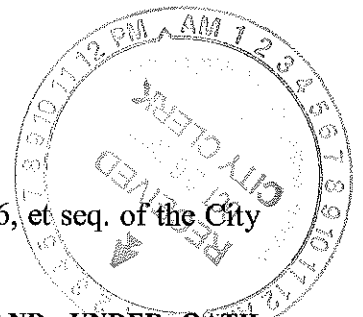


CITY OF PORTLAND  
APPLICATION / AFFIDAVIT  
FOR CITIZEN INITIATIVE



Pursuant to: Title 30-A M.R.S.A. Chapter 111 and Article III, Section 9-36, et seq. of the City of Portland Code of Ordinances.

THE UNDERSIGNED RESGISTERED VOTERS OF THE CITY OF PORTLAND, UNDER OATH DEPOSES AND SAYS, THAT THEY ARE THE TEN REGISTERED PORTLAND VOTERS THAT CONSTITUTE THE PETITIONERS' COMMITTEE AND THAT THEY SHALL CIRCULATE THE PETITION AND FILE IT IN PROPER FORM:

NAME OF PERSON TO WHICH ALL NOTICES TO PETITIONER'S COMMITTEE SHALL BE SENT:

1. Orlando Delogu  
Mailing Address: 22 Carroll St., Apt. 8  
Municipality of Residence: Portland  
Home Phone: 207-773-8917 Work Phone: 207-232-7975 Email: orlandodelogu@maine.rr.com

Orlando E. Delogu  
Signature

Subscribed and sworn before me on

October 26, 2018

(Date)

Lucy M. Burnell  
(Signature of Notary Public/Attorney at Law)

Lucy M. Burnell  
(Print Name of Notary Public/Attorney at Law)

LUCY M. BURNELL  
NOTARY PUBLIC  
STATE OF MAINE  
MY COMMISSION EXPIRES  
MAY 29, 2022

2. Lynda Werner  
778 Washington Ave.  
Portland, ME 04103  
Phone: (207) 653-3753

Municipality: Portland

Email: rwerner1@maine.rr.com

Signature: Lynda Werner

3. Robert Hannigan, Jr.  
8 Adams Street  
Portland, ME 04108  
Peaks Island  
Phone: (207) 838-8564

Municipality: Portland

Email: deckhannigan@gmail.com

Signature: Robert Hannigan, Jr.

4. Jennifer Fox  
308 Diamond Cove  
Great Diamond Island, ME 04109  
Phone: (207) 766-5506

Municipality: Portland

Email: jenniferfox@myfairpoint.net


Signature: Jennifer Fox

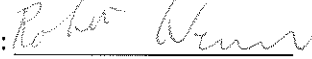
5. Regina Alves  
91 Bradley Street  
Portland, ME 04102  
Phone: (207) 831-1650


Municipality: Portland

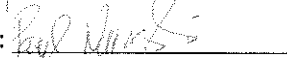
Email: zumbarina@yahoo.com

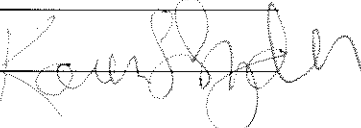
Signature: Regina Alves

6. Brendan D'Brien  
91 Bradley Street  
Portland, ME 04102  
Phone: (207) 831-1516  
Municipality: Portland  
Email: bbrien@mrcc.com  
Signature: 

7. Robert Werner  
778 Washington Ave  
Portland, ME 04103  
Phone: (207) 772-8603  
Municipality: Portland  
Email: rwerner1@maine.rr.com  
Signature: 

8. Mark Green  
51 Willow Street  
Portland, ME 04108  
Peaks Island  
Phone: (207) 772-3681  
Municipality: Portland  
Email: mgreen@sjcme.edu  
Signature: 

9. Paul Makroshis  
171 Brackett Ave  
Portland, ME 04108  
Peaks Island  
Phone: (207) 766-2012  
Municipality: Portland  
Email: paulm@maine.edu  
Signature: 

