Order 193-05/06
Given first reading 3/20/06 Referred to workshop on 4/3/06
Public Hearing, amended and passed: 4/19/06 8-1 (Geraghty)

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, DIVISION 18,
WATERFRONT CENTRAL ZONE (WCZ)

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

1. *That Chapter 14 of the Land Use Code (Waterfront Central Zone), be repealed in its entirety and replaced with the following text:*

DIVISION 18. WATERFRONT CENTRAL ZONE*

***Editor's note—**Ord. No. 168-93, § 2, adopted Jan. 4, 1993, repealed former Divs. 18, 18.5 and 18.7, §§ 14-306—14-320.2, which pertained to waterfront zones, and enacted new provisions as Divs. 18, 18.5 and 18.7 to read as herein set out. Formerly, such provisions derived from Ord. No. 426-83, § 1, adopted Apr. 25, 1983; Ord. No. 427-83, § 1, adopted Apr. 25, 1983; Ord. No. 355-85, § 1, adopted Jan. 7, 1985; Ord. No. 438-86, § 1, adopted Apr. 7, 1986; Ord. No. 189-87, § 3, adopted Feb. 7, 1987; Ord. No. 174-87, 's; 1, 2, adopted Mar. 4, 1987; Ref. of May 5, 1987; Ord. No. 385-87, adopted Apr. 6, 1987; Ord. No. 36-89, §§ 1, 2, adopted June 28, 1989; and Ord. No. 15-92, §§ 22, 23, adopted June 15, 1992.

Sec. 14-305. Purpose.

The waterfront central zone was created to protect and nurture water-dependent and marine-related support uses so that they may grow and prosper in an environment and area dedicated to this purpose. The following priority of uses is recognized:

(a) The first priority of this zone is to protect and nurture existing and potential water-dependent uses;

(b) The second priority is to encourage other marine and marine-related support uses so long as they do not

interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure;

(c) Other specified uses are encouraged only if they do not interfere with and are not incompatible with first and second priority uses, and if they economically enhance higher priority water-dependent and marine uses.

Other specified uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of the marine infrastructure. However, water-dependent and marine-related support uses by their nature have activities and operational needs that are unique to this area and are not shared by other commercial and industrial uses in the city. These first and second priority uses and related activities may result in noise, odor, dust, hours of operation, parking and traffic patterns and traffic control needs that are necessary for the convenient and successful conduct of such uses. Other uses may not be compatible with these types of effects. Other specified uses are permitted under certain circumstances in the waterfront central zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. Such uses must be, and are assumed to be, aware of the impacts associated with marine uses and therefore must accept and be tolerant of them. Other specified uses in the zone shall accommodate to those patterns and needs of the higher priority uses so long as those higher priority uses do not have a substantially adverse effect on public health and safety and the higher priority activities are conducted in accordance with sound practices or practices customary in the trade.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 193-05/06, 4-19-06)

Sec. 14-306. 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 nonwater-dependent use is to be located on a portion of the site that is physically suited for a water-dependent use;

(c) The proposed use will reduce existing commercial vessel berthing space;

(d) 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 or potential water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or

(e) 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; Ord. No. 193-05/06, 4-19-06)

Sec. 14-307. Definitions.

For the purposes of the waterfront central zone only the following terms shall have the following definitions:

Lot shall mean any abutting property under common ownership.

On-Site shall mean that portion of any lot included within or directly impacted by a proposed development.

(Ord. No. 193-05/06, 4-19-06)

Sec. 14-308. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-306 (No adverse impact on water dependent-uses), the following uses are permitted in the waterfront central zone:

(a) *Marine:*

1. Marine products wholesaling, distribution and retailing;

2. Marine repair services and machine shops;

3. Tugboat, fireboat, pilot boat and similar services;

4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;

5. Marine industrial welding and fabricating;

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

7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis;

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

9. Boat repair yards;

10. Boat storage facilities, excluding rack storage facilities;

11. Seafood processing;

12. Seafood packing and packaging;

13. Seafood loading and seafood distribution;

14. Fabrication, storage and repair of fishing equipment;

15. Ice-making services;

16. Facilities for marine construction and salvage;

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

18. Fabrication of marine-related goods;

19. Fishing and commercial vessel berthing;

20. Non-commercial berthing of less than fifty (50) linear feet per pier;

21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;

22. Public landings;

23. Marine research, education, and laboratory facilities;

24. Parking accessory to an on-site water dependent use

25. Bait sales and processing.

***Editor's Note:** All parking in the WCZ for non-water dependent uses is subject to conditional use provisions found in section 14-309.

