

Order 27-11/12

Given first reading on 8/1/11

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

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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
RE: Shoreland Zoning Amendments

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

1. *That sections 14-303 and 14-449 of the Portland City Code are hereby amended to read as follows:*

Sec. 14-303. Dimensional requirements.

In addition to the provisions of article III, division 25 of this code, lots in the EWPZ shall be subject to the following requirements:

- (a) *Minimum lot size:* None.
- (b) *Minimum frontage:* None.
- (c) *Minimum yard dimensions:*
 - 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 twenty-five (25)~~thirty six (36)~~ feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-

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Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, W-SU, and I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

(c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.

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2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~and~~ WSU B-3, B-5, B-5b, ~~and~~ B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

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(j) Roads and driveways:

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet ~~meet setbacks~~ from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone ~~as described in this section.~~ All roads and driveways shall be set back a minimum of seventy five (75) feet, except:

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a. In the EWP, WC, WPD, WSU, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) ~~and S-P zones,~~ roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

~~2. In the B-3 and B-5 zones: twenty five (25) feet; and~~

b. Where the Planning Board determines that no other reasonable alternative exists, ~~If no other reasonable alternative exists,~~ the ~~planning b~~Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

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