

Order 164-06/07

Given 1st reading & Postponed on 3/5/07

Public Hearing, Amended & Passed 4-4-07 6-3 (Leeman, Marshall, Donoghue)

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**AMENDMENTS TO PORTLAND CITY CODE
CHAPTER 14 (LAND USE), DIVISION 12,
REPEALING SECTION 14-217.5. (OLD PORT OVERLAY ZONE)
AND ENACTING
CHAPTER 14, DIVISION 19.8, SECTIONS 14-330.11 - 14-330. (DOWNTOWN
ENTERTAINMENT OVERLAY ZONE)
AND
AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15 (LICENSES AND PERMITS
SECTION 15-12 (FEES AND EXPIRATION DATES)**

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 That Chapter 14 of the Land Use Code Section 217.5 (Old Port Overlay Zone), be repealed in its entirety.
2. That Division 19.8 is hereby enacted to read:

DIVISION 19.8. DOWNTOWN ENTERTAINMENT OVERLAY ZONE

Sec. 14-330.11. Purpose.

The purpose and intent of this section is to regulate the location of businesses with entertainment licenses in order to maintain and improve public safety and the quality of life of Portland residents by preventing an over concentration of businesses with entertainment licenses, particularly those which also have liquor licenses, and the public safety problems that have and will be experienced when too many of these businesses are located too close to each other. These problems include large late-night crowds within which fights and assaults, disorderly conduct and other breaches of the peace occur and that are difficult to effectively police and that expose not only innocent bystanders but also police officers to danger and personal injury.

Sec. 14-330.12. Definitions.

(a) *After-hours entertainment.* For the purposes of this section, "after-hours entertainment" means an entertainment activity that takes place between 1 a.m. and 7 a.m., including music and dancing, on premises to which an admission fee is charged, regardless of the time when the fee is charged, for either the entertainment or access to the premises.

Amend/Downtown entertainment overlay zone

(b) *After-hours entertainment license.* For the purpose of the after-hours entertainment prohibition in section 14-330.15, "after-hours entertainment license" means any of the music, dancing and special entertainment licenses required or authorized by article III, chapter 4 of this Code.

(c) *Downtown entertainment overlay zone.* For the purposes of this section, the "downtown entertainment overlay zone" includes and is defined by the boundaries of the following zones as shown on the attached downtown entertainment overlay zone map: B-3, B-3(c) and WCZ zones, a copy of which is on file in the department of planning and urban development.

Any property that lies partly within the overlay zone and partly outside it shall be subject to this ordinance.

Sec. 14-330.13. Restrictions on entertainment license in downtown entertainment overlay zone.

A business with an entertainment license required or authorized by Section 4-51(a) of this Code located within the downtown entertainment overlay zone may not be located within 100 feet of another business with an entertainment license, as measured along sidewalks from the main entrance or entrances of each.

Sec. 14-330.14. Exemption.

A business with an entertainment license located in the downtown entertainment overlay zone on or before January 3, 2006 shall not have to comply with the requirements of this section and if located within 100 feet of another licensee shall be considered a non-conforming use controlled by chapter 14, division 23 of this Code. Such a business is considered an entertainment business for the purpose of calculating dispersion requirements under subsection (a) for a new or relocating entertainment business in the downtown entertainment overlay zone.

Sec. 14-330.15. Restrictions on after-hours entertainment in the downtown entertainment overlay zone.

After-hours entertainment is prohibited in the downtown entertainment overlay zone and no after-hours entertainment license shall be granted in that zone.

- (a) This paragraph shall be repealed on January 3, 2008 unless extended by the City Council.

Sec. 14-330.16. Separate business entities.

Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public

property separate business trademarks, logos, service marks or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purpose of this section.

Sec. 14-330.17. Conditions on after-hours food service in the downtown entertainment overlay zone.

(a) Following a hearing held pursuant to chapter 15, section 15-10, the clerk may impose conditions to maintain or improve public safety on the food service license of any business in the downtown entertainment overlay zone that operates between 1:00 a.m. and 4:00 a.m., following a written recommendation from the Portland police department that such conditions are necessary.

(b) The clerk's decision may be appealed to the city manager pursuant to section 15-9 of this Code.

(c) Nothing in this section shall be construed to limit the clerk's authority in chapter 15 to deny, suspend or revoke any license pursuant to the standards and process in that chapter.