

Order 175-12/13

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
(DIVISION 17. B-7 MIXED DEVELOPMENT DISTRICT ZONE)
AND
ARTICLE V. SITE PLAN**

**I. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 14, Article III, Division 17 (B-7 Mixed Development District Zone) of the Portland City Code is hereby amended to read as follows:*

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 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:

. . . .

5. *Buildings in the bayside gateway urban height district A greater than one-hundred twenty-five (125) feet but no more than one-hundred sixty-five (165) feet in height provided that:*

a. Such buildings shall be sited to minimize encroachment into designated ~~do not obstruct~~ view corridors and visual landmarks to and from the downtown or that do not substantially further obstruct such corridors blocked by existing development as ~~identified~~ referenced in the Bayside Height Study Map and the B-7 design standards; and

b. Portions of such buildings higher than 125 feet

shall be stepped back at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than at least to the extent that the ratio~~h~~ of building height to width of adjacent streets, trails and open spaces is equivalent to 1.5 to 1 **except that the Planning Board may modify this requirement as provided for in Section 14-526 (d) (9) (viii); and**

- c. Such buildings provide publicly accessible and usable open space, meeting the B-7 urban design standards, of at least ten (10) percent of the building lot area; and
- d. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the ten (10) percent open space requirement. **Buildings over one hundred and twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the ten (10%) percent open space requirement of Section 14-296(a) (5) (c) in aggregate for all such buildings over one hundred and twenty-five (125) feet in height, provided that the open space shall not fall below ten (10%) percent at any built phase or combination of built phases; and**
- e. Such development shall comply with all other zoning requirement and B-7 urban design standards as required by this article.

2. *That Chapter 14, Article V, (Site Plan) of the Portland City Code is hereby amended to read as follows:*

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

. . . .

(d) *Site Design Standards*

. . .

9. *Zoning Related Design Standards:*

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

. . .

(viii) *B-7 Design Standards for Additional Height in District A:* In the B-7 zone, the Planning Board, when conducting review of a Master Development Plan or a Level III Site Plan, as applicable, may modify the stepback provisions of Section 14-296(a) (5) (b), relating to buildings allowed as a conditional use to exceed one hundred and twenty-five (125) feet up to one hundred and sixty-five (165) feet in height, provided the following conditions are met:

- a) Each building exceeding one-hundred and twenty-five (125) feet shall contain at least 20 dwelling units per building.
- b) Building wall stepback requirements along public street frontage:
- i. Building with frontage on one street: Minimum ten (10) foot stepback between third and fifth stories and a minimum ten (10) foot stepback between the one hundred twenty-five (125) and one

hundred forty-five (145) foot level.

- ii. *Building with frontage on multiple streets:* Above paragraph (i) requirement along longest building façade street wall, and of the remaining street walls the same requirement as paragraph (i) or a 15 foot wide streetscape improvements area containing a public sidewalk, landscaping and other streetscape improvements within the abutting street right-of-way and/or private property along the remaining street frontage. A building with frontage on four streets shall meet the above requirement except that two of the streets shall have the setback requirement.
- iii. The Planning Board shall have the authority to waive one or more of the required setbacks provided the following is met:
 - 1. The depth of the building lot precludes a building having an average minimum lot depth dimension of one hundred seventy (170) feet: or
 - 2. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level.

3. In the event such a waiver is granted the Planning Board may require the applicant to mitigate the impacts of the waiver by requiring the following:
 - a. Along all public street frontages and public open spaces, all buildings (regardless of height) shall meet the B-7 Design Standard E-4 Articulation to maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.
 - b. Along all public street frontages and public open spaces for the buildings(s) over one hundred twenty-five (125) feet, a canopy, awning or similar permanent architectural feature to provide pedestrian protection and wind mitigation shall be provided within the first thirty-five (35) feet of height.
 - c. In order to preserve view corridors and to maintain a varied skyline, all buildings above one hundred twenty-five (125) feet within a single development site should be separated to avoid the appearance of a tall, solid block massing. In accordance with this policy, development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate

building façade widths above 85 feet shall not exceed fifty percent (50% of the total development site distance parallel to Marginal Way. Buildings over one hundred twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the fifty percent (50%) building requirement in aggregate for all such buildings over one hundred twenty-five (125) feet in height in the Master Development Plan, provided that view corridors are retained as each phase is built.

- d. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

II. BE IT FURTHER ORDERED that the zoning map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect the height standard changes in the B-7 zone specifically identified/highlighted on the map attached hereto as Exhibit A.