10. Karen Snyder  
72 Waterville St, #3  
Portland, ME 04101  
Phone: \_\_\_\_\_  
Municipality: Portland  
Email: \_\_\_\_\_  
Signature: 

The above- signed registered voters have subscribed and sworn before me on:

October 26, 2018  
(Date)

Lucy M. Burnell  
(Signature of Notary Public/Attorney-at-Law)

Lucy M. Burnell  
(Print Name of Notary Public/Attorney-at-Law)

LUCY M. BURNELL  
NOTARY PUBLIC  
STATE OF MAINE  
MY COMMISSION EXPIRES  
MAY 29, 2022

## **SUMMARY: Portland Waterfront Zoning Amendments Initiative**

The purpose of this Waterfront Zoning Initiative is to amend Portland City Code, Chapter 14, Land Use, Division 17.5, the Eastern Waterfront Port Zone; Division 18, the Waterfront Central Zone; and Division 18.5, the Waterfront Port Development Zone. The amendments restore as fully as possible the water dependency requirement for permitted and conditional uses in these three zones as originally provided in a citizen initiated referendum approved by the voters of Portland in 1987, which ordinance has since been amended several times resulting in an increasing number of non-water dependent uses in these three waterfront zones.

The boundaries of the three zones are not altered by the amendment; they remain as currently delineated on Portland's October, 2018 on-line zoning map. The amendments narrow the scope of contract and conditional rezoning in these three zones, eliminate some non-water dependent use in these zones, and eliminate the Non-Marine Use Overlay Zone (NMUOZ) in the Waterfront Central Zone. The latter allows a wide range of non-water dependent developments on the waterfront side of Commercial Street and directly on the piers;

## Portland Waterfront Zoning Amendments Proposed by Initiative

The following amendments are proposed to City Code, Chapter 14, Land Use, Division 17.5, the Eastern Waterfront Port Zone (EWPZ); Division 18, the Waterfront Central Zone (WCZ); and Division 18.5, the Waterfront Port Development Zone (WPDZ).

**Purpose:** All of these amendments have a common purpose, i.e., to restore as fully as possible the water dependency requirement for permitted and conditional uses in these three zones. This requirement was central to the original zoning initiative adopted overwhelmingly by the citizens of Portland in May, 1987. Since then this requirement has been slowly eroded by literally dozens of zoning amendments adopted by the City Council at the urging of developers and water front property owners. These amendments have allowed an increasing number of non-water dependent activities to be positioned in these waterfront zones. Over 97% of the land area of the city is open to non-water dependent activities (much of this land is un-built upon, or occupied by low value activities); the land/piers on the seaward side of Commercial Street constitute less than 3% of all city land. Waterfront land/piers are unique and scarce properties; they must be reserved for water dependent activities. Eimskip, the Sprague Co., marinas, ferries, cruise ships, fishing boats and supporting activities cannot operate on Congress Street, along Forest Avenue, or in Monument Square. In sum, these amendments are essential if we would retain a viable working waterfront, the jobs and tax base that have been the economic engine of this city for over 350 years.

The boundaries of these three zones are not altered by any of the deletions or amendments offered; they remain as currently delineated on Portland's October, 2018 on-line zoning map. The boundary of the Non-Marine Use Overlay Zone (NMUOZ) within the WCZ (now repealed) should be removed from the city's zoning map. All ordinance sections within these three zones not specifically mentioned remain in place unchanged. New ordinance provisions are underlined.

**Effective Date:** Upon submission to the city clerk of an affidavit signed by 10 registered voters of the city petitioning amendments to the City Code, Chapter 14, Land Use, Division 17.5, Division 18, and Division 18.5; and subsequently, upon approval by the city clerk of the form of the petition for the purpose of gathering required signatures of Portland voters; and subsequently, upon the city clerk's determination that 1500 valid signatures have been timely submitted, and the city clerk's notification of that fact to the city council; and subsequently, whether the proposed amendments (in whole) are passed by the city council or approved by a majority of city voters voting at a duly noticed city-wide election, **the effective date of the adopted amendments shall be October 26, 2018, the date the affidavit petitioning the adoption of these amendments to the City Code was presented to the city clerk.**

### **Division 17.5 Eastern Waterfront Port Zone [EWPZ]**

Sec. 14-300 Purpose: is amended by deleting the last sentence in paragraph two [dealing with non-marine uses], and the second sentence in paragraph three [dealing with non-marine uses].

