

Order 184-14/15

Amendment adding Section 14-274 approved 5-4 (Duson, Mavodones, Brenerman Suslovic)

Passage: 7-2 (Marshall Donoghue) on 6/1/2015

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**CITY OF PORTLAND**  
**IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 14. LAND USE**  
**Re: 58 Fore Street**

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

*That Chapter 14, Article III, Division 1, Section 48,  
Division 15.1, Section 14-269 to 14-273 and 14-274, Division  
17.5, Sections 301 to 301.1, and 303, Division 18.7, Sections  
320.5 to 320.10, Division 22, Section 369.5, Division 26,  
Section 449, and Article V, Section 524 of the Portland City  
Code are hereby amended to read as follows:*

DIVISION 1. GENERALLY

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**Sec. 14-48. Establishment of zones.**

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

. . .  
| ~~(dd) Waterfront special use zone~~  
. . .

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

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**Sec. 14-269. Permitted uses.**

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking

establishments, except that no drinking establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:

a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.

b. Food service and consumption are the primary function of the restaurant;

3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

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**Editor's Note:** Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.  
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8. Cabinet and carpentry shops;
9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving

facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
- b. Set back no less than 15 feet from the building perimeter; and
- c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.

14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.

15. Electronic data storage;

16. Marine products wholesaling and retailing;

17. Harbor and marine supplies and services, chandlery and ship supply;

18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;

~~19~~. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.

~~19~~20. Printing establishments.

(b) *Residential:*

1. Attached dwellings including row houses, two-family and multifamily dwellings;
2. Handicapped family units;
3. Combined living/working spaces, including but not limited to artist residences with studio space;
4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and ~~mediation~~ meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare

facilities or home babysitting services.

6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
9. Museums and art galleries.

(e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

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DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

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**Sec. 14-272. Dimensional requirements.**

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

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3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the B6 Building Height Overlay & Building Envelopes map Eastern Waterfront Building Height Overlay Map. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may,

however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

(d) *Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).*

i. 70% of lot street frontage; or

ii. 25% of building perimeter,

iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.

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

(f) *Maximum building height: 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.*

(g) *Minimum building height: No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to a minimum building height).*

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**Sec. 14-273. Performance standards.**

All new development in the B-6 Eastern Waterfront Business

Zone shall comply with the following standards:

. . . .

(b) *Noise:*

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4. *Exemptions:*

- a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
  - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
  - ii. Traffic noise on public roads or noise created by airplanes and railroads.
  - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
  - iv. Emergency construction or repair work by public utilities, at any hour.
  - v. Noise created by any recreational activities temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, ~~and~~ fireworks

displays, festivals, events and concerts.

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**Sec. 14-274. Reserved Affordable Housing**

Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site plan review application on the Portland Company (58 Fore Street) portion of this zone received after April 1, 2015.

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DIVISION 17.5. EASTERN WATERFRONT PORT ZONE\*

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**Sec.14-301. Permitted uses.**

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

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(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; Harbor and marine supplies and services, chandleries, and

ship supply such as fueling and bunkering of vessels;

8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

...

(e) *Other:*

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

#### **Sec. 14-301.1. Conditional uses.**

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority,

and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

...

2. Conditional uses:

a. *Marine:*

- i. Marine products, wholesaling and retailing;
- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:

- a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
- b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

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**Sec. 14-303. Dimensional requirements.**

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- 4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five (25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

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**DIVISION 18.7. ~~WATERFRONT SPECIAL USE ZONE\*~~ RESERVED**

~~\*Editor's Note See the editor's note to division 18 of this article.~~

~~Sec. 14-320.5. Purpose.~~

~~The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high-density residential neighborhood on the north, and park and R-OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.~~

~~At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water-dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water-dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.5.5. No adverse impact on marine uses.~~

~~No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:~~

- ~~(a) The proposed nonwater-dependent use will displace an existing water-dependent use;~~
- ~~(b) The proposed use will reduce existing commercial vessel berthing space;~~
- ~~(c) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or~~

