

Order 244-09/10

Given first reading on 5/17/10

Public Hearing & Passage: 6/21/10 8-0 (Skolnik absent)

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
DIVISION. 10 B-2 and B-2 COMMUNITY BUSINESS ZONES**

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

*That sections 14-181, 14-182, 14-185 and 14-526 of the
Portland City Code be hereby amended to read as follows:*

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should

relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

- (4) The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods and along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established, which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving a drive-through is prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Attached single-family and two-family dwellings;
2. Multi-family dwellings are permitted when the nearest residential zone abutting the lot is R-4, R-5, R-6 or R-7. Multi-family dwellings are permitted in any structure with commercial uses in the first floor regardless of the abutting residential zone;

3. Handicapped family units;
4. Combined living/working spaces including, but not limited to, artist residences with studio space; and
- ~~5. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.~~

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;

14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;
18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) *Institutional:*

1. Private club or fraternal organization;
2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Places of Religious Assembly ~~or other places of worship~~;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and

7. Municipal buildings and uses.

(d) *Other*:

1. Lodging houses;

2. Day care facilities or babysitting services;

3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);

4. Accessory uses, as provided in section 14-404;

5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:

a. The meeting facility shall be limited to the following types of uses:

i. Private parties.

ii. Business meetings.

iii. Weddings.

iv. Receptions.

v. Seminars.

vi. Business and educational conferences.

b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses as permitted under sections 14-182(a) and (b) and newly constructed buildings with residential and non-residential uses shall meet the following requirements:

(1) *Residential Uses:*

(a) *Minimum Lot Size:* None.

(b) *Minimum Street Frontage:* None. (c) *Minimum Yard Dimensions:*

1. *Front yard:* None.
2. *Rear yard:* Ten (10) feet, except where the lot abuts a residential zone, where twenty (20) feet is required.
 - a. *Accessory structures:* Five (5) feet.
 - b. In cases where the height of a new building exceeds forty-five (45) feet adjacent to a residential zone, the rear yard setback shall increase by two (2) feet for every one (1) foot in height above forty-five (45) feet.
 - c. In cases where a building that qualifies for the maximum front yard exceptions provided in Section 14-185 (1)(c)(5) below, the rear yard setback shall increase by two (2) feet for every one (1) foot in height above thirty-five (35) feet.
3. *Side yard:* Five (5) feet, except where the lot abuts a residential zone, where twenty (20) feet is required.
 - a. *Accessory structures:* Five (5) feet.
 - b. In cases where the height of a new building exceeds forty-five (45) feet adjacent to a residential zone, the side yard setback shall increase by two (2) feet for every one (1) foot in height above forty-five (45) feet.

- c. In cases where a building that qualifies for the maximum front yard exceptions provided in Section 14-185 (1)(c)(5) below, the side yard setback shall increase by two (2) feet for every one (1) foot in height above thirty-five (35) feet.

4. Side yard on a side street: None.

~~4. Pavement Setback: For lots adjacent to a residential zone, pavement shall be set back a minimum of 7.5 feet from the side and rear property lines adjacent to a residential zone.~~

5. Maximum front yard: In the B-2, B-2b and B-2c zones; as provided for in Section 14-185 (2)(c)(1), except that the maximum front yard setback need not apply in the case of a development meeting one (1) or more of the following standards:

- a. The lot has less than forty (40) feet of continuous frontage and the lot has a depth of more than one hundred (100) feet from the nearest street; or

- b. The structures on the lot meet the maximum front yard or are within twenty (20) feet of the street and the remainder of the lot has less than forty (40) feet of continuous street frontage.

6. Pavement Setback: For lots adjacent to a residential zone, pavement shall be set back a minimum of ten (10) feet from the side and rear property lines adjacent to the residential zone.

(d) Maximum Impervious Surface Ratio: 90%.

(e) *Maximum Residential Density:*

1. *On-Peninsula Locations, as defined in section 14-47:* One thousand (1,000) square feet of land area per dwelling unit. Except that a development may exceed this requirement up to four hundred and thirty-five (435) square feet of land area per dwelling provided at least fifty percent (50%) of the dwelling units shall have a minimum of two (2) or more bedrooms.

