight to the utility of the type of open space being shadowed;
  3. *Wind impacts*: The location, massing, orientation and architectural design of a new building or a building addition shall be such that no significant adverse wind impacts are created. In determining the impact of winds, the following factors shall be taken into account: the pre-development and projected post-development wind speeds and their impact on pedestrian movement, comfort and safety; and the impact of projected wind speed on the use of and comfort within existing and proposed pedestrian seating areas and other adverse impacts upon the surrounding area;

b. *Buildings or structures within the B-3 business zone* which exceed one hundred fifty (150) feet in height shall be designed so as to provide a distinctive top to the
building which visually conveys a sense of interest and vertical termination to
the building;

(17) The applicant has submitted all information required by this article and the de­
velopment complies with all applicable provisions of this Code.

(b) Conditions. Notwithstanding the provisions of subsection (a), the planning authority
or planning board may impose any condition upon its approval of any site plan: (1) to minimize
or abate any adverse impact of the proposed development on the value or utility of other
private property, or on public property or facilities, to the extent feasible; or (2) to bring the
development into compliance with the requirements of subsection (a); or (3) to minimize any
other adverse environmental effects of the of the proposed development. Such conditions may
include, but are not limited to, enclosing of equipment or operations, imposing limitations
upon the hours of operation, or requiring the employment of specific design technologies,
modes of operation, or traffic patterns, and may also include the construction of, or financial
contribution to the construction of, on- or off-premises public facilities including, without
limitation, streets and sewers impacted by the development. All such conditions shall be
consistent with the purposes set forth in section 14-521.

(c) Statement of findings. All findings and decisions by the planning board or by the
planning authority, denying or conditionally approving any site plan, shall be made in
writing or reduced to writing promptly thereafter and shall state the reason(s) therefor
sufficiently to appraise the applicant and any interested member of the public of the basis for the
decision. (Ord. No. 355-89, 7-17-89)

Sec. 14-527. Appeals.

(a) When the planning authority has finally approved or disapproved a site plan, any
person aggrieved may appeal the decision to the planning board within ten (10) days of the
decision being rendered. Upon the taking of such an appeal, the application shall be reviewed
as if referred by the planning authority, except that the planning board may not decline to
accept the reference.

(b) When the planning board has finally approved or disapproved a site plan, any person
aggrieved or the city may appeal the decision of the superior court, pursuant to Rule 80B of
the Maine Rules of Civil Procedure, within thirty (30) day of the decision being rendered. (Ord.
No. 355-89, 7-17-89)

Sec. 14-528. Enforcement.

(a) All construction or alterations to the site performed under the authorization of build­
ing permits or certificates of occupancy issued for development within the scope of the article
shall be in conformance with the approved final site plan or an amendment thereto under
section 14-525(g) and (l). The building authority shall institute or cause to be instituted any
and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of
this article. Where work is required pursuant to the terms of chapters 24 or 25 as part of an
approval granted under this article, such work shall be accomplished in the sequence estab-
lished by the public works authority. Where the public works authority determines that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of chapters 24 and 25, the director of parks and public works or an inspector from the public works authority may issue a stop-work order. Work shall recommence only after such order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of a stop-work order shall be considered an offense.

(b) No alterations shall be made to a site with a pending or approved site plan application until:

(1) The performance guarantee has been posted and final site plans have been submitted to the planning authority; or

(2) Written permission has been received from the director of planning and urban development or his designee. Such permission shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required when the only work proposed is the digging of test pits. (Ord. No. 355-89, 7-17-89)

Secs. 14-529–14-540. Reserved.

ARTICLE VI. BOARD OF APPEALS*

Sec. 14-541. Creation; composition.

There shall be a board of appeals of seven (7) members. Members of the board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments. (Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 148-79, § 1, 8-6-79)

Sec. 14-542. Appointment; terms.

The members of the board of appeals shall be appointed by the city council for terms of three (3) years. Terms shall be staggered so that the terms of no more than three (3) members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over one

*Cross references—Administration, Ch. 2; boards generally, § 2-31 et seq.; jurisdiction of board of appeals for zoning, § 14-471 et seq.

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