

ARTICLE V. SITE PLAN*

***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:

Ord. No.	Section	Date	Ord. No.	Section	Date
348-74		5-20-74	316-87	1	3- 4-87
442-78		8- 7-78	524-87	3-5	5-18-87
691-81		5-19-81	365-88		5- 4-88
88-84	2--6	7-16-84	301-88		5-31-88
292-84	1	11-19-84	67-88		7-18-88
294-84	1	11-19-84	96-88	2	7-19-88
359-84	1	12-17-84	97-88		7-19-88
370-85	1--3	1-21-85	98-88		7-19-88
128-87	1	2-18-87			

***Editor's Note--**Pursuant to Council Order 277-09/10, passed on 7-19-10 Article V, Site Plan was repealed in its entirety and replaced with a new Article V, Site Plan.

Sec. 14-521. Purposes.

Pursuant to Portland's Comprehensive Plan, the Site Plan Ordinance advances the vision for a sustainable City with shared goals for the environment, community and economy. The Site Plan Ordinance complements the regulations of the Zoning Ordinance in Article III of this chapter and the Subdivision Ordinance in Article IV of this chapter.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-522. Definitions.

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

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

Building addition: Any attached structure which increases the total floor area of the structure.

Building Authority: The Director of the Department of Planning and Urban Development or his/her designee.

Change of use: Any change in use of an existing building, whether or not alterations are involved, from any use in the following list to any other uses on the list:

1. Manufacturing or processing, storage and warehouse, and other industrial;
2. Residential
3. Transportation
4. Institutional
5. Retail and Commercial
6. Water-dependent use and marine use
7. Office

Development: Any construction, site alteration or change of use which is identified in Section 14-523, Required Approvals and

Applicability.

Dwelling, two-family: A single building containing two dwelling units used exclusively for occupancy by two (2) families living independently of each other.

Final Plan: A site plan meeting the requirements of Section 14-527.

Multiple-family development: 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: Any person that has any interest, legal or beneficial, in any parcel proposed for development.

Planning Authority: The Director of the Department of Planning and Urban Development or his/her designee.

Preliminary Plan: A site plan that provides an existing site inventory and analysis along with the potential design layout for a proposed development that meets the criteria of Section 15-527.

Public Services Authority: The Director of the Department of Public Services or his/her designee.

Site: 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: The parking of vehicles permitted by a temporary certificate of occupancy for a limited period of time not to exceed one (1) year in anticipation of future development.
(Ord. No. 277-09/10, 7-19-10)

Sec. 14-523. Required Approvals and Applicability.

(a) *Required Approval.* An application for site plan approval shall be reviewed by the Planning Board or Planning Authority as specified below. The Planning Board or Planning Authority shall approve, approve with conditions or deny an application pursuant to the standards, procedures, technical criteria and design criteria contained in this article, as

demonstrated by the applicant.

1. The Planning Authority shall administratively authorize developments that meet all of the requirements of Section 14 - 523 (c).
2. Level I Site Plan Review shall require the approval of the Planning Authority.
3. Level II Site Plan Review shall require the approval of the Planning Authority only, except as otherwise expressly provided by this article.
4. Level III Site Plan Review shall require the approval of the Planning Board, except as otherwise expressly provided by this article.

(b) *Applicability.* No person shall undertake development identified in Section 14-523 without obtaining a site plan improvement permit under this article.

(c) *Administrative Authorization.* Administrative Authorization means the Planning Authority may grant administrative authorization to exempt a development proposal from complete or partial site plan review that meet the standards below, as demonstrated by the applicant.

1. The proposed development will be located within existing structures, and there will be no new buildings, external demolitions, or building additions other than those permitted by subsection 2 of this subsection;
2. Any building addition shall have a new building footprint expansion of less than five hundred (500) square feet;
3. The proposed site plan does not add any new curb cuts, driveways, or parking areas; the existing site has no more than one (1) curb cut and will not disrupt the circulation flows and parking on-site; and there will be no drive-through services provided;
4. The curbs and sidewalks adjacent to the lot are

complete and in sound condition, as determined by the Public Services Authority, with granite curb with at least four-inch reveal, and sidewalks are in good repair with uniform material and level surface and meet accessibility requirements of the Americans with Disabilities Act;

5. The use does not require additional or reduce existing parking, either on or off the site, and the project does not significantly increase traffic generation;
6. There are no known stormwater impacts from the proposed use or any existing deficient conditions of stormwater management on the site;
7. There are no evident deficiencies in existing screening from adjoining properties;
8. Existing utility connections are adequate to serve the proposed development and there will be no disturbance to or improvements within the proposed right-of-way;
9. There are no current zoning violations;
10. Any emergency generators are to be located to minimize noise impacts to adjoining properties and documentation that routine testing of the generators occur on weekdays between the hours of 9 a.m. to 5 p.m. Documentation pertaining to the noise impacts of the emergency generator shall be submitted; and
11. There are no anticipated noise, vibration, glare, fumes or other foreseeable impacts associated with the project.

(d) *Level I Site Plan Review*. Minor residential development and site alterations meeting the criteria below will undergo Level 1 Site Plan Review as follows.

1. Level I: Minor Residential Development:

- a. With respect to development of a single-family or a two-family building, excluding building additions, decks, or accessory structures, such development shall be deemed minor residential development for purposes of this article regardless of its size.
 - b. The addition of any additional dwelling unit to a building initially reviewed as a two-family dwelling or multifamily structure, if the additional dwelling unit does not require subdivision review under Maine State Statutes and Portland's Subdivision Ordinance.
2. Level I: Site Alteration:
- a. Alteration of a watercourse or wetland as defined in Section 14-47 of the City Code.
 - b. Alteration of a site. The disturbance of land areas of less than one (1) acre that are stripped, graded, grubbed, filled or excavated. The Planning Authority shall exempt from review the loam and seeding of lawns and the cumulative placement of less than fifteen (15) cubic yards of fill on any lot provided such loaming or placement does not alter a drainage course, swale, wetland or redirect water onto adjoining property and does not violate any other provision of the Portland City Code or state or federal law. "Disturbed area" does not include routine maintenance, but does include re-development and new impervious areas.
 - c. The construction of any temporary or permanent parking area, paving of existing unpaved surface parking areas between 1,000 and 7,500 square feet, or creation of other impervious surface areas between 1,000 and 7,500 square feet.
 - d. The rehabilitation or reconstruction, but not new construction, of piers, docks, wharves, bridges, retaining walls, and other structures located within the shoreland zone.

- e. A site alteration in which vehicle access is proposed from more than one (1) street;

(e) *Level II Site Plan Review*. Development meeting the criteria listed below will undergo Level II Site Plan Review as follows:

1. The construction of any new structures having a total floor area of less than ten thousand (10,000) square feet in all zones except in the Industrial zones. In any Industrial zone, the construction of new structures having a total floor area of less than twenty thousand (20,000) square feet;
2. The construction of any new temporary or permanent parking area, paving of existing unpaved surface parking areas in excess of 7,500 square feet and serving less than 75 vehicles, or creation of other impervious surface area greater than 7,500 square feet;
3. The construction of any building addition(s) having a total floor area of less than ten thousand (10,000) square feet cumulatively within a three-year period in all zones except in the Industrial zones. In any Industrial Zone, the construction of building addition(s) having a total floor area of less than twenty thousand (20,000) square feet.
4. Park improvements consisting of new structures or buildings of less than 10,000 square feet and/or facilities encompassing an area of greater than 7,500 square feet and less than 20,000 square, excluding the rehabilitation or replacement in kind of existing facilities.
5. The new construction of piers, docks, wharves, bridges, retaining walls, and other structures located within the shoreland zone.
6. The disturbance of land areas of between one and three acres that are stripped, graded, grubbed, filled or excavated.
7. A change in the use of a total floor area of between

ten thousand (10,000) and twenty thousand (20,000) square feet in any existing building cumulatively within any three-year period in all zones.