Sec. 14-301 Permitted uses: is amended by adding in paragraph one the following underlined provision after the words, "(no adverse impact on marine uses), and further, that the proposed use meets conditional use standard 1.b.i. in sec. 14-301.1 (a) [requiring the preparation of a parking and traffic circulation plan], the following uses are permitted in the Eastern Waterfront Port Zone."

Sec. 14-301 Permitted uses (b) 6: is amended by adding after the word, storage, "including structured boat rack storage facilities."

Sec. 14-301 Permitted uses (c) 1: is amended by adding the following underlined provisions: "Professional, business, government, and general office uses located in upper floors of structures existing as of October 26, 2018; such uses may not exceed 50% of the total upper floor area in such structures."

Sec. 14-301 Permitted uses (e) 2 [allowing facilities for non-profit organizations] is deleted.

Sec. 14-301.1 Conditional uses 2.a. Marine iv. [allowing marine educational facilities] is deleted.

Sec. 14-301.1 Conditional uses 2.b. Commercial: i. [misabeled as, a.?] [allowing structured parking facilities] is amended to read as follows: “Structured parking facilities includes the expansion of existing facilities and newly built parking structures provided that 50% of all newly created parking spaces are reserved for residents of Peaks and other city islands at nominal rates to be determined by the City Council.”

Sec. 14-301.1 Conditional uses 2.b. Commercial: ii. [misabeled as, b.?] [allowing office uses in upper floors] is deleted. This provision is redundant; see 14-301 Permitted uses, (c) 1. above.

Sec. 14-301.1 Conditional uses 2.b. Commercial: iii. [misabeled as, c.?] [allowing passenger support services with stipulated limitations is modified]. The passenger services allowed are amended as follows: 1. Passenger food service facilities;  
2. Passenger retail goods facilities;  
3. Passenger information facilities.

Sec. 14-301.1 Conditional uses 2.c. Industrial: [allowing non-marine industrial uses] is deleted.

Sec. 14-301.1 Conditional uses 2.d. Public: ii. [allowing maritime museums] is deleted.

Sec. 14-301.1 Conditional uses 2.e. [dealing with parking for non-marine uses] is deleted.

Off-street ground level parking is herein designated an Other: conditional use in the EWPZ. The following new provision addresses this use.

Sec. 14-301.1 Conditional uses 2.e. Other: i. “Off-street ground level parking and/or structured parking facilities, in areas approved pursuant to conditional use standard 1.b.i. in sec. 14-301.1 (a) [requiring a parking and traffic circulation plan], is permitted in the EWPZ. This use is limited, first, to meeting the needs of existing and future marine uses in the zone (including uses permitted by contract and/or conditional use zoning); second, to meeting the parking needs of Peaks and other city island residents, and finally, if additional parking spaces are available, to meeting the needs of existing and future non-marine uses in the zone. Structured facilities or ground level parking to meet the parking needs of uses permitted in non-waterfront zones are not permitted in the EWPZ. Nominal rates for, and regulations of, permitted structured or ground level parking in the EWPZ require City Council approval.”

Sec. 14-301.1 Conditional uses 2.e. Other: ii. Temporary wind anemometer towers, and iii. Wind energy systems [currently wrongly numbered in the Code?] remain in place unchanged.