(b) *Commercial and industrial uses above the ground floor level in buildings in existence on January 4, 1993:* Subject to sections 14-308(e) and 14-309, the following uses shall be permitted above the ground floor level:

1. Professional, business, government, and general offices;

2. Business service establishments;

3. Cabinet and carpentry shops, studios for artist and crafts people (excluding group classes and performances) and accessory retail sales of only those products that are produced on the premises;

4. Intermodal transportation facilities;

5. Cold storage facilities;

6. Warehousing and wholesaling;

7. Industrial uses which meet the performance standards of the I-M zone.

(c) *Public:* Subject to sections 14-308(e)and 14-309, the following uses shall be permitted:

1. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(d) *Commercial uses in existing buildings located along Commercial Street:*

1. Buildings meeting the following criteria may house the uses listed in (d)(2)below:

   a. The subject building existed or had an unexpired site place as of January 4, 1993; and

   b. The subject building is located in part or in whole within 35 feet of the southerly sideline of Commercial Street; and

   c. The ground floor non-marine uses allowed under this section shall not extend further than 100 feet from the southerly sideline of Commercial Street; and

   d. Expansions of uses permitted under this section are subject to conditional use review under 14-309, or conditional or contract rezoning under section 14-310.

2. Provided the standards in (d)(1) above are met and subject to section 14-308(e)1. and 14-309(b){accessory parking for non-water dependent uses}, the following uses shall be permitted:

   a. Professional, business, government, and general offices;

   b. Retail and service establishments, including craft and specialty shops. Convenience stores with gas pumps shall not be permitted under this section;

   c. Restaurants provided that full course meal food service and consumption shall be the primary function of the restaurant, and full course meal service shall be continued up until the hours of closing;

d. Banking services;

e. Laundry and dry cleaning services;

f. Cabinet and carpentry shops, studios for artists and crafts people (excluding group classes and performances), and accessory retail sales of products produced on the premises;

g. Intermodal transportation facilities;

h. Cold storage facilities;

i. Museums and art galleries.

***Editor's Note:** Subject to drive-thru services prohibition in Section 14-313.

(e) *Other:*

1. Accessory uses:

a. Notwithstanding sections 14-331, 14-334, 14-404 or any other provision of this Code, parking for uses other than water dependent uses set forth in section 14-308(a)(Permitted marine uses) shall not be considered a permitted accessory use on-site and shall be subject to the provisions of conditional use section 14-309(a){for marine related, but not water dependent uses} or 14-309(b) {for non-marine uses}.

b. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food service establishments, newsstands and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of use set forth in section 14-308(a)1, 7, or 22; that such uses do not exceed two thousand (2,000) square feet in total floor area of the building, or twenty-five (25)

percent of the total floor area of the building, whichever is less, and that each individual use does not exceed one thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.

c. Interior meeting or classroom space accessory to uses permitted in section 14-308(a)(23) (marine research, education, and laboratory facilities) may be rented out for meeting use by marine-related or non-marine-related groups or organizations, or the general public, and such accessory uses shall not be subject to the limitations contained in paragraph b above, but shall only be permitted as accessory uses if the total of all accessory retail and service support uses, including interior meeting or classroom space, does not exceed three thousand (3,000) square feet in total floor area per building, or fifteen (15) percent of total floor area per building, whichever is less.

2. Street vendors licensed pursuant to Chapter 19.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 131-01/02, § 1, 1-23-02; Ord. No. 309-01/02, § 1, 7-15-02; Ord. No. 38-02/03, § 1, 9-4-02; Ord. No. 193-05/06, 4-19-06)

Sec. 14-309. Conditional use.