2. Off-Peninsula Locations, as defined in section 14-47:

- a. Residential density requirements of the nearest adjacent residential zone shall apply except for multi-family dwellings above the first floor of commercial uses as provided in (b) below.
- b. Multi-family dwellings above first floor commercial uses: One Thousand (1,000) square feet of land area per dwelling unit is required.

(f) *Maximum Structure Height:*

- a. B-2 and B-2c zones: Forty-five (45) feet.
- b. B-2b zone: Forty-five (45) feet, except in the case of a building with a commercial first floor and residential upper floors, where fifty (50) feet is allowed.

(2) Business and Other Nonresidential Uses:

(a) *Minimum lot size:*

1. Intermediate, long-term and extended care facilities: Ten thousand (10,000) square feet.
2. Other Nonresidential uses where permitted:
 - a. B-2 zone: Ten thousand (10,000) square feet;
 - b. B-2b zone: None;
 - c. B-2c zone: Ten thousand (10,000) square feet.
3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.

(b) *Minimum street frontage*: Fifty (50) feet.

(c) *Yard dimensions*: (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum or maximum yard of another structure.)

Except as provided in subsection (e) below, the following setbacks are required:

1. *Front Yard*:

a. *Minimum front yard in B-2, B-2b and B-2c zones*: None.

b. *Maximum front yard in the B-2 and B-2c zones*: The maximum front yard setback shall not exceed the average depth of the front yard of the closest developed lots on either side of the lot in question unless the Planning Board or planning authority approves a modified setback pursuant to section 14-526(a)(27)(j). For purposes of this section a developed lot means a lot on which a principal structure has been erected.

c. *Maximum front yard in B-2b zone (On-peninsula)*: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

In the B-2b zone the front yard shall be the yard adjoining the major street as determined by the highest traffic volume.

d. *Maximum front yard in B-2b zone (Off-peninsula)*: None, except that the front yard setback shall not exceed the average

depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected. In the B-2b zone the front yard shall be the yard adjoining the major street as determined by the highest traffic volume.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. landscaping of no less than four (4) feet in depth; and
- ii. ornamental brick or stone walls; and/or
- iii. ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.
- b. Accessory structures: Five (5) feet.

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.
- b. Accessory structures: Five (5) feet.
- c. Side yards on side streets (corner lot): In the B-2 and B-2c zone, a minimum of ten (10)

feet. In the B-2b zone a maximum of ten (10) feet except that for any newly constructed building on a lot abutting two (2) or more streets, the maximum side yard shall apply to one street or to the side street that forms a corner with a major street as provided for in the maximum front yard provisions of this section. —

(d) *Minimum lot width:* None.

(e) *Maximum structure height:*

a. B-2 and B-2c zones: Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.

b. B-2b zone: Fifty (50) feet.

(f) *Maximum impervious surface ratio:* Eighty (80) percent in the B-2 and B-2c; Ninety (90) percent in the B-2b.

(3) *Building additions:* Building additions for residential and non-residential uses are not required to meet the maximum front yard setback or the maximum side yard on side street setback contained in this section.

Sec. 14-526. Standards.

(a) *Requirements for approval.* The Planning Board or planning authority shall not approve a site plan unless it meets the following criteria:

. . . .

(27) Development located in the B-1, B-1b, B-2, and B-2b zones shall meet the following additional standards. Where noted below, the city encourages adherence to the guidelines contained within the City's Technical and Design Standards and Guidelines, but such

adherence is not mandatory in order to meet the standards otherwise set forth herein.

. . .

- j. In general, buildings shall be sited in close proximity to the adjacent streets, but may be set back from streets as necessary to provide appropriate landscaping and pedestrian circulation areas. In cases where internal vehicular circulation patterns needed for safe and efficient ingress and egress are significantly compromised by the maximum building setback, or the site layout is otherwise unduly compromised with respect to other site plan standards and objectives, the Planning Board or planning authority may modify the maximum setback to accommodate safe and efficient circulation patterns or achieve site layout compliance with applicable site plan standards.