8. Lodging houses and bed and breakfast facilities;
9. Emergency shelters
10. Special needs independent living units;
11. Construction or installation of any signage for which approval is sought pursuant to section 14-526(d)8.a.(iv).
12. The construction of any new major or minor auto service station with a structure of less than ten thousand (10,000) square feet of building area in any permitted zone other than the B-2, or B-5 zones;
13. The creation of day care facilities or home babysitting services in a residential zone not permitted as a home occupation under section 14-410 in any principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, where such facilities serve more than twelve (12) children;
14. Any drive-through facility that is not otherwise reviewed as a conditional use under Article III.

(f) *Level III Site Plan Review*. Development meeting the criteria listed below will undergo Level III Site Plan Review as follows:

1. The construction of any new structures having a total floor area of ten thousand (10,000) square feet or more in all zones except the Industrial zones. In any Industrial zone, the construction of new structures having a total floor area of twenty thousand (20,000) square feet or more;
2. The construction of any new temporary or permanent surface parking area(s) or paving of existing unpaved surface areas for more than seventy-five (75) 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 within any three-year period in all zones except in the Industrial zones for the construction of building addition(s) having a total floor area of twenty thousand (20,000) square feet or more;
4. A change in the use of a total floor area of twenty thousand (20,000) square feet or more in any existing building cumulatively within any three-year period in all zones,
5. Multiple-family development;
6. The addition of any additional dwelling unit to a building, if the additional dwelling unit requires subdivision review under Maine State Statutes and Portland's Subdivision Ordinance;
7. The construction of any new major or minor auto business in the B-2 or B-5 zone, or the construction of any new major or minor auto business with a structure greater than ten thousand (10,000) square feet of building area in any other permitted zone; or
8. Correctional prerelease facilities.
9. Park improvements consisting of new structures greater than 10,000 square feet and/or facilities encompassing an area of 20,000 square feet or greater, excluding the rehabilitation or replacement of existing facilities. Any park improvements including the provision of new nighttime outdoor lighting or sports, athletic or recreation facilities not previously illuminated.
10. The disturbance of land areas of three (3) acres or more that are stripped, graded, grubbed, filled or excavated.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-524. Site plan review processes.

- (a) The site plan review process for reach applicable

development review type is listed below.

1. *Administrative Authorization:*

- a. *Filing the Application.* An applicant seeking an administrative authorization under this subsection shall submit an administrative authorization application for review, detailing the site plan with dimensions of proposed improvements and distances from all property lines, and stating that the proposal meets all of the provisions in standards a-k of Section 14-423 (b)1.
- b. *Review.* Upon receipt of such a complete application, the Planning Authority will process it and render a written decision of approval, approval with conditions or denial, with all associated findings.
- c. *Decision.* If a full administrative authorization is granted, the application shall be approved without further review under this article, and no performance guarantee shall be required. In the event that the Planning Authority determines that standards a and b of section 14-523 (b) (1) and at least four (4) of the remaining standards have been met, the Planning Authority shall review the site plan according to all applicable review standards of Section 14-526 that are affected by the standards in this subsection that have not been met. If an exemption or partial exemption from site plan review is not granted, the applicant must submit a site plan application that will undergo a full review by the Planning Board or Planning Authority according to the standards of section 14-526.

2. *Level I site plan review:*

- a. *Filing the application.*
 - (i) Every application submitted to the building authority or planning authority for a level I minor residential development or site

alteration shall include a digital set of the plans and documents that shall be uploaded to the City's designated web site for an electronic review of the material.

b. *Public notices.*

- (i) When an application for a level I: minor residential development is submitted, all public notices will be setn according to the section 14-525.b of the site plan ordinance.
- (ii) When an application for a level I: site alteration is submitted, all public notices will be sent according to the section n14-525.b of the site plan ordinance.

c. *Review.*

- (i) The planning authority shall approve, approve with conditions or deny the level I: minor residential development plan and shall advise the building authority in writing of its action. Such decision shall be made part of the building authority's review.
- (ii) The planning authority shall approve, approve with conditions or deny the level I: site alteration plan with all associated findings and shall advise the applicant in writing of its action.

d. *Standards of review.*

- (i) Level I: Minor residential site plans shall only be subject to the following site plan standards, as applicable, as contained in Section 14-526:
 - (a) Transportation Standards
 - 2.a.(i) and (ii)
 - 2.c. if site plan is a two-family or multi-family building only.

- 4.a.(i)and (iv)

(b) Environmental Quality Standards

- 1.
- 2.a.
- 2.b.(iii)
- 3.c., d. and e.

(c) Public Infrastructure and Community Safety Standards

- 1.
- 3.a. through e.

(d) Site Design Standards

- 5.and 9.

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.

- (ii) Level I: Site alteration plans shall only be subject to the following site plan standards, as applicable, as contained in section 14-526:

(a) Transportation standards

- 1., 2., and 4.

(b) Environmental quality standards

- 1. and 3.

(c) Public infrastructure and community safety standards.

- 1.

(d) Site design standards

- 5., 6., 8 and 9.

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set

forth in section 14-527 as relate solely thereto.

e. *Decisions.*

- (i) The planning authority shall approve, approve with conditions or deny a level I site plan application based upon the applicable review standards. All improvements are subject to the applicable standards of the Technical Manual and the Design Manual, incorporated herein by reference. In apply said standards, the planning authority, as applicable, may vary or modify them as provided in section 14-506.

f. *Performance Guarantees.*

- (i) Performance Guarantees for Level I: Site Alteration plans work shall be required subject to the provisions of Section 14-530 (b)4.d.
- (ii) Level 1: Minor residential development shall be subject to an inspection fee, but shall be exempt from the performance guarantee provisions set forth in section 14-525, except as provided by section 14-403 and 14-530 (c)4 as provided herein, such development shall otherwise be fully subject to the provisions of this article.

3. *Level II and level III site plan review:*

a. *Pre-application Conference.*

- (i) Applicants for site plan review for a Level II or Level III site plan review are encouraged to schedule a pre-application conference with the Planning Authority or designated staff to introduce the development concept. The purpose of this meeting is to familiarize the applicant with the review procedures, application submission requirements and

applicable review standards. A pre-application conference shall not cause the plan to be a pending application or proceeding under Title 1 MRSA 302. No decisions relative to the plan shall be made. Nor shall any advice or information provided by the city be construed as a decision.

b. *Preliminary Plan.*

- (i) *Application Process:* Applicants for Level II or Level III site plan reviews may submit an application for preliminary plan review prior to the submission of a final site plan. A preliminary plan must contain a preliminary site assessment for potential development.
- (ii) *Filing the Application:* Every application submitted to the Planning Authority for preliminary site plan review shall include a digital set of the plans and documents that shall be uploaded to the City's designated web site for an electronic review of the material. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as the original submission.
- (iii) *Public Notices:* All public notices will be sent according to the Section 14-525 of the Site Plan Ordinance.
- (iv) *Complete Application:* The Planning Authority shall determine whether the application contains all of the items required in (Sec 14-527) and the Zoning Administrator will conduct a preliminary zoning review for compliance with article III of this chapter. If the application is deemed incomplete or not in compliance with Chapter III, the applicant will be contacted in writing of the finding and the additional material required to complete the submission. A review of the application will not be conducted until the application is complete. These steps shall be

repeated until the application is found to be complete.

- (v) *Staff Review*: When the application meets the submittal requirements, the preliminary plan will be distributed to the City departments for review and comments.
 - (vi) *Written review*: Written comments from the reviewers shall be provided to the applicant, which will include a planning staff recommendation to submit a revised preliminary plan or to submit an application for a final site plan.
- c. *Neighborhood Meetings for Level III Site Plans.*
- (i) *Neighborhood Meeting*:

- (a) *Timing and location of meeting.* An applicant for a Level III site plan review shall conduct at least one neighborhood meeting within three weeks of filing a preliminary site plan, if applicable, or within two weeks of filing a final site plan and the neighborhood meeting will be held on a date no less than seven days before a public hearing, if no preliminary plan is submitted. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant.
- (b) *Procedures for the meeting.* The following procedures shall be followed in noticing and conducting the neighborhood meeting. At least ten (10) days prior to the neighborhood meeting, the applicant shall do the following:
1. *Mail notice.* Mail notice of said meeting to all property owners within five hundred (500) feet of the subject property lines and to all others, including neighborhood organizations, as may be required by the Planning Authority.
 2. *Digital Copy.* Provide the Planning Authority with a digital copy of the neighborhood notice, which the City shall forward by e-mail to the City's list of interested citizens.
 3. *Notice Description.* Such notice shall contain a brief description of the application and the date, time and place of the neighborhood meeting.

