

Order 215-04/05
Given first reading: 4/4/05
Postponed on 4/25/04
Amended & Passage: 5/2/05 9-0

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AMENDMENT TO ORDER No. 215-04/05
CHAPTER 14, ARTICLE III. ZONING. DIVISION 12.6
B-5 URBAN COMMERCIAL MIXED USE ZONE:
§§14-230, 230.1, 230.2, 230.3, 230.4, 230.5
CHAPTER 14, ARTICLE V. SITE PLAN. §14-526(2)

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

- 1. That Chapter 14 (Land Use), Art. III (Zoning),
Division 12.6 (B-5, Permitted Uses), Section 14-230.1
(a) and (g) are hereby amended to read as follows:*

Sec. 14-230.1. Permitted uses.

The following uses are permitted in the B-5 and B-5b urban commercial mixed use zone:

- (a) *Commercial:*
1. Professional, business and general offices;
 2. Restaurants and other eating and drinking establishments;
 3. Meeting and convention halls;
 4. Hotels and motels;
 5. Craft and specialty shops, including the on-premises production of handcrafted goods;
 6. Retail and service establishments except convenience stores with gas pumps;
 7. Theaters and places of public assembly;

8. Banking services, except that any drive-up banking service shall be a conditional use;
9. Laundry and dry cleaning services;
10. Cabinet and carpentry shops;
11. Indoor recreation and family amusement establishments;
12. Intermodal transportation facilities;
13. Off-street parking lots and garages except in the B-5 zoning district between Forest Avenue and Franklin Street surface parking lots shall be considered a conditional use;
14. Cold storage facilities;
15. Lumber and building materials dealers (in existence on date of passage);
16. Major and minor gasoline service stations, as defined in section 14-47. Major and minor gasoline service stations shall be located at least two thousand (2,000) feet from each other;
17. Personal services;
18. Business services;
19. Billiard parlors;
20. Offices of business tradespeople;
21. Miscellaneous repair services;
22. Communication studios, broadcast and receiving facilities;
23. Theaters;
24. Exhibition halls;
25. Indoor amusement and recreation centers.

...

(g) *Other:*

1. Studios for artists and craftspeople including but not limited to, carpenters, cabinetmakers, and silkscreeners;
2. Printing and publishing establishments;
3. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses. In the B-5 zoning district between Forest Avenue and Franklin Street, all drive-up services for all retail, ~~banking~~ or drive-up automotive repair uses are prohibited. In the B-5 zone between Forest Avenue and Franklin Street, surface parking lots shall be considered a conditional use subject to the conditional use section of the B-5 zone.

(The text changes adopted herein shall remain in effect for six (6) months from the effective date of the changes and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.)

2. That Chapter 14 (Land Use), Art. III (Zoning), Division 12.6 (B-5 Conditional uses), Section 14-230.2(b) is hereby amended to read as follows:

Sec. 14-230.2. Conditional uses.

The following uses shall be permitted as conditional uses in the B-5 and B-5b urban commercial mixed use zones, 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 further provided that, in addition to the provisions of section 14-474(c)(2), they shall also meet the requirements set forth below:

...

(c) Surface Parking

In the B-5 zoning district located between Forest Avenue and Franklin Street, surface parking lot provided the following requirements are met.

- a. No new surface parking lot shall be developed within thirty-five (35) feet of any street except in the case of a property in which eighty percent (80%) of the property frontage has a building within ten (10) feet of the street.

b. No surface parking lot shall be encumbered by lease or other use commitment to an off-site use exceeding a twenty-four month term.

c. For surface parking lots of 20,000 sq. ft or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than a twenty four (24) month term.

d. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking or convert surface parking to structured parking as long as the relocated parking is located within a reasonable distance from the use.

e. Surface parking shall be laid out in a manner conducive to development of future buildings and/or structured parking.

(d) *Drive up banking services*

In the B-5 zoning district located between Forest Avenue and Franklin Street, drive up banking services provided the following requirements are met:

1. The drive up banking services are attached to a building which houses banking services other than, or in addition to, automated banking machines; and
2. The drive up banking services are attached to a building with a minimum floor area of 20,000 square feet; and
3. Any service window or automated teller machine shall not extend nearer than twenty five (25) feet to the street; and
4. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicles or pedestrians on adjoining streets; and
5. There shall be no more than a total of two (2) vehicle lanes for both the service window and automated teller machine.