Sec. 14-301.2 Prohibited uses, is amended to read as follows:

“Any/all, uses/structures (whether floating or fixed to land or piers) not a permitted or conditional use as outlined in sec. 14-301 or sec. 14-301.1, as amended, are prohibited in the zone, except for those permitted pursuant to contract or conditional rezoning pursuant to sec. 14-302. The following uses are specifically and expressly prohibited.”

a. Residential uses;

b. Hotels, motels, or boatels;

- c. Auditoriums, civic centers, convention centers, or other meeting facilities;
- d. Restaurants and drinking establishments , except those permitted under sec. 14-301.1 Conditional Uses, 2.b. Commercial: iii.;
- e. Professional or business offices, except those office functions integral to a permitted use or permitted under sec. 14-301 Permitted Uses, (c) 1.;
- f. Bulk freight or Truck terminal facilities;
- g. Non-marine industrial uses;
- h. General Retail and Service establishments, except those permitted under sec. 14-301.1 Conditional Uses, 2.b. Commercial: iii.;
- i. Amusement/theme parks;
- j. Gambling facilities of any type, except those located aboard either a ferry or inter-port cruise ship and operated in compliance with state law.

Sec. 14-302 Contract or conditional rezoning: The opening paragraph is amended to read as follows:

“In addition to those marine and non marine uses authorized as permitted or conditional uses in sec. 14-301 and sec. 14-301.1, an applicant may utilize contract zoning or conditional use approval to permit a marine use similar to, but not expressly enumerated in, the above sections. Contract zoning or conditional use approval may also be utilized to permit minor deviations from otherwise applicable dimensional requirements in the zoning ordinance. Contract zoning or conditional use approval may not be used to permit any of the uses that are specifically and expressly prohibited in sec. 14-301.2”.

Sec. 14-302 (a) Standards for contract or conditional rezoning: is deleted.

[Note: having significantly narrowed the scope of contract rezoning and conditional use approval, the present standards are largely inapposite. The Planning Board is directed to fashion, and submit to the City Council for approval, new standards that recognize these changes and that meet the “similar to” test for allowing contract and/or conditional rezoning to expand permitted and conditional uses in the EWPZ.]

### **Division 18 Waterfront Central Zone (WCZ)**

Sec. 14-305 Purpose (c) is amended by changing the first sentence to read: “Non-marine uses are permitted provided . . .” [the word “encouraged” is deleted.] The second sentence in 14-305 Purpose (c) is deleted.

Sec. 14-306 Definitions is amended as follows: The third definition of the Non-marine use overlay zone (NMUOZ) and the zone itself [as a defined area within the Waterfront Central Zone] is deleted.

Sec. 14-307 Permitted uses (a) 10 is amended as follows: “Boat storage facilities, including structured boat rack storage facilities.” [The second sentence is deleted as redundant.]

Sec. 14-307 Permitted uses (a) 20, that last sentence is amended as follows: “Parking for any non-commercial berthing in the WCZ is subject to the provisions of sec. 14-301.1, 2.e.i.” [requiring a parking and traffic circulation plan.]

Sec. 14-307 Permitted uses (b) Non-marine commercial and industrial uses: The first sentence is amended by adding after the reference to sec. 14-311, “and further, these uses are permitted only on land/structures fronting, or within 50 feet of, Commercial Street. Existing structures seaward of this 50 foot setback line may not devote more than 50% of their total floor area to these uses. Unbuilt upon areas within the WCZ seaward of this setback line may not undertake these uses.”

Sec. 14-307 Permitted uses (b), Non-marine commercial and industrial uses, enumerated in provisions 5 [laundry and dry cleaning services], 6 [cabinet and carpentry shops], and 9 [museums and art galleries] are deleted.

Sec. 14-307 Permitted uses (b) Non-marine commercial and industrial uses, provision 10 is amended to read as follows: “Outside accessory activities, including off-street ground level parking is permitted only in areas approved pursuant to conditional use standard 1.b.i. in sec. 14-301.1 (a) requiring a parking and traffic circulation plan. This use is limited, first, to meeting the needs of existing and future marine uses in the zone (including uses permitted by contract and/or conditional use zoning); second, to meeting the parking needs of Peaks and other city island residents, and finally, if additional parking spaces are available, to meeting the needs of existing and future non-marine uses in the zone. Ground level parking to meet the parking needs of uses permitted in non-waterfront zones is not permitted in the WCZ. Nominal rates for, and regulations of, permitted ground level parking in the WCZ require City Council approval.”

