

Order 25-11/12

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Public Hearing and Passage: 8/15/11 9-0

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IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
RE: Site Plan Amendments

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

1. *That sections 14-32, 14-493, 14-523, 14-524, 14-525, 14-527, 14-529 and 14-530 of the Portland City Code are hereby amended to read as follows:*

Sec. 14-32. Notice.

(a) Applications:

- (1) *Level I, level II and level III site plans.* All public notices will be sent according to the section 14-525 of article V (site plan) of this chapter.
- (2) *Subdivision, Zoning Map Amendments.* When an application for subdivision or a request for a zoning map amendment is received or generated by the planning authority, it shall give a dated receipt to the applicant and shall notify, by mail, the following, where applicable.

- a. all property owners within five hundred (500) feet of the proposed subdivision and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision. In addition, the planning authority shall notify a public drinking water supplier if the subdivision is within its source water protection area;

- b. all property owners within five hundred

(500) feet of the proposed subdivision or proposed zone change site, except that for subdivisions within industrial zones or proposed map amendments for a site within an industrial zone the notice range shall be one thousand (1000) feet;

- c. all property owners within the limits of the proposed zoning map amendment and all property owners five hundred (500) feet beyond said area except that for map amendments to a site located within industrial zone designations the notice range shall be one thousand (1000) feet.

The notice hereunder shall include a brief description of the application, the address or location of the property involved and a telephone number at the City where additional information may be obtained. The cost of said notice shall be charged to the applicant.

(b) Workshops and hearings:

Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), the planning authority shall give notice of public workshops and hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such workshop or hearing, a brief description of the application and the address or location of the property involved. Where notice by mail is required, such notice shall be mailed at least seven (7) ten (10) calendar days in advance of the workshop or hearing date by regular United States mail. The cost of said noticing shall be charged to the applicant.

(1) Subdivision:

- a. *To the general public.* In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two (2) times, the date of the first publication to be at least seven (7) ten (10) calendar days prior to the hearing.

- b. *To the applicant and the owners of the subject property, and ~~all~~ other property owners: ~~within five hundred feet of the subject property~~* In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property, except that for subdivisions within industrial zones the notice range shall be one thousand (1000) feet.

(2) Zoning Map Amendment:

- (a) *To the general public:* Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), the notice of public hearing for zoning map amendments must be posted in the municipal office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least twelve days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing.
- (b) *To property owners within the proposed area proposed for rezoning:* Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), in the case of workshops and public hearings on zoning map amendments, notice shall be sent by regular United States mail to all property owners within the area proposed for rezoning and all property owners five hundred (500) feet beyond said area, except that rezoning to industrial zone designations the notice range shall be one thousand (1000) feet.

(~~b3~~) Zoning Text Amendment.

- (a) *To the general public:* Notice of any zoning text amendment shall be published in a newspaper of general circulation in the City of Portland at least seven days prior to the public hearing on the proposed amendment.

Sec. 14-493. Definitions.

The following words or phrases, when used in this article, shall have the meanings respectively ascribed to them:

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Performance guarantee shall mean a ~~surety bond,~~ letter of credit or escrow account in an amount and form meeting the requirements of section 14-501.

Sec. 14-523. Required Approvals and Applicability.

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(d) *Level I Site Plan Review.* Minor residential development and site alterations meeting the criteria below will undergo Level 1 Site Plan Review as follows.

1. Level I: Minor Residential Development:

- a. With respect to development of a single-family or a two-family building, excluding building additions, decks, or accessory structures, such development shall be deemed minor residential development for purposes of this article regardless of its size.
- b. The addition of one or two any additional dwelling units to a ~~building initially reviewed as a~~ two-family dwelling or multifamily structure shall be deemed a Level I minor residential development for purposes of this article, if the additional dwelling unit or units does not require subdivision review under Maine State

Statutes and Portland's Subdivision Ordinance.

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(f) Level III Site Plan Review. Development meeting the criteria listed below will undergo Level III Site Plan Review as follows:

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6. The addition of ~~any additional one or two~~ dwelling units to a building, if the additional dwelling unit ~~or units~~ requires subdivision review under Maine State Statutes and Portland's Subdivision Ordinance;

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Section 14-524. Site plan review processes.

(a) The site plan review process for ~~each~~ applicable development review type is listed below.

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2. Level I site plan review

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b. Public notices.

(i) When an application for a level I: minor residential development is submitted, all public notices will be ~~setn-sent~~ according to the section 14-525.b of the site plan ordinance.