4. Attendance Sheet. At the neighborhood meeting the applicant shall circulate a sign-in sheet for those in attendance who choose to sign. Such sheet shall be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board.
5. Minutes. The applicant shall keep minutes of the meeting to be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board. Any other individual or entity also may submit comments on the neighborhood meeting to the Planning Authority and said comments shall become part of the Planning Authority report submitted to the Planning Board.
6. Presentation. At the neighborhood meeting the applicant shall explain the pending proposal and provide an opportunity for public questions and comment.

d. *Planning Board Workshops.*

- (i) *Request a Workshop:* The applicant may request a workshop(s) with the Planning Board for a Level III site plan. The workshop will be scheduled on a date that follows the scheduled date of the neighborhood meeting, if applicable. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-525.
- (ii) *Workshop Procedures:* The Planning Board workshop shall be informational and shall not result in any formal approval or disapproval

of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints of the site and proposed development, air public comments questions and issues, and provide direction to the applicant regarding issues to be addressed during the final review process.

e. *Final Plan.*

- (i) *Application Process:* All applications for Level II or Level III site plans shall submit a final plan for review by the Planning Authority or the Planning Board.
- (ii) *Filing Application:* Every application submitted to the Planning Authority for site plan approval shall be submitted as required under Section 14-527. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as any original submission.
- (iii) *Phased Development:* A phased development plan may be proposed for a Level III site plan. The Planning Board may permit the Level III site plan to be divided into up to three (3) sections for phased development purposes and subject to any conditions that the board deems necessary in order to insure the orderly development of the plan. The applicant may seek approval of a phased development only if the section constitutes at least twenty (20) percent of the total development and in addition, shows the entire tract or parcel. Each phase of such project shall conform to all standards of this article in the event that subsequent phases do not go forward. The Planning Board may extend the site plan approval for all phases up to three years from the date of approval.
- (iv) *Public Notices:* All public notices will be

sent according to the Section 14-525 of the Site Plan Ordinance.

- (v) Development Review Process for Final Plan:
 - (a) *Complete Application.* The Planning Authority shall determine whether the application contains all of the items required in (Sec 527) and the Zoning Administrator will conduct a zoning review for compliance with article III of this chapter. If the application is deemed incomplete or not in compliance with Chapter III, the applicant will be contacted in writing of the finding and the additional material required to complete the submission. A review of the application will not be conducted until the application is complete. These steps shall be repeated until the application is found to be complete.
 - (b) *Plan Distribution.* When the application is complete, the final plan will be distributed to the departments for review and comments.
 - (c) *Review.* Written comments from the reviewers shall be provided to the applicant, which will include a planning staff recommendation to submit a revised final plan or to proceed to a public hearing with the Planning Board if it is a Level III site plan. The applicant may request that the Level III final site plan be submitted for a public hearing rather than submit a revised set of plans.

- (d) *One Revised Plan Set.* Only one set of revised plans may be submitted for review at the final plan stage. The revised plans undergo the same review steps as the original submittal.
- (e) *Staff Recommendation.* At the completion of the staff review of the final plans, the planning staff will make a recommendation to the Planning Authority or the Planning Board to approve, approve with conditions or deny the final site plan.
- (f) *Referral of plans to Planning Board.* If at any time before approval or disapproval of a site plan for Level II development by the Planning Authority, the applicant may request a referral to the Planning Board review and a decision.
- (g) *Public Hearing.* When a final site plan for a Level III development is ready to proceed to a Planning Board public hearing, it will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-32 and site plan ordinance.
- (h) *Decisions.* The Planning Authority or the Planning Board shall approve, approve with conditions or deny a final site plan application based upon the applicable review standards. All improvements are subject to applicable standards of the Technical Manual and Design Manual, incorporated herein by reference. In applying said standards, the Planning Board or authority, as applicable, may vary or modify them as provided in section 14-506.

1. *Level II Site Plan.* The Planning Authority shall not approve a Level II Site Plan until at least ten (10) days after the required public notice has been mailed. The Planning Authority shall render a written decision to approve, approve with conditions, or deny, with all associated findings, after receipt and review of a complete final site plan and accompanying statements for Level II development.
2. *Level III Site Plan:* When a site plan requires approval by the Planning Board, a public hearing shall be scheduled. The Planning Board shall notify the applicant in writing of its approval or disapproval of the project with all associated findings after the board's final vote to approve or disapprove the project.
4. *Expiration of Application:*

A site plan application must be diligently pursued from the date of submission. 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. Failure to submit required information within one hundred twenty (120) days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-525. Public notices.

- (a) *Administrative authorization.* Administrative

authorization applications are exempt from noticing requirements fo section 14-525.

(b) *Level I site plan: minor residential development:*

1. *Receipt of Application.* When an application for Level I: Minor Residential Site Plan is submitted for review, the Planning Authority shall notify by mail the owners of all property abutting the proposed site and any property owners directly across the street from the site.
2. *Level I Site Plan: Site Alteration, Level II and Level III Site Plans.*
 - a. *Receipt of Application.* When an application for Level I Site Alteration Level II or Level III development is submitted for site plan review, the Planning Authority shall notify, by mail the following, where applicable:
 - (i) *Notice for Level I: Site Alteration and Level II Site Plans* shall be sent to all property owners within five hundred (500)feet of the subject property lines and to all others, including neighborhood organizations, as may be required by the Planning Authority.
 - (ii) *Notice for Level III Site Plans* shall be sent to all property owners within five hundred (500) feet of the subject property lines unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.
 - b. *Planning Board Workshop or Public Hearing.*
 - (i) In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City

of Portland at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. The legal notice shall appear on the City's web site.

- (ii) In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property lines unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

c. *Content of the Public Notice*

- (i) The public notice shall contain a brief description of the proposed development the address or location of the property involved, and contact information for the City where additional information may be obtained. The cost of said notice shall be charged to the applicant.

(Ord. No. 277-09/10, 7-19-10)

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:

(a) *Transportation Standards*

1. *Impact on Surrounding Street Systems:*

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. *Access and Circulation:*

a. Site Access and Circulation.

(i) The development shall provide safe and reasonable access and internal circulation for the entire site for all users of the site and shall comply with the standards set forth in Sections 1 of the Technical Manual.

(ii) Points of access and egress shall be located to avoid conflicts with existing turning movements and traffic flows.

(iii) Where drive up features such as gasoline pumps, vacuum cleaners and menu/order boards are permitted, they shall not extend nearer than twenty five (25) feet to the street line. The site must have stacking capacity for vehicles waiting to use these service features without impeding on-site vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

b. Loading and Servicing.

(i) All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and

backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.

c. Sidewalks.

(i) All proposed developments shall provide sidewalks along all frontages in accordance with Sections 14-498 and 14-499 of the City Code, installed to City specifications as described in Section 1 of the Technical Manual. An applicant may request a waiver from curb and sidewalk installation requirements if they meet applicable waiver criteria listed in Section 14-506 (b) of the City Code.

(ii) Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City Code and Section 1 of the Technical Manual.

(iii) Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings and primary building entrances on the site.

3. *Public Transit Access:*

a. For any residential development consisting of twenty (20) or more dwelling units or commercial or institutional development of at least 20,000 square feet gross floor area, a transit facility shall be constructed where the following criteria are met:

(i) The development is proposed along an existing public transit route on a local principal or minor arterial roadway, as shown in the Federal Street

Classification Map provided in Section 1
of the Technical Manual.