The uses listed herein shall be permitted as conditional uses in the waterfront central 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 further provided that in addition to the provisions of section 14-474(c)(2), section 14-306, and any other conditions specified under the particular use below, they shall also meet the following conditions:

(a) Conditional use standards:

1. *Marine compatibility:* The proposed use shall be compatible with existing and potential uses in the vicinity;

2. *Access for marine use*: The proposed use shall not impede access to the water by existing or potential marine uses; and

3. *Parking and traffic circulation:*

   a. Parking and traffic circulation plan: All applications for conditional use in the WCZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking on the subject lot. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the WCZ. (See 14-306 {no adverse impact on marine uses} and 14-315 {performance standards},(q){functional utility of piers and access to the water's edge})

   b. Pier access congestion: For conditional uses that propose or require twenty (20) or more parking spaces within the WCZ, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1){traffic circulation}. For purposes of application of this standard only, in evaluating congestion, any private way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the

intersection of such private way or access road with Commercial Street.

4. *Public view protection*: Any new development permitted as a conditional use in the WCZ shall perform a public view impact analysis for review and approval by the planning board as a condition of site plan approval. The analysis shall: (a) demonstrate the project's adherence to the Portland waterfront public access design guidelines to the extent practicable; and (b) promote the public's visual access to the water through sensitive building placement. The planning board shall find at a minimum that the proposed development (a) retains street corridor views as extended across Commercial Street from the Portland peninsula; (b) retains panoramic views of the water from Commercial Street to the extent practicable; and (c) where loss of public views to the water is shown to be necessary for the reasonable development of the site, the developer provides alternative public views to the water through newly established view corridors or publicly accessible pedestrian ways. Such pedestrian ways shall not interfere with existing or potential water dependent uses, nor shall they endanger the public through uncontrolled proximity to industrial activity.

***Editor's Note:** Any use listed below that requires construction at or near the water's edge may also be subject to State of Maine NRPA regulation.

(b) Conditional uses:

1. *Parking for marine uses that are not water dependent*: Notwithstanding sections 14-315(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for marine uses that are not water dependent uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for water dependent uses that are permitted by section 14-308(a) which are or may be located on the subject property. (See editor's

note below). The remainder of parking required for such non-water dependent uses shall be provided off-site and in other zones where parking is a permitted use.

2. *Parking for (a) conditional uses; (b) non-marine uses either allowed in buildings located within 35 feet of Commercial Street or uses permitted only above the ground floor level, and/or (c) uses allowed under conditional or contract rezoning*: Notwithstanding sections 14-315(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water dependent uses that are permitted by section 14-308(a) which are or may be located on the subject property. (see editor's note below). The remainder of parking required for such non-marine uses shall be provided off-site and in other zones where parking is a permitted use.

***Editor's Note:** Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water dependent use elsewhere on the subject property or on a comparable property.

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3. *Non-commercial vessel berthing of fifty 50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:*

   a. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.

4. *Fish by-products processing*, provided that:

   a. Any fish by-products processing facility has a valid rendering facility license under chapter 12;

   b. Any existing fish by-products facility shall employ current and appropriate odor control technology (and any new fish by-product use shall employ current, available 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; and

   c. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.

5. *Boat rack storage facilities*, provided that:

   a. Parking shall be provided for one hundred (100) percent of the demand generated by the use (not withstanding 14-315(h)), and such parking shall be provided off-site, in another zone permitting such use.

   b. Boat rack structures shall not exceed 10,000 square feet of building footprint.

6. *Expansion of a non-water dependent, non-marine related use permitted under 14-308(e). Expansion of c*ommercial uses in buildings existing or having an unexpired site plan as of January 4, 1993 and located within thirty-five feet of the southerly edge of Commercial Street between the easterly edge of Maine Wharf and the easterly edge of the city fish pier) shall be allowed only as follows:

   a. The expansion must be into contiguous and newly created building space of no more than 3,000 sq. ft., total for the life of the building; and

b. The use may occupy ground and/or upper floor area provided the contiguous and newly created building space in which the non-water dependent, non-marine related use is located within 35 feet of the southerly sideline of Commercial Street; and/or

c. The use may occupy a ground floor area of no more than 1500 square feet beyond 35 feet from the southerly sideline of Commercial Street and be located no more than 100 feet from the southerly sideline of Commercial Street; and

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***Editor's note:** Expansions proposed under this section may occupy new upper floor areas that are located further than 35 feet from Commercial Street and larger than 1500 square feet, subject to other limitations of this Code.