~~(d) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~**Sec. 14-320.6. Permitted uses.**~~

~~Subject to a determination that the proposed use meets the standards of section 14-320.5.5 (no adverse impact on marine uses):~~

~~(a) The following uses are permitted in the waterfront special use zone on both the north and south sides of the railroad line indicated on the City of Portland Zoning Map:~~

~~1. *Marine:*~~

- ~~a. Marine products, wholesaling, distribution and retailing;~~
- ~~b. Marine repair services and machine shops;~~
- ~~c. Tugboat, fireboat, pilot boat and similar services;~~
- ~~d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
- ~~e. Marine industrial welding and fabricating;~~
- ~~f. Shipbuilding and facilities for construction, maintenance and repair of vessels;~~
- ~~g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis;~~
- ~~h. Cargo handling facilities, including docking, loading and related storage;~~
- ~~i. Boat repair yards;~~

- ~~j. Boat storage facilities, including rack storage facilities;~~
- ~~k. Seafood processing;~~
  - ~~vi. Seafood packing and packaging;~~
- ~~m. Seafood loading and seafood distribution;~~
- ~~n. Fabrication, storage and repair of fishing equipment;~~
- ~~o. Ice-making services;~~
- ~~p. Facilities for marine construction and salvage;~~
- ~~q. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;~~
- ~~r. Fabrication of marine-related goods;~~
- ~~s. Fishing and commercial vessel berthing;~~
- ~~t. Noncommercial berthing;~~
- ~~u. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;~~
- ~~v. Public landings;~~
- ~~w. Marinas;~~
- ~~x. Intermodal transportation facilities.~~

~~2. Industrial uses:~~

~~Industrial uses which meet the performance standards of the I-2 zone.~~

~~3. Public:~~

~~Pedestrian and bicycle trails.~~

~~The following uses are permitted in the waterfront special use zone only on the north side of the railroad tracks indicated on the City of Portland Zoning Map only in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel (as defined in 30-A M.R.S.A. Section 4401(6)), which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section 14-320.6.5 or conditional or contract rezoning pursuant to division 1.5 of this article:~~

~~4. Commercial uses:~~

- ~~a. Professional, business, and general offices;~~
- ~~b. Business service establishments;~~
- ~~c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;~~
- ~~d. Cabinet and carpentry shops;~~
- ~~e. Cold storage facilities;~~
- ~~f. Museums and art galleries.~~

~~5. Other:~~

- ~~a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;~~
- ~~b. Parking: Parking shall be permitted as long~~

~~as it does not impede access to water by existing or potential marine uses.~~

~~e. Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.~~

~~d. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~6. Public:~~

~~a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;~~

~~b. Municipal uses;~~

~~c. Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.~~

~~7. Industrial uses:~~

~~Warehousing and wholesaling.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 187-99, 1-4-99; Ord. No. 33-11/12, 1-18-12)~~

~~**Sec. 14-320.6.5. Conditional uses.**~~

~~(a) The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of sections 14-320.5.5, 14-474 and any special provisions, standards or requirements specified below, and further provided that, notwithstanding section 14-474(a) or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:~~

~~1. Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (c), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than~~

~~ten thousand (10,000) square feet in total floor area per parcel.~~

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

~~1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:~~

~~a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and~~

~~b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and~~

~~c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and~~

~~d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and~~

~~e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling~~

~~of any part of the temporary wind anemometer tower; and~~

~~f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and~~

~~g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and~~

~~h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.~~

~~2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)~~

#### ~~**Sec. 14-320.7. Contract or conditional zoning.**~~

~~An applicant may only construct a new structure of either more than five thousand (5,000) square feet in total floor area for occupancy by uses enumerated in section 14-320.6(d)1, or ten thousand (10,000) square feet in total floor area for occupancy by uses enumerated in section 14-320.6(d)2, 4, 5 or 6, (c), (f) or (g) or in excess of one (1) per parcel for occupancy by those same uses if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-320.55 and all of the following standards:~~