(The text changes adopted herein shall remain in effect for six (6) months from the effective date of the changes and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.)

3. That Chapter 14 (Land Use), Art. III (Zoning),
Division 12.6 (B-5 Dimensional requirements), Section

14-230.4 (c) and (g) are hereby amended to read as follows:

Sec. 14-230.4. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-5 and B-5b urban commercial mixed use zones shall meet the following requirements:

...

(c) *Yard dimensions:*

1. Minimum yards in the B-5 and B-5b zones:

Front setback: None required.

Side setback: None required.

Rear setback: None required.

2. Maximum front yard setback in the B-5b zone: Ten (10) feet.

3. Maximum street setback: In the B-5 zoning district located between Forest Avenue and Franklin Street the following street setbacks shall apply:

a. Ten (10) feet except for parking structures, public transportation facilities and secondary building components such as truck loading docks, mechanical equipment enclosures and refrigeration units. The setback can be increased more than ten (10) feet if all of the conditions are met below:

- i. Seventy-five (75) percent of the total building wall length facing the abutting streets shall be setback no greater than ten (10) feet.

- ii. The increased setback area includes a functional public pedestrian entrance into the building that faces the street.

- iii. The increased setback is not used for surface parking.

b. For any new construction on a lot abutting three (3) or more streets, the maximum setback shall apply only to two (2) streets.

c. Lots having frontage on streets in which the curve of the street frontage precludes a rectangular shaped building along the street line, for purposes of calculating the setback, the average setback of the building from the street line may be used, but in no event shall the average setback along the length of the building edge exceed an average setback of fifteen (15) feet nor shall the maximum setback exceed twenty (20) feet. The increased setback shall not be used for surface parking, vehicular loading or vehicular circulation.

d. Additions to and relocations of designated historic structures or structures determined to be eligible by the Historic Preservation Committee shall be exempt from this provision.

...

- (g) Minimum building height: In the B-5 zoning district between Forest Avenue and Franklin Street, within thirty-five (35) feet of any public street, no new construction of any building shall have less than three (3) floors of occupiable or habitable space above the average adjacent grade. This provision shall not apply to:
- i. Accessory building components such as truck loading docks, mechanical equipment enclosures, refrigeration units,
 - ii. Information kiosks and ticketing booths,
 - iii. Parking garages,
 - iv. Public transportation facilities,
 - v. Additions to buildings existing as of March 9, 2005 provided that the cumulative additions since March 9, 2005 does not exceed 25% of the building footprint on March 9, 2005 except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of March 9, 2005.
 - vi. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic enclosures and other similar structures, and

- vii. Additions to and relocations of designated historic structures or structures determined by the Historic Preservation Committee to be eligible for such designation.

(The text changes adopted herein shall remain in effect for six (6) months from the effective date of the changes and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.)

4. That Chapter 14 (Land Use), Art. V (Site Plan), Section 14-525 (b)(26) (Final site plan) is hereby amended to read as follows:

Sec. 14-525. Final site plan.

- (b) *Contents.* Any final or proposed site plan for a major or minor development shall include:
 - ...
- (26) Development located in the B-5 and B-5b zones shall meet the following additional standards:
 - a. Shared infrastructure: Shared circulation, parking, and transportation infrastructure shall be provided to the extent practicable, with utilization of joint curb cuts, walkways, service alleys, bus pull-out areas, and related infrastructure shared with abutting lots and roadways. Easements for access for abutting properties and shared internal access points at property lines shall be provided where possible to facilitate present or future sharing of access and infrastructure.
 - b. Buildings and uses shall be located close to the street where practicable. Corner lots shall fill into the corner and shall provide an architectural presence and focus to mark the corner.
 - c. Buildings shall be oriented toward the street and shall include prominent facades with windows and entrances oriented toward the street. Uses that include public access to a building or commercial/office uses in mixed-use developments shall be oriented toward major streets whenever possible.
 - d. Parking lots shall be located to the maximum extent practicable toward the rear of the property and shall be located along property lines where joint use or combined parking areas with abutting properties are proposed or anticipated.
 - ~~e. — Modifications to siting standards for the B-5 zone: In the B-5 zone, the Planning Board may modify or waive standards a. through d. of~~

~~this subsection as may be reasonably necessary to suit the operational or marketing needs of the user(s) of the property.~~