- (ii) The nearest existing transit shelter and/or bus pullout on the route is $\frac{1}{4}$ mile(1,320 feet) or more away from the closest primary building on the site, lmeasured along rights-of-way.
 - b. Transit facilities shall consist of a transit shelter and a transit pullout bay.
 - c. Transit facilities shall be connected to the public sidewalk system.
 - d. Waiver: All or some of this standard may be waived if the Reviewing Authority determines one or more of the following:
 - (i) That some or all of the required improvements cannot reasonably be made due to site constraints and/or insufficient right of way width; or
 - (ii) That the development is not anticipated to generate public transit usage due to particular characteristics or proposed use of the development.
4. *Parking*:
- a. Location and Required Number of Vehicle Parking Spaces:
 - (i) Off-street parking shall meet the applicable zoning requirements, except the Planning Board shall determine the parking requirement, based upon the applicant's parking study and a recommendation from the City Transportation Engineer, for new structures, building additions and changes of use with a total floor area of 50,000 sf or more and for projects,

regardless of size, in the B-6, B-7 and
USM Overlay zone.

(ii) Where a parking study is required, the
City encourages Transportation Demand
Management (TDM) strategies to be
employed.

(iii) Developments proposing to exceed minimum
parking requirements by 10% or more must
demonstrate through a parking analysis
that the amount of parking is appropriate
for the proposed use of the site.

(iv) Parking spaces and aisles shall meet
applicable dimensional standards as
detailed in Section 1 of the Technical
Manual.

(v) Parking lots, except for temporary lots
to be used for less than one year, shall
be constructed of a permanent and durable
hard surface that is not subject to
ponding or erosion.

b. Location and Required Number of Bicycle
Parking Spaces:

(i) The site plan shall provide secure
bicycle parking in conformance with
Section 1 of the Technical Manual and
shall meet the following requirements:

(a) *Residential structures.* Two (2)
bicycle parking spaces for every
five (5) dwelling units shall be
required.

(b) *Non-residential structures.* Two (2)
bicycle parking spaces for every ten
(10) vehicle parking spaces for the
first one hundred (100) required
vehicle parking spaces, plus one (1)
bicycle parking space for every

twenty (20) required motor vehicle parking space over one hundred (100) required vehicle parking spaces.

(c) Development with zero (0) to ten (10) required vehicle parking spaces shall provide at least two (2) bicycle parking spaces.

(ii) *Waiver:* The reviewing authority may reduce the required number of bicycle parking spaces **if** it is determined, based on evidence submitted by the applicant, that the proposed development is expected to generate reduced demand for bicycle parking due to characteristics or uses such as elderly or disabled persons housing or industrial uses located in outlying areas.

c. *Motorcycle and Scooter Parking.*

(i) The site plan shall accommodate access and parking for two-wheeled motorized vehicles such as motorcycles and scooters.

d. *Snow Storage.*

(i) The site plan shall include areas for snow storage or shall include an acceptable snow removal plan.

(ii) Snow storage areas may not encroach on areas designated to meet minimum parking requirements or on pedestrian walkways and shall not be located where they would adversely impact the functionality of bioretention or other stormwater management systems. Landscaping in designated snow storage areas shall be such that it can withstand the snow pile.

5. *Transportation Demand Management (TDM):*

a. The following types of development shall design and implement a Transportation Demand Management (TDM) plan:

(i) All Level III development in the B7 zone;

(ii) All commercial or institutional uses of 50,000 sf or more total floor area;

(iii) All commercial or institutional uses designed to accommodate 100 or more employees and, for educational institutions, 100 or more students.

b. The TDM Plan shall establish trip reduction targets and shall employ a combination of the following elements to achieve these targets:

(i) Public transit incentives;

(ii) Parking cash-out;

(iii) Car sharing;

(iv) Car and van pooling incentives;

(v) Guaranteed ride home programs;

(vi) Other such strategies that reduce single occupancy vehicle trips to and from the development.

c. The development shall comply with the City of Portland TDM standards as described in Section 1 of the Technical Manual.

(b) *Environmental Quality Standards*

1. *Preservation of Significant Natural Features:*

a. The site plan shall preserve and protect significant natural features by incorporating

them into site design. Significant natural features shall be defined as:

- (i) Populations of trees and plants listed on the Official List of Endangered and Threatened Plants in Maine, published by the Maine Natural Areas Program.
 - (ii) Habitat for species appearing on the official state of federal list of endangered or threatened animal species;
 - (iii) High and moderate value waterfowl and wading bird habitat including nesting and feeding areas, as defined by the Department of Inland Fisheries and Wildlife;
 - (iv) Aquifers on islands in Casco Bay, as identified in the City of Portland Island Groundwater Management Study and/or by the Maine Geological Survey;
 - (v) Waterbodies including wetlands, watercourses, significant vernal pools and floodplains. These features may also be regulated by Division 26, Shoreland Regulations, Division 26.5, Flood Plain Management Regulations and Division 26.7, Stream Protection Ordinance of the City Code, along with Sections 5 and 8 of the Technical Manual or other State regulations.
- b. Where areas set aside for preservation are part of a larger existing habitat block extending beyond the boundaries of the site, the contiguity of these features shall be preserved, where possible.
- c. Waiver: Where complete preservation of significant natural features substantially compromises development of the site otherwise permitted by zoning, the Reviewing Authority

may reduce the requirement to accommodate development provided that the applicant demonstrates compliance with applicable state and federal regulations and implements preservation measures to the extent practicable.

2. *Landscaping and Landscape Preservation:*

a. *Landscape Preservation.*

- (i) Site development shall be designed to incorporate, and limit disturbance to or removal of existing trees, as specified below. Preserved trees may be counted towards site landscaping requirements.
- (ii) All development subject to zoning setbacks shall preserve a minimum of 30% of existing trees ten (10) inches DBH or greater within the required setback area unless trees are non-native invasive species, as identified in Section 4 of the Technical Manual, or are deemed unsalvageable by the Portland City Arborist or their designee.
- (iii) Protection during Construction: The site plan shall include adequate measures to protect vegetation to be preserved from construction impacts, in accordance with the tree preservation standards listed in Section 4 of the Technical Manual.

- (iv) Waiver: Where the applicant can demonstrate that preservation of existing vegetation would compromise development of the site, the Reviewing Authority may permit the substitution of replacement landscaping in other areas of the site, and/or a financial contribution to the City of Portland Tree Fund for an amount proportionate to the cost of trees removed, as described below:
- (a) For each tree required to be preserved that is removed and is greater than 16" in caliper DBH, two (2) replacement trees of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).
 - (b) For each tree required to be preserved that is removed and is between ten (10) and sixteen (16) inch DBH, one (1) replacement tree of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).
 - (c) Where the planting of replacement trees on the site is not feasible, the applicant shall contribute an amount proportionate to the cost of required replacement trees to the City of Portland Tree Fund, as detailed in Section 4 of the Technical Manual.
- (v) In addition to the provisions of this section, all development within the Shoreland Zone shall meet the requirements of Division 26, Shoreland

Regulations.

b. *Site Landscaping.*

(i) Landscaped Buffers:

(a) *Screening.* Loading and servicing areas, dumpsters, storage areas and utility structures, except for renewable energy systems, shall be screened from view from public sidewalks, streets and adjacent properties by dense evergreen landscaping, fencing, masonry wall building walls, or a combination thereof.

(b) *Understory Plantings.* All development subject to required zoning setbacks shall include a minimum of six (6) shrubs per forty five (45) linear feet of all frontages as measured along the property line. A shrub shall be defined as one shrub, one ornamental grass, and/or 3 perennials. Required shrubs may be installed anywhere on the site, including a green roof, if proposed, and may be planted in any arrangement. Existing vegetation to be preserved on the site may be counted towards this requirement as detailed in Section 4 of the Technical Manual.

(c) *Industrial and Commercial Zones.* For non-residential development proposed in an industrial or commercial zone subject to required zoning setbacks and abutting a residential zone, an evergreen, densely landscaped buffer of not less than ten (10) ft wide and six (6) ft tall is required

along the side abutting the residential zone. Where site constraints prevent such a buffer from being established, the width of the landscaped buffer may be reduced but shall include architectural quality fencing of not less than six (6) ft tall and a mix of evergreen and deciduous trees spaced no further than twenty (20) ft apart along the abutting the residential zone.