- ~~(a) The proposed development is consistent with the comprehensive plan.~~
- ~~(b) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels (either on- or off-site), and visual and physical access to the waterfront for the general public.~~
- ~~(c) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.~~
- ~~(d) The proposed development is sensitive to design opportunities and local environmental conditions, makes use of creative design solutions, does not significantly restrict air, light or water views of other structures located in the vicinity and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.~~
- ~~(e) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.~~
- ~~(f) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water dependent use is not abandoned after the project is developed.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

**~~Sec. 14-320.8. Prohibited uses.~~**

~~Uses which are not enumerated in section 14-320.6 as permitted or in section 14-320.6.5 as conditional uses are prohibited.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.9. Dimensional requirements.~~

~~In addition to the provisions of article III, division 25 of this Code, lots in the waterfront special use zone shall be subject to the following requirements:~~

~~(a) Minimum lot size: None.~~

~~(b) Minimum frontage: None.~~

~~(c) Minimum yard dimensions:~~

~~Front setback: None.~~

~~Side setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Rear setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on in the structure, subject to the provisions of sections 14-313 and 14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).~~

~~(d) Maximum lot coverage: One hundred (100) percent.~~

~~(e) 1. Maximum building height: Forty five (45) feet, except in the area formed by the projection of the centerline of Atlantic Street between its intersections with Wilson Street and the Eastern Promenade easterly to the easternmost boundary of the waterfront special use zone, where facilities for bulk storage of materials delivered to a site by waterborne transportation or awaiting transportation from the site by means of waterborne transportation may be erected to heights that shall not exceed sixty five (65) feet above mean sea level. In those areas where~~

~~the maximum height may not exceed forty five (45) feet above grade, no structure may exceed sixty five (65) feet in height above mean sea level. For purposes of this section, a projection of the centerline of a street shall consist of an extension of the centerline of the street to the water side boundary of the waterfront special use zone.~~

~~2. Additional bulk, height and location standards for structures exceeding forty five (45) feet in height above grade within the waterfront special use zone:~~

~~a. The maximum horizontal diagonal measurement of portions of a structure, cluster of structures or equipment exceeding forty five (45) feet in height above grade shall not exceed one hundred (100) feet, except that for each foot that the structure, cluster of structures, or equipment is lowered from the maximum permitted height, the maximum horizontal measurement may increase by one (1) foot.~~

~~b. In addition to any other setback requirements, portions of structures or clusters of structures exceeding forty five (45) feet in height above grade shall be set back a minimum of one (1) foot from the exterior property line of the owner of the underlying fee interest for each foot that the structure or cluster of structures exceeds forty five (45) feet in height above grade.~~

~~c. No structure or cluster of structures exceeding forty five (45) feet in height above grade may be located closer than one hundred fifty (150) feet from any other such structure or cluster of structures.~~

~~d. The cumulative width of the portion of structures exceeding forty five (45) feet in height above grade shall not exceed more than thirty (30) percent of the average~~

~~width of the lot as measured by a line drawn parallel to the water.~~

- ~~e. No structure shall exceed forty five (45) feet in height above grade within the view corridors established by the projection of the street right-of-way lines for Atlantic Street, Vesper Street or for O'Brion Street.~~
- ~~f. For purposes of this section only, moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation. Other rooftop appurtenances shall not exceed the maximum height limits set forth in this section.~~
- ~~g. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.~~
- ~~h. Accessory uses in structures which exceed forty five (45) feet in height above grade shall not be located higher than forty five (45) feet within the structure.~~

~~**Sec. 14-320.10. Performance standards.**~~

~~All uses in the waterfront special use zone shall comply with the following standards:~~

- ~~(a) *Outdoor storage of materials:* Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty five (45) feet, and such materials shall be entirely contained,~~

~~including runoff contaminants and residual material, within a designated area within the lot boundaries.~~

~~(b) Noise:~~

- ~~1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront special use zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operations commenced on or after July 1, 1988, shall not exceed fifty-five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.~~
- ~~2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ<sub>1</sub>).~~
- ~~3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront special use zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events~~

~~characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.~~

- ~~(c) *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.~~
- ~~(d) *Federal and state environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.~~
- ~~(e) *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.~~
- ~~(f) *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.~~
- ~~(g) *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable~~

waters.