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d. As of September 7, 2000, an existing building that qualifies for a non-water dependent, non-marine related use under 14-308(d) shall be no less than 500 square feet; and

e. The expansion of the use shall be reviewed by the planning board under the site plan standards and shall otherwise meet the requirements of the waterfront central zone and this code.

7. Residential: The "primary" owner of a marine business located on the same site may occupy space within the upper story of a building in existence on January 4, 1993, provided the following conditions are met:

a. The applicant demonstrates a compelling business related need for living on-site that cannot otherwise be accomplished;

b. The residential living space shall not exceed seven hundred fifty (750) square feet, inclusive of all exterior porches and decks;

c. The occupancy of said space shall be limited to the primary owner of the marine related business. The residential use is not transferable to friends, family or anyone other than the primary business owner. No such residential space shall be leased out by or allowed to be used for occupancy by other than the primary owner of the marine related business;

d. The residential use shall be limited to one unit per wharf;

e. The residential use shall be year round use only, and shall not be used on a seasonal basis; and

f. Upon the vacancy in excess of three (3) months of the residential living space by the primary owner of the marine related business, the residential use shall automatically terminate and shall not be continued without new conditional use approval under this subsection.

For purposes of this subsection, “primary owner of the marine related business” shall mean a person who legally owns fifty percent (50%) or more of the marine related business.

8. *Utility sub stations*: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

a. The facility is located more than 100 feet from the water’s edge;

b. The facility occupies no more than 50 square feet of structure above ground;

c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise usable and made available for

marine related uses, including but not limited to parking, travel ways, and/or storage; and

d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

9. *Expansion of an upper floor non-water dependent, non marine use permitted under 14-308(b)*, (commercial and industrial uses in buildings existing on January 4, 1993) *into contiguous and newly created building space of no more than 2000 sq. ft., total for the life of the building,* shall be allowed only as follows:

a. The expanded use may occupy upper floor areas;

b. Newly created ground floor area in a building utilizing this section must be dedicated entirely to marine or water-dependent uses, except pedestrian circulation areas (i.e.unoccupied vestibules, elevators, and/or stair landings serving upper floors) may occupy no more than 300 square feet;

c. As of January 4, 1993, an existing building that qualifies for a non-water dependent, non-marine use under 14-308(b) shall be no less than 500 square feet; and

d. The expansion of the use shall be reviewed by the planning board under the site plan standards and shall otherwise meet the requirements of the waterfront central zone and this code.

(Ord. No. 168-93, §2, 1-4-93; Substitute Ord. No. 00-42, 8-7-00; Ord. No. 73-01/02, § 1, 10-15-01; Ord. No. 131-01/02, § 2, 1-23-02; Ord. No. 193-05/06, 4-19-06)

Sec. 14-310. Contract or conditional rezoning.

General: Except as authorized in section 14-308 (Permitted uses), or otherwise expressly authorized, an applicant may locate a non-marine use in a proposed structure, or in a structure constructed after January 4, 1993 if the reviewing body finds the applicant has met the standards of section 14-306(No adverse impact) and the applicable standards of contract/conditional rezoning contained herein:

(a) *New structures with marine uses on first floors or change of use of upper floors of structures in constructed after January 4, 1993:*

The following standards apply to contract/conditional rezoning on any site within the Waterfront Central Zone (unless an applicant applies for a contract/conditional rezoning under the Commercial Street/Old Port overlay zone standards in (b) below:

1. the upper story non-marine use is a use listed 14-308(b); and

2. The ground floor of the structure consists entirely of one (1) or more marine uses as set forth in section 14-308(a) except pedestrian circulation areas on the ground floor (i.e. unoccupied vestibules, elevators, and/or stair landings serving upper floors uses) may occupy no more than 300 square feet.

3. The development is consistent with the comprehensive plan and without the development the site could not otherwise support an economically viable water dependent use.

4. Any physical or legal impediments which preclude or impede functional access from the site of the development to any portion of the water’s edge are not the result of action taken by the current owner, the applicant for rezoning, or anyone owning the site after January 4, 1993.

5. 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, and visual and physical access to the waterfront for the general public.