- (d) *Buffer from Surrounding Development.* All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

(ii) *Parking Lot Landscaping:*

- (a) Developments with five (5) or more parking spaces shall include at least two (2) trees (or one (1) tree and three (3) shrubs) per five (5) parking spaces planted in landscaped islands to screen shade and break up parking. Trees and shrubs in parking lots may be in informal groups, straight rows, or concentrated in clusters as detailed in Section 4 of the Technical Manual.
- (b) Landscaped islands shall be distributed so that uninterrupted pavement does not exceed forty (40) parking spaces.
- (c) Landscaped islands shall be curbed and a minimum of eight (8) feet in width, not including curbing. The

incorporation of bioretention into landscaped islands is strongly encouraged.

- (d) Vehicle display lots shall be subject to the parking lot landscaping standards of **this section.**
- (e) Waiver: Where site constraints prevent implementation of all or a portion of required parking lot landscaping, as determined by the Reviewing Authority, the requirements may be all or partially waived and the applicant shall contribute an amount proportionate to the cost of required parking lot trees to the City of Portland Tree Fund.

(iii) *Street Trees:*

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.
- (b) Waiver. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within ten feet of the property line. Existing

preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.

3. *Water Quality, Stormwater Management and Erosion Control:*

- a. All development must demonstrate that the proposed site improvements are designed to minimize the amount of stormwater leaving the site. This must include consideration of the design and location of improvements to minimize the total area of impervious surface on the site and stormwater management techniques to minimize both the volume and rate of runoff from the lot. The stormwater management plan must demonstrate the following:
 - (i) Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots;
 - (ii) Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following the improvement can be handled on the adjacent lot without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot;

- (iii) Any increase in volume or rate of stormwater draining from the lot onto City property following the improvement can be handled without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the City's property; and
 - (iv) Any increase in volume or rate of stormwater draining from the lot into the City's separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.
- b. All development, except Level I minor residential development, shall comply with the standards of Section 5 of the Technical Manual including basic, general and flooding standards, as applicable, to prevent and control the release of pollutants to waterbodies, watercourses, wetlands and groundwater, and reduce adverse impacts associated with increases or changes in flow, soil erosion and sedimentation.
- c. All development, except Level I minor residential development, that are located within the watershed of an Urban Impaired Stream shall comply with the Urban Impaired Stream standards pursuant to Maine DEP Chapter 500 Stormwater Management Rules, as described in Section 5 of the Technical Manual.
- d. Level I: minor residential development shall comply with basic erosion control standards, as described in Section 6 of the City of Portland Technical Manual.
- e. Development shall not pose a risk of groundwater contamination either during or post-construction, as described in Sections 5

and 9 of the Technical Manual.

- f. Development shall provide for adequate and sanitary disposal of sewage as described in Section 2 of the Technical Manual.

(c) *Public Infrastructure and Community Safety Standards.*

1. *Consistency with City Master Plans:*

- a. All developments shall be designed so as to be consistent with City Council approved master plans and facilities plans and with off-premises infrastructure, including but not limited to sewer and stormwater, streets, trails, pedestrian and bicycle network, environmental management or other public facilities (see Section 15 of the Technical Manual).
- b. The site plan shall include suitable easements, rights and improvements to connect or continue off-premises public infrastructure as may be required by the reviewing authority.

2. *Public Safety and Fire Prevention:*

- a. The development shall incorporate the following public safety principles for Crime Prevention through Environmental Design (CPTED) into site design to enhance the security of public and private spaces and to reduce the potential for crime:
 - (i) Natural surveillance that promotes visibility of public spaces and areas.
 - (ii) Access control that promotes authorized and/or appropriate access to the site.

- (iii) Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.
 - b. Provide adequate emergency vehicle access to the site in accordance with City standards for street widths and turning radii, as described in Section 1 of the Technical Manual.
 - c. Be consistent with City public safety standards, Section 3 of the City of Portland Technical Manual, including but not limited to availability and adequacy of water supply and proximity of fire hydrants to structures.
3. *Availability and Adequate Capacity of Public Utilities:*
- a. The development shall not overburden sanitary sewers and storm drains, water lines, or other public infrastructure and utilities. Development shall provide adequate utility capacity and distribution network on-site and in connection to surrounding locations and facilities.
 - b. Electrical service shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost, the need to retrofit properties not owned by the applicant or complexity of revising existing overhead facilities.
 - c. Installation of new or upgrades to existing sanitary sewers, storm drains, water lines or other utilities shall meet the provisions outlined in Section 2 and Section 9 of the Technical Manual.
 - d. All development within 200 feet of a public sanitary collection and treatment system shall connect sanitary sewer lines into the nearest available public sewer. If a public sanitary collection and treatment system is not

available, a private wastewater system may be used according to the requirements of Chapter 24 of the City Code and Section 2 of the Technical Manual.

- e. All sanitary sewer and stormwater utilities proposed as part of the development shall be designed to City standards as specified in Section 2 and Section 4, Chapter 500 Stormwater Management Standards, of the Technical Manual.
- f. All residential development of 20 units or more, commercial development and industrial development shall provide for the temporary storage and timely removal of all trash and recyclable materials including, at a minimum, paper, corrugated cardboard, plastics and metals. Storage containers for recyclable materials shall be separated from trash containers. All exterior storage of trash and recyclables shall be screened from view from public sidewalks, streets and adjacent properties.

4. Reserved.

(d) *Site Design Standards*

1. *Massing, Ventilation and Wind Impact:*

- a. The bulk, location or height of proposed buildings and structures shall not result in health or safety problems from a reduction in ventilation to abutting structures or changes to the existing wind climate that would result in unsafe wind conditions for users of the site and/or adjacent public spaces.
- b. The bulk, location or height of proposed buildings and structure shall minimize, 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.

- c. Development shall locate all HVAC venting mechanisms to direct exhaust away from public spaces and residential properties directly adjacent to the site.

2. *Shadows:*

- a. All development outside the B3, B5, B6 and B7 zones shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space where such shadowing would adversely affect the viability of its use and/or the viability of existing vegetation. Examples of publicly accessible open spaces that may require direct sunlight for a portion of the day to maintain the viability of existing vegetation and/or use(s) include but shall not be limited to sitting or sunning areas, community gardens, grass sports fields, landscaped areas, children's play areas). For submittal requirements and additional information, please refer to Section 11 of the Technical Manual.

3. *Snow and Ice Loading:*

- a. The development shall be designed to prevent significant amounts of accumulated snow and ice from loading or falling onto adjacent properties or public ways.

4. *View corridors:*

- a. The massing, location and height of development shall not substantially obstruct public views corridors identified in the Downtown Vision View Corridor Protection Plan, as provided in the City of Portland Design

Manual, Appendix 1.

5. *Historic Resources:*

- a. Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as described in the Design Manual:
 - (i) Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);
 - (ii) Section (c) of the Design Manual (development in B-5 and B-5b zones), except for (c)a. (shared infrastructure) and (c)d. (parking lot location);
 - (iii) Section (k) of the Design Manual (small residential lot development in R-6 zone);
 - (iv) Section (e) of the Design Manual (University of Southern Maine);
 - (v) Section (f) of the Design Manual (development in B-7 zone), except for (f)(1)a. (transportation demand management);
 - (vi) Section (g) of the Design Manual (development in Eastern Waterfront zone).
- b. Development adjacent to designated landmarks, historic districts or historic landscape districts: when any part of a proposed development is within one hundred (100) feet

of any designated landmark, historic district or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports. For the purposes of this provision, "compatible" design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.

c. Preservation and/or Documentation of Archaeological Resources. Where a state or local archaeological resource is known to exist or is discovered on the site, the developer shall inform the City and State and shall protect and/or document such resources.

(i) Protection shall include leaving archaeological resources untouched beneath a new development through adaptation of foundation design or architectural layout.