(ii) When an application for a level I: site alteration is submitted, all public notices will be sent according to the section ~~n~~14-525.b of the site plan ordinance.

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d. Standards of review.

(i) Level I: Minor residential site plans shall only be subject to the following site plan

standards, as applicable, as contained in Section 14-526:

- (a) Transportation Standards
 - 2.a. Site Access and Circulation. (i) and (ii)
 - 2.c. Sidewalks. if site plan is a two-family or multi-family building only.
 - 4.a. Location and required Number of Vehicle Parking Spaces: (i) and (iv)
- (b) Environmental Quality Standards
 - 1. Preservation of Significant Natural Features.
 - 2.a. Landscaping and Landscape Preservation
 - 2.b. Site Landscaping. (iii) Street Trees
 - ~~3.e., d. and e.~~ Water Quality, Stormwater Management and Erosion Control. a., d. e. and f.
- (c) Public Infrastructure and Community Safety Standards
 - 1. Consistency with City Master Plans,
 - 2. Public Safety and Fire Prevention,
 - 3. Availability and Adequate Capacity of Public Utilities a., ~~through e.~~ c., d., and e.
- (d) Site Design Standards
 - 5. Historic Resources and 9. Zoning Related Design Standards

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.

(ii) Level I: Site alteration plans shall only be subject to the following site plan standards, as applicable, as contained in section 14-526:

(a) Transportation standards

- 1. Impact on Surrounding Street Systems, 2. Access and Circulation, and 4 Parking.

(b) Environmental quality standards

- 1. Preservation of Significant Natural Features, 2. Landscaping and Landscape Preservation and 3 Water Quality, Stormwater Management and Erosion Control.

(c) Public infrastructure and community safety standards.

- 1. Consistency with City Master Plans

(d) Site design standards

- 5. Historic Resources, 6. Exterior Lighting, 8. Signage and Wayfinding and 9 Zoning Related Design Standards.

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.

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c. Neighborhood Meetings for Level III Site Plans

(i) Neighborhood Meeting:

(a) Timing and location of meeting. An applicant for a subdivision of five or more units or lots and all other Level III site plan review categories shall conduct at least one neighborhood meeting within ~~three weeks~~ 30 calendar days of filing a preliminary site plan, if applicable, or within ~~two weeks~~ twenty-one calendar days of filing a final site plan and the neighborhood meeting will be held on a date no less than seven days calendar before a public hearing, if no preliminary plan is submitted. The meeting shall

be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant.

- (b) Procedures for the meeting. The following procedures shall be followed in noticing and conducting the neighborhood meeting. At least ten (10) calendar days prior to the neighborhood meeting, the applicant shall do the following:

- 1. Mail notice. Mailed notice of said meeting to all property owners within five hundred (500) feet of the subject property lines, except that the notice range for subdivisions within industrial zones shall be one thousand (1000) feet, and to all others, including neighborhood organizations, as may be required by the Planning Authority.

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- e. *Final Plan.*

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- (v) Development Review Process for Final Plan:

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- (f) Referral of plans to Planning Board. If at any time before approval or disapproval of a site plan for Level II development by the Planning Authority, the applicant may request a referral to the Planning Board review and a decision. The application will be scheduled for the next available Planning Board meeting where all public noticing requirements contained in Section 14-32 and the site plan ordinance can be met.

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Section 14-525. Public Notices.

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2. *Level I Site Plan*: Site Alteration, Level II and Level III Site Plans.

a. Receipt of Application. When an application for Level I Site Alteration, Level II or Level III development is submitted for site plan review, the Planning Authority shall notify, by mail the following, where applicable:

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(ii) Notice for Level III Site Plans shall be sent to all property owners within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone, unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

b. Planning Board Workshop or Public Hearing.

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(ii) In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500 feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

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Sec. 14-527. Content of site plan applications.

(a) Level I General Submissions: The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the Department of

Planning and Urban Development. Such submissions shall contain, at a minimum, the following elements:

- (1) Application Form;
- (2) Applicable Fees;
- (3) Project Description;
- (4) Evidence of Right, Title and Interest;
- (5) Evidence of State and/or Federal Approvals, if applicable;
- (6) ~~Written Assessment~~ assessment of project compliance with applicable Zoning requirements;
- (7) Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site;
- (8) Written requests for waivers ~~of modifications~~ from the City's Site Plan or Technical Standards, if applicable;
- ~~(9) Evidence of Financial and Technical Capacity;~~
- (10) Boundary survey stamped by a professional surveyor licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in Section 13 of the Technical Manual.