6. The development responds to any unique physical conditions and development opportunities along

the shoreline in a manner that is consistent with section 14-305 (Purpose).

7. The non-marine portion of the development will not significantly restrict air or light for marine uses located in the immediate vicinity; will not create significant adverse local climatic effects on marine uses such as increased winds or shadowing; and will not adversely affect the efficient operation of marine uses, such as by producing less efficient traffic, parking or circulation patterns. Parking for the non-marine portion of the proposed development shall be subject to Planning Board review under section 14-309(a)3.a. and 14-309(b)2(Conditional Use, parking).

8. The development is consistent with conditional use standard 14-309(a)4. (Public View Protection).

9. The rezoning contains adequate provisions and/or conditions to ensure that one or more associated water dependent infrastructure remains occupied by any commercial marine use listed in 14-308(a) and that said use is not abandoned after the project is developed.

(b) *Commercial Street/Old Port Overlay Zone*: The following standards are applicable to the Commercial Street/Old Port overlay zone, which extends form the easterly property line of Long Wharf to the westerly property line of Union Wharf. For a site within the Old Port overlay zone, the applicant may request application of these standards rather than the standards of (a) above.

1. All portions of the structure are set back at least 75 feet from the maximum spring tide line of coastal wetland, measured horizontally. If, however, an applicant can demonstrate to the satisfaction of the local reviewing body and the State Department of Environmental Protection that the location and development context of the subject site adhere to the State’s definition of “general development district”, the coastal wetland setback may be reduced to 25 feet.

2. New space may be used for the following non-marine uses, but it may not be used for any other non-marine uses: any use permitted under section 14-308(d) (Commercial uses in buildings existing on January 4, 1993 and located within 35 feet of Commercial Street), except that in the case of restaurant, retail, or service establishments, the main entrance to the use shall be within ten (10) feet of commercial street.

3. Any physical or legal impediments which preclude or impede functional access from the site of the development to any portion of the water’s edge are not the result of action taken by the current owner, the applicant for rezoning, or anyone owning the site after January 4, 1993.

4. 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-site or off-site), and visual and physical access to the waterfront for the general public.

5. The non-marine portion of the development will not significantly restrict air or light for marine uses located in the immediate vicinity, and will not create significant adverse local climatic effects on marine uses such as increased winds or shadowing, and will not adversely affect the efficient operation of marine uses, such as by producing less efficient traffic, parking or circulation patters. All parking for the non-marine portion of the proposed development shall be subject to sections 14-309(a)3.a. and 14-309(b)2 (Conditional use, parking).

6. The proposed development is consistent with conditional use standard 14-309(a)4. (View corridor protection).

7. The development is consistent with the Comprehensive Plan, and even though it may not contain a marine use, it: (1) does not unreasonably conflict with marine uses, and (2) it adequately mitigates its adverse impacts on water dependent uses (e.g. taking up space that could be used by water dependent uses for support functions, and contributing to traffic congestion and circulation patterns which will make it more difficult for water dependent uses to function) by making a contribution as detailed in (9) below.

8. Maximum building setback from the southerly sideline of Commercial Street shall not be more than 10 feet.

9. A developer is required to mitigate impacts of non-marine development. Mitigation may include dredging, pile replacement, new or replaced structural decking (but not resurfacing), new or replaced fendering systems, new or replaced floats, pier expansions, permanent conversions of recreational berthing to commercial berthing, or any combination of similar improvements. In determining the amount of required mitigation, the value of the contribution shall be 5% of total project costs or $10.00 per square foot of non-marine space (adjusted for inflation to be equivalent to 2006 dollars), whichever is greater, but may be more if necessary for adequate mitigation. Required mitigation may occur by one or both of the following methods:

   a. Direct investment in marine infrastructure: Mitigation shall be for the benefit of water dependent uses listed in 14-308(a), and shall include commitments to utilize those improvements over time for permitted water dependent uses on site or within the same lot.

   b. Financial contribution: As an alternative to direct investment, the developer may choose to make a financial contribution to the City’s waterfront loan and investment fund.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 193-05/06, 4-19-06)

Sec. 14-311. Reserved.

Sec. 14-312. Reserved.

Sec. 14-313. Prohibited uses.

Uses which are not enumerated in either section 14-308 or 14-309 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

(a) Except as provided in section 14-309, residential uses (not in existence on May 5, 1987).