Sec. 14-307 Permitted uses (c) Public: is amended by putting a period after the word “spaces.” The second portion of the present sentence [relating to pedestrian and bicycle trails] is deleted. [bicycle and walking/hiking trails can/should be relocated to less commercially congested streets.]

Sec. 14-308 Conditional uses (a) 2. [dealing with boat rack storage facilities] is deleted. [Structured boat racked storage facilities are now a permitted use in this zone, see Sec. 14-307 Permitted uses (a) 10.]

A new Conditional use (a) 2. is created allowing: “structured parking facilities, fronting, or within 50 feet of, Commercial Street; a structured parking facility may include the landward expansion of an existing structured parking facility; all such facilities whether expanded or newly built are required to provide that 50% of all newly created parking spaces for residents of Peaks and other city islands at nominal rates to be determined by the City Council. Structured parking facilities may not be built in the WCZ to meet the parking needs of uses permitted in non-waterfront zones

Sec. 14-309 Prohibited uses, is amended to read as follows:

“Any/all, uses/structures (whether floating or fixed to land or piers) not a permitted or conditional use as outlined in sec. 14-307 and sec. 14-308, as amended, are prohibited in the zone, except for those permitted pursuant to contract or conditional rezoning as outlined in sec. 14-311. The following uses are specifically and expressly prohibited.”

- a. Residential uses, except as permitted in sec. 14-308 (b);
- b. Hotels, motels, or boatels;
- c. Auditoriums, civic centers, convention centers, or other meeting facilities, except as permitted in sec. 14-307(d) 1. b as accessory to a permitted use;
- d. Stand alone bars/drinking establishments;
- e. Stand alone business, government, or professional office structures, except as provided in sec. 14-307 Permitted uses (b) 1.
- f. Bulk freight or Truck terminal facilities;
- g. Amusement/theme parks;
- h. Gambling facilities of any type, except those located aboard either a ferry or inter-port cruise ship and operated in compliance with state law.
- i. Drive-up services of any kind;
- j. Ground mounted telecommunication towers, antennas, and/or disks.

Sec. 14-310 Dimensional requirements (c) and (h) are deleted.

[Note: having ended/repealed the NMUOZ, provisions such as this are redundant.]

Sec. 14-311 Development standards (b) is deleted.

[Note: having ended/repealed the NMUOZ, provisions such as this are redundant.]

Sec. 14-311 Development standards (c) Contract or conditional rezoning standards: The opening paragraph is amended to read as follows:

“In addition to those marine and non marine uses authorized as permitted or conditional uses in sec. 14-307 and sec. 14-308, an applicant may utilize contract zoning or conditional use approval to permit a marine use similar to, but not expressly enumerated in, the above sections. Contract zoning or conditional use approval may also be utilized to permit minor deviations from otherwise applicable dimensional requirements in the zoning ordinance. Contract zoning or conditional use approval may not be used to permit any of the uses that are specifically and expressly prohibited in sec. 14-309.”

Sec. 14-311 Development standards (c) 2 through 9 are deleted.

[Note: having ended/repealed the NMUOZ, and significantly narrowed the scope of contract rezoning and conditional use approval, the present standards are largely inapposite. The Planning Board is directed to fashion, and submit to the City Council for approval, new standards that recognize these changes, and that meet the “similar to” test for allowing contract and/or conditional rezoning to expand permitted and conditional uses in the WCZ.]

Sec. 14-311 Development standards (d) Performance standards, provision 8 [dealing with off-street parking and loading] is deleted.

[Note: This issue is addressed in sec. 14-307 Permitted uses (b), Non-marine commercial and industrial uses, provision 10.]

### **Division 18.5 Waterfront Port Development Zone (WPDZ)**

Sec. 14-319 Permitted uses, Marine: The 10<sup>th</sup> marine use is amended as follows: “Boat storage facilities, including structured boat rack storage facilities.”

Sec. 14-319 Permitted uses, Industrial: The 2<sup>nd</sup> industrial use is amended as follows: “Marine cargo truck, container, storage, maintenance, and repair facilities.”