- ~~(h) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.~~
- ~~(i) *Off-street loading:* Off-street loading is required as provided in division 21 of this article.~~
- ~~(j) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.~~
- ~~(k) *Lighting:* All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.~~
- ~~(l) *Signs:* Signs shall be permitted as set forth in division 22 of this article.~~
- ~~(m) *Storage of pollutants and oily wastes:* On-premises storage of pollutants and oily wastes shall not be permitted for more than forty five (45) days.~~
- ~~(n) *Compatibility of nonmarine uses with marine uses:* Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

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## **DIVISION 22. SIGNS**

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### **Sec. 14-369.5. Tables.**

- (a) *Table 1. Permitted sign types by zone.*

**Note: The following legend applies for Table 1 below:**

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parentetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

	<i>I-M, I-Ma, I-Mb Industrial</i>	<i>I-H, I-Hb Industrial</i>	<i>Eastern Waterfront Port Waterfront Central Waterfront Special Use</i>	<i>Waterfront Port Development</i>
<b>Freestanding</b>	B	B	B	B
In general (b)				
Residential I	A	A	A	A
Residential (d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
<b>Building</b>	B	B	B	B
Commercial Banner Building	A	A	A	A
Marker (f)				
Awning	B	B	B	B
Identification (e)	A	A	A	A
Incidental (d)	A	A	A	A
Marquee (g)	B	B	B	B
Projecting	B	B	B	B
Residential (b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended (g)	B	B	B	B
Temporary (h)	B	B	B	B
Wall	B	B	B	B
Window (I)	A	A	A	A
<b>Miscellaneous</b>	A	A	A	A
Community, Cultural Banner				
Directory (j)	A	A	A	A
Flag (k)	A	A	A	A
Pennant	D	D	D	D
Portable-in City right-of-way (A-frame)	D	D	C	D

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**Contents of Table 2:**

- 2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones
- 2.2 Sign Regulations for Institutional Uses in Residential Zones
- 2.3 Sign Regulations for RP Residence-Professional Zone
- 2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks
- 2.5 Sign Regulations for B-1 Neighborhood Business Zone – Single Tenant Lots
- 2.6 Sign Regulations for B-2 Regional Business Zone – Single Tenant Lots
- 2.7 Sign Regulations for AB Airport Business Zone – Single Tenant Lots
- 2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, ~~WSU Waterfront Special Use~~, and EWP, Eastern Waterfront Port Zones
- 2.9 Sign Regulations for IB Island Business Zone – Single Tenant Lots
- 2.10 Sign Regulations for B-4 Commercial Corridor Zone – Single Tenant Lots
- 2.11 Sign Regulations for OP Office Park Zones
- 2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones
- 2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones – Multi-Tenant Lots
- 2.14 Sign Regulations for Gas Stations – All Zones Where Permitted

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TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront Central (WC), ~~and Waterfront Special Use (WSU)~~ Zones

. . .

DIVISION 26. SHORELAND REGULATIONS

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**Sec. 14-449. Land use standards.**

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:

a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.

b. W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)), ~~and W-SU (Sec. 320.9(e))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and

published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . .

6. Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B

zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . .

(c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

. . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:
  - a. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
  - b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal

distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

. . . .

(k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

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**Sec. 14-524. Site plan review processes.**

Sec. 14-526. Site plan standards.

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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 B6 and EWPZ waterfront zones 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. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

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