

Order 240-10/11

Given first reading 5-16-11

Passage: 8-0 6-6-11 (Mavodones absent)

NICHOLAS M. MAVODONES (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

EDWARD J. SUSLOVIC (3)

CHERYL A. LEEMAN (4)

## CITY OF PORTLAND

IN THE CITY COUNCIL

JOHN R. COYNE (5)

JOHN M. ANTON (A/L)

DORY RICHARDS WAXMAN (A/L)

JILL C. DUSON (A/L)

### AMENDMENT TO PORTLAND CITY CODE

#### CHAPTER 14. LAND USE

#### ARTICLE III. ZONING

#### RE: B-7 ZONE

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

1. *That sections 14-295, 14-296, 14-298 and 14-299 of the Portland City Code are hereby amended to read as follows:*

**Sec. 14-295. Permitted uses.**

The following uses are permitted in the B-7 zone:

- (a) *Commercial:*

. . . .

23. Surface parking existing as of March 9, 2005 and in continuous existence thereafter, including the reorganization of parking spaces and maneuvering aisles. This section shall apply to surface parking accessory to a principle use and a parking lot as a principal use. Existing surface parking that does not comply with the standards of sec. 14-299 (f) may continue, provided that any modifications to the site layout, development constituting a site plan, or building renovations exceeding a value of thirty (30) percent of the assessed value of the building on file at the City of Portland Assessor's Office, shall require the parking to be upgraded to meet the standards of sec. 14-299 (f) to the extent practicable.

24. Surface parking created after March 9, 2005, provided that the spaces (and newly created maneuvering aisles) are thirty-five (35) feet or greater from a street and further that the standards below (a to c) are also met. This section shall apply to surface parking accessory to a principal use or a parking lot as principle use. The thirty-five (35) foot setback need not apply in the case of a property in which eighty (80%) of the property frontage has a building within ten (10) feet of the property frontage and or a driveway located perpendicular to the site. The parking area shall meet the standards of sec. 14-299 (f).

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

b. For surface parking areas of twenty-thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than twenty-four (24) month terms; and

c. 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 replacement parking is located a reasonable distance from the associated use.

. . . .

(e) *Other:*

1. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. All drive-up services for all retail or drive-up repair facilities are prohibited except that bank drive-up services, where permitted, area

~~conditional use. All surface parking and parking structures shall be considered a conditional use except that development of surface parking spaces of six (6) or fewer spaces and greater than thirty five feet from any street shall be a permitted use provided that the creation of such spaces does not exceed six (6) spaces within any five (5) year period.~~

2. Intermodal transportation facilities.

**Sec. 14-296. Conditional uses.**

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), 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:

. . . .

~~(3) Surface Parking provided that:~~

~~a. In the case of lot undergoing site plan review, no new or existing surface parking spaces, parking aisles, or vehicle lanes shall be allowed within thirty five (35) feet of any street except as follows:~~

- ~~i. In the case of a property in which eighty (80%) of the property frontage has a building within ten (10) feet of the property frontage; or~~
- ~~ii. A driveway located perpendicular to the street and providing access to the site; and~~

~~b. No surface parking shall be encumbered by lease or other use commitment to an off site use exceeding twenty four month term; and~~

~~c. For surface parking lots of twenty thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall~~

~~not preclude the relocation of such parking for more than twenty four (24) month term; and~~

~~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 replacement parking is located a reasonable distance from the associated use; and~~

~~e. Surface parking shall be laid out in a manner conducive to development of additional or replacement buildings, and/or structured parking; and~~

~~f. The number of surface parking spaces on a lot shall not be increased above the number of surface parking spaces existing on the lot as of April 19, 2006 unless one of the following is met:~~

~~i. A newly constructed building is proposed under site plan review; or~~

~~ii. A building exists on the site meeting the minimum height requirements of the B-7 zone; or~~

~~iii. All parking spaces are thirty-five (35) feet or greater from the street right of way; or~~

~~iv. For every existing space that is eliminated within thirty-five (35) feet of the street right of way, two new spaces may be created that are thirty five (35) feet or greater from the street.~~

. . . .

**Sec. 14-298. Dimensional requirements.**

In addition to the provisions of article III, division 25 of this code, lots in the B-7 mixed use urban district zone shall meet the following requirements:

. . . .

(c) *Yard dimensions:*

1. Minimum yards in the B-7 zone:

*Front setback:* None required except as provided in 2 below.

*Side setback:* None required.

*Rear setback:* None required.

2. *Maximum street setback:* Parking structures, public transportation facilities, utility substations, secondary building components such as truck loading docks, mechanical equipment enclosures and refrigeration units are not subject to the maximum setbacks contained herein. The following maximum street setbacks shall otherwise apply in the B-7 zone:

. . .

e. ~~The maximum building setback shall not apply to vertical expansions of a building existing as of March 9, 2005 provided such building was originally designed and intended to accommodate such expansion.~~ The maximum building setback shall not apply to vertical building expansions in the following cases:

i. The upper floors of a building in which the lower floors meet the maximum setback and the minimum height requirement.

ii. The building existed as of March 9, 2005 and meets the minimum height requirement.

iii. A building not meeting the maximum street setback and the minimum height requirement may vertically expand a total of one floor from March 9, 2005.

iv. In the case of a building in which at least fifty (50%) of the building wall(s) abutting street(s) is within 20 feet of the street.

v. Additions to parking garages existing as of March 9, 2005.

f. Additions to buildings existing as of March 9, 2005 that are nonconforming as to the maximum setback need not conform to the maximum street setback provided the cumulative building footprint expansion since March 9, 2005 does not exceed fifty ten percent (50%) (10%) of the existing building footprint. 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 and to vertical expansions as provided for in Sec. 14-298 (c) (2) (e).

. . . .

(h) *Minimum building height:* Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

~~Except that buildings or street portions of buildings more than fifty (50 feet) from any may have a lesser number of floors of occupiable or habitable space as provided for by the bayside height overlay map for up to twenty percent 20% of the building footprint beyond fifty (50) feet of the street as measured above the adjacent grade of the abutting street.~~

This minimum floor provision shall not apply to:

1. Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.

2. Information kiosks and ticketing booths.
3. Parking garages.
4. Public transportation facilities.
5. Additions to buildings existing as of March 9, 2005 provided that the cumulative additions since March 9, 2005 does not exceed fifty ~~ten~~ percent (50%)~~(10%)~~ of the ground floor building footprint on March 9, 2005, except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of March 9, 2005.
6. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.
7. Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.
8. Portions of buildings more than fifty (50) feet from the street line.

**Sec. 14-299. Performance standards.**

All uses in the B-7 mixed development district zone shall comply with the following standards—~~±~~. Standards 14-299 (a), (f), (j), (m), (n) and (o) below shall be reviewed by the Planning Authority.

. . . .

- (f) *Off-street parking and loading:* Off-street parking is required as provided in division 20 (off-street parking) of this article. Division 21 (off-street loading) of this article shall not apply. Surface parking shall meet the following standards:

1. None of the spaces shall occupy all or a portion of a sidewalk within a street right-of-way.
2. Driveway entrances shall meet the City of Portland Technical Manual standards.
3. The parking area shall meet the landscape and buffer standards of the City of Portland Technical and Design Manuals.

. . . .