Sec. 14-319 Permitted uses, Industrial: The 5<sup>th</sup> industrial use [allowing a range of non-marine industrial uses] is deleted.

Sec. 14-319 Permitted uses, Public: The 1<sup>st</sup> public use [allowing pedestrian and bicycle trails] is deleted. [bicycle and walking/hiking trails can/should be relocated to less commercially congested streets.]

Sec. 14-319 Permitted uses, Commercial: is amended as follows: “off-street ground level parking and/or structured parking facilities, in areas approved pursuant to conditional use standard 1.b.i. in sec. 14-301.1, (a) requiring a parking and traffic circulation plan, is a conditional use in the WPDZ. This use is limited, first, to meeting the needs of existing and future marine uses in the zone (including uses permitted by contract and/or conditional use zoning); and secondarily, if additional parking spaces are available, to meeting the needs of existing and future non-marine uses in the zone. Structured facilities or ground level parking to meet the parking needs of uses permitted in non-waterfront zones are not permitted in the WPDZ. Nominal rates for, and regulations of, permitted structured or ground level parking



in the WPDZ require City Council approval.”

Sec. 14-320 The title of this section is amended to read as follows: “Contract and conditional rezoning and standards.”

Sec. 14-320 (a): This new first paragraph reads as follows:

“In addition to those marine and non marine uses authorized as permitted or conditional uses in sec. 14-319, an applicant may utilize contract zoning or conditional use approval to permit uses similar to, but not expressly enumerated in, the above section. Contract zoning or conditional use approval may also be utilized to permit minor deviations from otherwise applicable dimensional requirements in the ordinance. Contract zoning or conditional use approval may not be used to permit any of the uses that are specifically and expressly prohibited in sec. 14-320.1”.

Sec. 14-320 (b): The previously labeled sec. 14-320 (a) is retained as sec. 14-320 (b).

Sec. 14-320.1 Prohibited Uses, is amended to read as follows:

“Any/all uses/structures (whether floating or fixed to land or piers) not a permitted or conditional use as outlined in sec. 14-319, as amended, are prohibited in the zone, except for those permitted pursuant to contract or conditional rezoning as outlined in sec. 14-320 (a). The following uses are specifically and expressly prohibited.”

- a. Residential uses;
- b. Hotels, motels, or boatels;
- c. Business, government, or professional office structures, except those office structures/functions integral to a permitted use;
- d. Auditoriums, civic centers, convention centers, or other meeting facilities;
- e. Restaurants and bars/drinking establishments;
- f. Structured parking facilities;
- g. Amusement/theme parks;
- h. Gambling facilities of any type;
- i. Drive-up services of any kind;
- j. Ground mounted telecommunication towers, antennas, and/or disks.

[Note: Having both broadened and narrowed permitted and conditional uses, and significantly narrowed the scope of contract and conditional rezoning, the present standards in sec. 14-320.3 will need to be adjusted accordingly. The Planning Board is directed to fashion, and submit to the City Council for approval, new standards that recognize these changes, and that meet the “similar to” test for allowing contract and/or conditional rezoning to expand permitted and conditional uses in the WPDZ.]

**A final Amendment:** Notwithstanding automatic lease renewal provisions, and/or non-conforming use language arguably to the contrary in Division 23 of the Land Use Code, upon passage of these initiated amendments, the parking of vehicles on ground level spaces and/or in structured parking facilities in any/all of the waterfront zones (the EWPZ, the WCZ, and the WPDZ) to meet the parking needs of uses permitted in non-waterfront zones is prohibited when current leases for these parking spaces expire, or three years from the effective date of these initiated amendments, whichever is shorter.

[The parking of cars is not water dependent; the current widespread parking of cars on scarce waterfront land/pier areas exacerbates traffic movement in/on working waterfront areas, and reduces the quantum of land available for water dependent structures/uses. Permitted uses in non-waterfront zones throughout the city must be made to meet their parking needs within the footprint of their own property and/or the zone in which they are located.]