(b) *Level I Site Plan Submissions.* Site plans submitted as part of a Level I site plan application for a minor residential or site alteration proposal shall include a site plan based upon the boundary survey showing the following information:

- (1) Existing and proposed structures, as applicable, and distance from property lines;
- (2) Existing and proposed paved areas, if applicable;

- (3) For minor residential only, proposed ground floor area and finish floor or sill elevation;
- (4) For minor residential only, exterior building elevation drawings (all sides);
- (5) Location of proposed utilities;
- (6) Identification and proposed protection measures ~~proposed~~ for any significant natural features, as defined in Section 14-526 (b);
- (7) Identification and pProposed protections ~~to or for~~ alterations of watercourses, ~~where-if~~ applicable;
- (8) Identification and, if applicable, pProposed impacts and protections ~~measures for to~~ wetlands;
- (9) For Level I minor residential projects only, soil type;
- (10) Existing and proposed grades and contours;
- (11) Location, dimensions and ownership of easements, public or private rights-of-way, both existing and proposed.
- (12) Proposed stormwater management control;
- (13) Soil erosion control plan;
- (14) Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as-if applicable;
- (15) Existing and proposed curb and sidewalk;

(16) Location, area, and limits of the proposed site disturbance or alteration;

(17) Proposed Pier, Dock, Wharf, ~~or Pier~~, or Slope Stabilization reconstruction in the Shoreland Zone, if applicable.

(c) Level II and III ~~Preliminary Site Plan Submissions~~. General Submissions. The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the Department of Planning and Urban Development. Such submissions shall contain, at a minimum, the following elements:

(1) Application Form;

(2) Applicable Fees;

(3) Project Description;

(4) Evidence of Right, Title and Interest;

(5) Evidence of State and/or Federal Approvals, if applicable;

(6) Written assessment of project compliance with applicable Zoning requirements;

(7) Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site;

(8) Written requests for waivers from the City's Site Plan or Technical Standards, if applicable;

(9) Evidence of Financial and Technical Capacity;

(10) Boundary survey stamped by a professional surveyor licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in Section 13 of the Technical Manual.

(~~e~~-d) Level II and III Preliminary Site Plan Submissions. A preliminary site plan is an optional submittal as part of the Level II and III site plan application review process. If the applicant elects to submit a preliminary site plan for review, it shall include the following information:

- (1) Proposed grading and contours;
- (2) Existing structures with distances from property lines;
- (3) Proposed site layout and dimensions for all proposed structures, paved areas, and pedestrian and vehicle access ways;
- (4) Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual;
- (5) Preliminary infrastructure improvements;
- (6) Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
- (7) Location of significant natural features located on the site as defined in Section 14-526 (b)(1);
- (8) Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526(b)(1);
- (9) Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.

(~~e~~e) Level II and III Final Site Plans. A final site plan for a Level II or III site plan application shall be based upon a standard stamped boundary survey meeting City of Portland standards, be stamped by a professional engineer licenses to practice in the State of Maine, shall be submitted with all required written submittals and shall include the following information:

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Sec 14-529. Appeals.

(a) When the planning authority has approved with conditions or denied a site plan, any person aggrieved may appeal the decision to the planning board within thirty (30) calendar days of the date of ~~ht~~ the written decision of the planning authority. Upon the taking of such an appeal, the application shall be reviewed as a new application.

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Sec. 14-530. Development review fees and post approval requirements.

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(b) *Post-approval submissions.*

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(2) As-built plans. Upon completion of a Level II or Level III development, the applicant shall submit the as-built plans as specified in the Technical Manual.

~~(3) Final sets of as built plans shall be submitted digitally to the Planning and Urban Development Department on a CD or DVD in AutoCad format (*.dwg) release AutoCad 2005 or greater, as specified in the City of Portland Technical Manual.~~

(4) Performance Guarantee and Defect Guarantee:

a. Performance Guarantee Required. Following ~~site plan~~ approval of Level I, II and III site plan applications and prior to the issuance of a building permit, the developer shall post with the City a performance guarantee in the form and amount specified in section 14-501 specifying the completions of the required site plan improvements within two (2) years from origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one (1) year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

b. *Required site improvements.* Development improvements include, but are not limited to, sanitary sewers, storm drains, drainage systems, ~~and~~ erosion control, catch basins, manholes, other improvements constructed chiefly below grade, slope stabilization, curbing, paving, sidewalks, lighting, landscaping, and buffers.

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