(ii) Where the applicant can demonstrate that complete protection is not feasible, the applicant shall excavate and document archeological resources. Such measures shall be conducted in consultation with the City Historic Preservation Program and Maine Historic Preservation

Commission. For resources of state significance, excavation and documentation shall be conducted by a qualified professional, in coordination with Maine Historic Preservation Commission. Local archeological resources may or may not be recognized by the Maine Historic Preservation Commission as significant and shall include the following:

- (a) Original seawall structure located landward of Commercial Street.
- (b) Inactive historic family cemetery plots.
- (c) Historic railroad beds including but not limited to the Portland-Lewiston interurban railroad.
- (d) Original structure and/or landforms associated with the Cumberland and Oxford Canal.
- (e) Buried portions of colonial and post-colonial period structures or built features located on the Portland Peninsula predating the Great Fire of 1866.
- (f) Pre-colonial occupation sites identified by shell middens or other evidence.
- (g) Sites listed or eligible for listing on the National Register of Historic Places.

(iii)Waiver Criteria: In order to preserve archeological resources, the Planning Authority may wave standards listed in the City of Portland Technical Manual where necessary if it is determined that such a waiver would not jeopardize the

health, safety or welfare of the development's occupants, the public, or the natural environment.

6. *Exterior Lighting:*

a. *Site Lighting.*

(i) All exterior site lighting, including lighting of building entrances, shall be full cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties and streets. Illumination levels shall be adequate but not excessive for the safety, comfort and convenience of occupants and users of the site, and shall conform to applicable standards of Section 12 of the Technical Manual.

(ii) For major or minor site plans within or abutting a residential use or zone where light from the proposed development may adversely impact adjacent residential properties, exterior lighting shall employ house-side shielding.

b. *Architectural and Specialty Lighting.*

(i) Architectural and specialty lighting, but not up-lighting, of such features as architectural details, monuments, public art or other site features shall be designed to illuminate specific details or attributes only and shall meet the standards of Section 12 of the Technical Manual.

(ii) Up-lighting by any method is prohibited except for public buildings and parklands, clock towers and steeples, landscape features, designated historic landmarks, flags of state, federal or national jurisdictions, and public art.

Such light fixtures, brackets, conduits and all other components shall be designed by a lighting professional and shall be scaled and placed to minimize their visibility and installed in accordance with the standards contained in Section 12 of the Technical Manual.

c. *Street Lighting.*

- (i) Municipal street lighting shall be adequate for the safety and comfort of pedestrians and motorists and, where applicable, shall conform to specific lighting district requirements, as specified in Section 10 of the Technical Manual.

7. *Noise and Vibration:*

Projected noise levels for all developments shall meet applicable zoning requirements.

a. *HVAC and Mechanical Equipment.*

- (i) All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall comply with the following:
 - (a) Be located to the interior of the site, away from abutting residential properties;
 - (b) Be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof.

- (ii) In addition to the requirements listed above, emergency generators shall not be activated for more than one hour per week for routine maintenance and testing. Noise levels shall not exceed City standards except in designated emergencies or for emergency generator testing. Emergency generator testing is permitted only between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

8. *Signage and Wayfinding:*

- a. All signage shall meet applicable requirements of Division 22 of the City Code, in addition to provisions listed below:

- (i) Historic Preservation: Any new sign or change in appearance of an existing sign located on a designated Historic Landmark or in a Historic District or Historic Landscape District shall be subject to the standards of Article IX and shall require a Certificate of Appropriateness.

If there is a conflict between the standards of Article IX and of Division 22 or other provisions of the City Code, the stricter standards shall apply.

- (ii) Commercial Signage and Directional Traffic Signage: The size, scale, proportions, design, materials, placement and source and intensity of illumination of all permanent or freestanding building signs shall be designed to complement the subject building and its immediate context, as follows:

- (a) Signage shall not conceal architectural features such as window sills, lintels or cornices from view.

- (b) Signs shall be designed and sized to fit the scale and proportions of the building and the feature or area of the building to which it is affixed.
 - (c) Freestanding signs shall not adversely affect visibility at intersections or access drives.
 - (d) Sign lighting shall be downwardly directed, internally illuminated and/or shielded to avoid glare and light spillover towards the sky.
 - (e) Signs shall not be affixed to rooftop mechanicals, mechanical penthouses or other rooftop appurtenances unless those appurtenances have been screened and integrated into the architecture of the development.
- (iii) On-site directional traffic signage may be provided to enable users to safely and easily navigate into, around and out of the site. Directional signage shall not adversely affect visibility at intersections on or off the site.
- (iv) Waiver Criteria: An applicant for site plan review that was either denied for failure to comply with the requirements of or is seeking a waiver as part of their site plan application from Section 14-369.5 shall meet the following standards for approval:
- (a) Signs shall meet the requirements of Section 14-526 (e) 2. - Signage and Wayfinding;
 - (b) The size, scale, proportions, design, materials, placement, quantity and source and intensity of

illumination of any approved signage shall be designed to complement and enhance the architectural attributes of the building(s) to which they are attached or to which they are visually related. In addition, such signs shall be appropriate to the scale and character of the neighborhood in which it is located and shall be designed to suit the conditions from which it will be viewed, especially in relation to the distance, travel speed, and mode of travel of the viewing public;

(c) The signage shall either be of special design merit or shall respond to unique circumstances or characteristics associated with the subject property;

(d) The provisions of this subsection shall be limited to commercial uses in business or industrial zones, industrial uses or institutional uses.

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:

(i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ

Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the EWPZ waterfront zone shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(ii) RP Zone: Development in the RP Residential Professional zone where there is a discernable architectural style or character to existing structures in the immediate vicinity in which the development is proposed shall not be incongruous to that established style or character as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(iii) B1, B1-b, B2, B2-b Zones: Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(iv) USM Overlay Zone: Development in the University of Southern Maine (USM) Overlay Zone shall be designed to support a cohesive campus environment while integrating with and respecting the residential character of surrounding neighborhoods as demonstrated by compliance with all applicable design standards listed in the Design Manual.

- (v) Residential Developments: Residential developments, as listed below, shall integrate with and respect the character of surrounding residential development in terms of architectural form, landscaping and open space, façade materials, roof pitch, massing and height as demonstrated by compliance with all applicable design standards as listed in the Design Manual.
- (vi) Residential Development in the following districts:
 - (a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;
 - (b) Multiple family and multiplex developments in the R5 zone;
 - (c) Small residential lot development of single family homes in the R5 zone;
 - (d) Multiple family and multiplex development in the R6 zone on lots of 10,000 square feet or less.
- (vii) Residential Development of the following types:
 - (a) Manufactured housing parks;
 - (b) Two-family and multiple family housing not already specified in (a) above;
 - (c) Special needs independent living units;
 - (d) Lodging houses;
 - (e) Bed and breakfasts;
 - (f) Emergency shelters.

10. *Reserved.*

(e) *Conditions*

1. Notwithstanding the provisions of subsections (a) through (d) of this section, 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 subsections (a) through (d); or (3) to minimize any other adverse environmental effects 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.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-527. Content of site plan applications.

(a) *General Submissions.* The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the Department of Planning and Urban Development. Such submissions shall contain, at a minimum, the following elements:

- (1) Application Form;
- (2) Applicable Fees;
- (3) Project Description;

- (4) Evidence of Right, Title and Interest;
- (5) Evidence of State and/or Federal Approvals;
- (6) Assessment of Zoning;
- (7) Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens;
- (8) Written requests for waivers of modifications from the City's Site Plan or Technical Standards;
- (9) Evidence of Financial and Technical Capacity;
- (10) Boundary survey stamped by a professional surveyor licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in Section 13 of the Technical Manual.

(b) *Level I Site Plan Submissions.* Site plans submitted as part of a Level I site plan application for a minor residential or site alteration proposal shall include the following information:

- (1) Existing and proposed structures, as applicable, and distance from property lines;
- (2) Existing and proposed paved areas;
- (3) For minor residential only, proposed ground floor area and finish floor or sill elevation;
- (4) For minor residential only, exterior building elevation drawings (all sides);
- (5) Location of proposed utilities;
- (6) Identification and protection measures proposed for any significant natural features, as defined in Section 14-526 (b);
- (7) Proposed protections to or alterations of watercourses, where applicable;

- (8) Proposed impacts and protections to wetlands;
- (9) For minor residential only, soil type;
- (10) Existing and proposed grades and contours;
- (11) Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed;
- (12) Proposed stormwater management control;
- (13) Soil erosion control plan;
- (14) Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as applicable;
- (15) Existing and proposed curb and sidewalk;
- (16) Location, area, and limits of the proposed site disturbance or alteration;
- (17) Proposed Pier, Dock, Wharf or Pier reconstruction in the Shoreland Zone.