(b) Hotels, motels or boatels.

(c) Auditoriums, civic centers, convention centers or other meeting facilities.

(d) Drinking establishments.

(e) Ground mounted telecommunication towers, antennas, and/or disks.

(f) Drive-up services for any use other than a permitted use listed under 14-308(a).

(Ord. No. 168-93, § 2, 1-4-93: Ord. No. 73-01/02, 10-15-01; Ord. No. 193-05/06, 4-19-06)

Sec. 14-314. Dimensional requirements.

In addition to the provisions of Article III, Division 25, of this Code, lots in the Waterfront Central Zone shall be subject to the following requirements:

(a) *Minimum lot size:* None.

(b) *Minimum frontage:* None.

(c) *Minimum yard dimensions:* None.

1. Front setback: None.

2. Side setback: None.

3. Rear setback: None.

4. 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 edge of any pier, wharf or bulkhead shall include any attached apron(s).

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

(e) *Maximum building height:* Forty-five (45) feet, except that within four hundred (400) feet of the southerly sideline of the Commercial Street right-of-way, the maximum building height is fifty (50) feet for a building whose primary purpose and use is as a marine research, education, and laboratory facility. Except as provided on (g) below a structure in the Waterfront Central Zone shall provide no more than three habitable floors; however, typical roof top appurtenances and/or enclosed or open mechanical installations shall be allowed over the third floor.

(f) *Minimum ground floor clearance:* Any new building proposed to be larger than 300 square feet shall provide no less than 15 feet of first floor to ceiling vertical clearance to promote marine industrial use potential. New buildings less than 300 square feet or additions to existing multi-story buildings are exempt from this provision but shall provide the maximum ground floor clearance practicable.

(g) *New non-marine use building exception for usable floors and minimum ground floor clearance:* Notwithstanding provisions (e) and (f) above, for new buildings permitted for use by non-marine uses under 14-310(b)(Contract/conditional rezoning in the Commercial Street/Old Port overlay zone) four usable floors are allowed and ground floor clearance minimums do not apply.

Sec. 14-315. Performance standards.

All uses in the Waterfront Central 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:* 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 Central Zone shall not exceed seventy-five (75) decibels on the A scale at the boundaries of any lot, 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. 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 (LEQ1).

(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 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 Portland Public Works Department 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 Portland Public Works Department 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:* Except as provided in section 14-309 or as required pursuant to Article V (Site Plan), off-street parking is required at fifty (50) percent of the required number of parking spaces for specified uses as otherwise provided in Division 20 of this Article.

(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 of this Article.

(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 non-marine uses with marine uses:* Non-marine 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 as set forth in section 14-306.Siting of a use not set forth in section 14-308 (a) shall not substantially reduce or inhibit existing public access to marine or tidal waters.

(o) *Urban design:* Construction of new structures located within thirty-five (35) feet of the southerly edge of Commercial Street *between Maine Wharf and the easterly property line of the City Fish Pier* shall conform to the guidelines set forth in the Downtown Urban Design Guidelines, unless such structures are also located within one hundred (100) feet of the water. Such structures that are also located within one hundred (100) feet of the water shall conform to the extent practicable to the Downtown Urban Design Guidelines.

(p) *Pier and wharf expansions:* In addition to meeting Harbor Commissioner and Coast Guard requirements for navigation, any expansion or extension of a pier and or wharf in the Waterfront Central Zone shall demonstrate its compatibility with fixed route ferry service and emergency vessel operations.

(q) Functional Utility of piers and access to the water's edge: All new development, whether for marine or non-marine uses, should anticipate current and future needs of water dependent pier tenants to functionally access the water's edge for the transfer of goods and materials between berthed vessels and land bound vehicles. Provisions for the storage and movement of goods and materials must be designed into all waterside development and internal circulation routes must be maintained or otherwise provided as an element of any development. For example, any development that proposes to site a building within 10 feet of a pier

edge (thus precluding vehicle use of the pier edge) should provide openings and circulation through the building to allow the transfer of goods and materials to trucks and circulation routes within the interior of the pier.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 193-05/06, 4-19-06)

Sec. 316. Reserved.

Sec. 317. Reserved.

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