(c) *Level II and III Preliminary Site Plan Submissions.* A preliminary site plan is an optional submittal as part of the Level II and III site plan application review process. If the applicant elects to submit a preliminary site plan for review, it shall include the following information:

- (1) Proposed grading and contours;
- (2) Existing structures with distances from property lines;
- (3) Proposed site layout and dimensions for all proposed structures, paved areas, and pedestrian and vehicle access ways;
- (4) Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual;

- (5) Preliminary infrastructure improvements;
- (6) Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
- (7) Location of significant natural features located on the site as defined in Section 14-526 (b)(1);
- (8) Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526(b)(1);
- (9) Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.

(d) *Level II and III Final Site Plans.* A final site plan for a Level II or III site plan application shall be based upon a standard stamped boundary survey meeting City of Portland standards, be stamped by a professional engineer licensed to practice in the State of Maine, shall be submitted with all required written submittals and shall include the following information:

- (1) Existing and proposed structures, as applicable, and distance from property lines;
- (2) Approximate location of structures on parcels abutting the site;
- (3) All streets and intersections adjacent to the site and any proposed geometric modifications to those streets or intersections;
- (4) Location, dimensions and materials of all existing and proposed driveways, vehicle and pedestrian access ways, and bicycle access ways, with corresponding curb lines;
- (5) Engineered construction specifications and cross-sectional drawings for all proposed driveways, paved areas, sidewalks;

- (6) Location and dimensions of all proposed loading areas including turning templates for applicable design delivery vehicles;
- (7) Existing and proposed public transit infrastructure with applicable dimensions and engineering specifications;
- (8) Location of existing and proposed vehicle and bicycle parking spaces with applicable dimensional and engineering information;
- (9) Location of all snow storage areas and/or a snow removal plan;
- (10) A traffic control plan as detailed in Section 1 of the Technical Manual;
- (11) Proposed buffers and preservation measures for significant natural features, where applicable, as defined in Section 14-526(b)(1);
- (12) Location and proposed alteration to any watercourse;
- (13) A delineation of wetlands boundaries prepared by a qualified professional as detailed in Section 8 of the Technical Manual;
- (14) Proposed buffers and preservation measures for wetlands;
- (15) Existing soil conditions and location of test pits and test borings;
- (16) Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as applicable;
- (17) A stormwater management and drainage plan, in accordance with Section 5 of the Technical Manual;
- (18) Grading plan;
- (19) Ground water protection measures;

- (20) Existing and proposed sewer mains and connections;
- (21) Location of all existing and proposed fire hydrants and a life safety plan in accordance with Section 3 of the Technical Manual;
- (22) Location, sizing, and directional flows of all existing and proposed utilities within the project site and on all abutting streets;
- (23) Location and dimensions of off-premises public or publicly accessible infrastructure immediately adjacent to the site;
- (24) Location and size of all on-site solid waste receptacles, including on-site storage containers for recyclable materials for any commercial or industrial property;
- (25) Plans showing the location, ground floor area, floor plans and grade elevations for all buildings;
- (26) A shadow analysis as described in Section 11 of the Technical Manual, if applicable;
- (27) A note on the plan identifying the Historic Preservation designation and a copy of the Application for Certificate of Appropriateness, if applicable, as specified in Section Article IX, the Historic Preservation Ordinance;
- (28) Location and dimensions of all existing and proposed HVAC and mechanical equipment and all proposed screening, where applicable;
- (29) An exterior lighting plan in accordance with Section 12 of the Technical Manual;
- (30) Signage: A signage plan showing the location, dimensions, height and setback of all existing and proposed signs;

- (31) Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.
- (e) *Level II and III Final Written Materials*
 - (1) Construction Management Plan;
 - (2) A traffic study and other applicable transportation plans in accordance with Section 1 of the Technical Manual, where applicable;
 - (3) A narrative describing any significant natural features, wildlife and fisheries habitats or archaeological sites subject to the provisions of Section 14-526(a) that are located on or near the project site and a description of the methods that will be used to protect such areas or sites during and post construction;
 - (4) A narrative describing site layout, on and off-site watershed hydrology, new and existing buildings and facilities, total impervious area, disturbed area and developed area created by the project;
 - (5) Stormwater runoff calculations as described in Section 5 of the Technical Manual;
 - (6) A narrative describing the development's consistency with applicable City Master Plans;
 - (7) Evidence of Utility Capacity to Serve;
 - (8) Estimated types and quantities of solid waste to be generated by the development. For new commercial and industrial development, a description of the estimated amount and type of recyclable material to be generated;
 - (9) A code summary referencing NFPA 1 and all Fire Department technical standards;
 - (10) Where applicable, an assessment of the development's consistency with any applicable design standards contained in Section 14-526(a) and/or in the City of Portland Design Manual;

(11) Manufacturer's verification that all proposed HVAC and manufacturing equipment meets applicable state and federal emissions requirements.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-528. Reserved.

Sec. 14-529. Appeals.

(a) When the planning authority has approved with conditions or denied a site plan, any person aggrieved may appeal the decision to the planning board within thirty (30) days of the date of the written decision of the planning authority. Upon the taking of such an appeal, the application shall be reviewed as a new application.

(b) When the planning board has finally approved, approved with conditions, or disapproved a site plan, any person aggrieved or the City may appeal the decision to the superior court, pursuant to Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the vote on the original decision by the planning board.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-530. Development review fees and post approval requirements.

(a) *Development Review Fees.*

(1) Payment of fees and costs: Prior to the issuance of permits of any kind or the release of a signed subdivision plat for recording for any project whose permit fee is governed by this ordinance, all current charges due under this ordinance shall be paid and the developer must otherwise be in compliance with the provisions of the City Code.

(2) Development Review and administrative fees:

a. Review Fees. The developer shall pay the development review fees to cover the third-party review costs for engineers or other professional reviews and administrative costs for all Levels of review unless otherwise noted below, including but

not limited to staff review, legal ads, plan duplication, and mailed public notices, incurred by the City. The fee shall be based upon the hours of review time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the developer for the development review and administrative costs incurred by the City, which invoice shall be paid promptly by the developer. Prior to the issuance of permits of any kind or the release of a signed subdivision plat for recording for any project whose permit fee is governed by this ordinance, all current charges due under this ordinance shall be paid. The balance of any remaining engineering and administrative costs invoiced or incurred after a permit has been issued shall be paid promptly in full by the developer prior to the issuance of any temporary or permanent certificate of occupancy.

(3) The City Council, shall, from time to time, establish by order, reasonable application and administrative fees to defray the costs of administering this article.

(4) *Site Plan Review Expenses.*

a.	Level I: Minor Residential	\$300(flat fee)
b.	Level I: Site Alteration	\$200
c.	Level II: Site Plan	\$400
d.	Level III: Site Plan	
	1. Under 50,000 sf	\$500
	2. 50,000-100,000 sf	\$1,000
	3. 100,000-200,00 sf	\$2,000
	4. 200,000-300,000 sf	\$3,000
	5. Over 300,000 sf	\$5,000

- 6. Parking lots over 100 spaces \$1,000
- e. After the Fact Review \$1,000 plus application fee
- f. Amendment to Site Plans
 - 1. Planning Board Review \$500
 - 2. Administrative Review \$250
- g. Other Site Plan Reviews
 - 1. Administrative Authorization \$50
 - 2. Special Exception Sign Review \$75
 - 3. Section 14-403 Street Extensions \$400 plus \$25 per lot
- h. Fee for Development Review Services
 - 1. Planning fee per hour \$40
 - 2. Legal fee per hour \$75
 - 3. Third-party Review Fees assessed by the Third Party Professional
- i. State Delegated Review Fees
 - 1. Site Location of Development \$3,000, except for residential projects which will be \$200 per lot.
 - 2. Traffic Movement Permit \$1,000
 - 3. Stormwater Quality Permit \$250
- j. Performance Guarantee
 - 1. As required in Section 14-530 (b)(4).

k. Inspection Fees, as required in Section 14-530 (b)
(5)

1. Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer at \$45 an hours with minimum inspection fee of \$300 Level I: Minor Residential Inspection Fee \$100 (flat fee).

(b) *Post-approval submissions.*

- (1) *Final Plans.* Following final site plan approval and prior to issuance of any building permit, the developer shall submit final plans meeting all the conditions of the site plan approval, including without limitation all streets, sewers, drainage structures and landscaping. Thereafter, limited and minor departures from the approved site plan shall be approved by the Public Services Authority as field changes pursuant to Section 14-532 below. Amendments or revisions to the approved site plan shall be reviewed by the Planning Authority pursuant to 14-532.
- (2) *As-built plans.* Upon completion of a Level II or Level III development, the applicant shall submit the as-built plans as specified in the Technical Manual.
- (3) Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department on a CD or DVD in AutoCAD format (*.dwg) release AutoCAD 2005 or greater, as specified in the City of Portland Technical Manual.
- (4) *Performance Guarantee and Defect Guarantee:*
 - a. *Performance Guarantee Required.* 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 required site plan improvements within two (2) years from the origination date of such guarantee. In no case shall the term of such

guarantee be for a period of less than one (1) year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

- b. *Required site improvements.* Development 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, landscaping and buffers.
- c. *Phased Project.* A project may be reviewed and approved for up to three (3) phases. A performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.
- d. *Exemptions.*
 - 1. Level I minor residential development is exempt from performance guarantee requirements except for those projects that complete construction in the winter and the site work is incomplete due to weather conditions. A performance guarantee will be required that is sufficient to complete the remaining site work as approved on the site plan. The performance guarantee must be reviewed and approved by the Planning Authority prior to the release of a temporary certificate.
- e. *Abandoned site.* In the event that a development is abandoned or the site improvements do not meet City standards as approved in the site plan, the performance guarantee may be utilized to stabilize, secure, complete and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading and fencing.
- f. *Performance Guarantee Reductions.* The developer shall be eligible to receive up to three reductions

in the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. The developer shall submit a written request for a reduction that reports what work has been done and what is left to complete along with the associated costs to complete that work. In no case, however, shall any performance guarantee be reduced:

1. In any line item where improvements remain to be completed; or
 2. To a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-530(b)4.b.
- g. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect guarantee to be posted upon completion of the improvements.
- h. *Required One Year Defect Guarantee.* Prior to the release of the performance guarantee, the developer shall provide an one-year defect guarantee, which shall not expire between October 30 and the following April 15. The amount of the defect guarantee shall be ten (10) percent of the initial amount of the performance guarantee.

(5) *Inspection fee:*

- a. *Inspection fees and costs.* At the same time that the developer posts a performance guarantee, the developer shall also initially pay to the City a site plan improvement inspection fee equal to two (2) percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the City the balance of any inspection fees actually incurred by the City in

its review of the project.

- b. The required inspection fee for all Level I Minor Residential Development plans minimum—shall be one hundred dollars (\$100.00) and for all other development the minimum inspection fee shall be three hundred dollars (\$300.00).

(6) *Certificates* of *Occupancy:*

a. *Temporary Certificates of Occupancy.*

1. Notwithstanding sections 14-463, 14-524(b) or any other provision of this Code, a certificate of occupancy may be issued 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 therefore to the Planning Authority stating those improvements which remain to be completed, the reasons why such improvements have not been completed, and the cost and time to complete the remaining work. In no event shall any temporary or permanent certificate of occupancy be issued where:
 - (a) Conditions exist which would justify denial of a certificate of occupancy under chapter 6; or
 - (b) Required improvements to the City right-of-way remain to be completed by the developer; or
 - (c) 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; or
 - (d) A remaining balance for fees incurred by the City exists; or

- (e) The developer otherwise is in violation of the City Code.
2. Where a temporary 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:
- (a) Those parking areas 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.
 - (b) 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.
 - (c) A performance guarantee shall be in place and in an amount sufficient to cover all remaining required improvements and not less than 10% of the initial performance guarantee amount.
3. No temporary or permanent certificate of occupancy shall be issued to any portion of development where, in the opinion of the reviewing authority, the site conditions or work required to complete the development

will endanger the health or safety of persons visiting or inhabiting the completed portion.

b. *Final Certificate of Occupancy.*

1. *Final Certificate.*

(a) All improvements which are not completed prior to the issuance of any temporary 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, in order for a final certificate of occupancy to be issued by the City.

c. *Non-compliance.*

1. Non-compliance with temporary certificate of occupancy. 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 performance guarantee may be inadequate.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-531. Reserved.

Sec. 14-532. General requirements and enforcement.

(a) *Approved site plans and required permits.*

(1) An approved site plan is a prerequisite to issuance of building, street opening or certificate of occupancy permits for development subject to the provisions of this

ordinance, except the Planning Authority may grant written authorization for the release of a demolition or interior building permit upon written request of the applicant describing the extent of proposed work. Any exterior demolition requires a performance guarantee for site stabilization.

- (2) Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under Chapter 6 (Building Code) for any use which would violate the provisions of Article III of this chapter.
- (3) 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 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.
- (4) 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.
 - (b) *Revisions and amendments to approved site plans.*
 - (1) If at any time before or during development the applicant requests minor amendments to an approved plan for Level III 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, and do not affect any condition or requirement of the Planning Board. The applicant shall supply an application and 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. The Planning Authority shall determine if a notice of amendment shall be required and the extent of such notice based on the extent and nature of the proposed amendment to plan and the demonstrated public interest related thereto.

- (2) Limited in-field changes approved by the Public Services Authority must be in writing and submitted to the Planning Authority and are specifically 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 or Planning Authority.
- (c) *Expiration of site plan approval.*
- (1) A site plan approved under this article shall expire twelve (12) months from the date of approval unless:
 - a. Development has been undertaken in accordance with the approved plan and site work or building construction is ongoing. Any lapse in construction for a period in excess of twelve (12) months shall result in an expiration of the site plan; or
 - b. Prior to the expiration of the site plan, such other time period is agreed upon, in writing, by the Planning Authority and the applicant, not to exceed three (3) years from the date of approval;

Provided that such extensions may not be granted if changes to the City's zoning ordinance would render the

development nonconforming in any respect or if changes in the subdivision or site plan ordinance or in the Public Services Technical Standards Manual or Planning and Development Design Standards would otherwise significantly impact the approved site plan as determined by the Director of Planning and Urban Development.

- (2) 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 court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said 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.
- (d) *Enforcement.*
 - (1) All construction or alterations to the site performed under authorization of building 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 14-532. The Department of Planning and Urban Development 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 established by the Public Services Authority. Where the Public Services 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 Public Services Authority or an inspector from the Department of Planning and Urban Development may issue a stop work order. Work shall recommence only after such order has been lifted by the Department of Public Services or the Building Authority on the basis of an approved mitigation plan or action by the developer.
 - (2) No alterations shall be made to a site with a pending or

approved site plan application until:

- a. The performance guarantee has been posted and final site plans have been submitted to the Planning Authority.
- b. Written permission has been received from the Director of Planning and Urban Development or his/her designee. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and the planning authority concludes that the request is reasonable, time is imperative and the work will not compromise any aspect of the ensuing review process. 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 if the only work proposed is the digging of test pits.

(3) Where construction, alteration or modification to a site is performed without a valid site plan improvement permit, an after-the-fact permit shall be obtained from the Planning Board or Planning Authority, as applicable. The cost of an after-the-fact permit shall be as provided in section 6-18 of this code, plus the cost of engineering and administrative costs associated with the review and processing of the after-the-fact permit.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-533. Reserved.
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Sec. 14-538. Reserved.
Sec. 14-539. Reserved.

Sec. 14-540. Evaluation of article V.

Within five years from adoption of the site plan ordinance,

City of Portland, Maine
Code of Ordinances
Article V

Land Use
Chapter 14
Rev. 8-19-10

the planning board will evaluate the effectiveness of the ordinance in advancing Portland's vision for a sustainable City and report their findings to the City Council along with any recommendations for site plan ordinance amendments.
(Ord. No. 277-09/10, 7-19-10)