

Order 149-05/06
Given first reading on 1/4/06

Public Hearing, Amended and Passed: 1/18/06 8-0 (Leeman abstaining)

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE
ART 111. DIVISIONS 1 AND 8:
DEFINITIONS AND R-P RESIDENCE-PROFESSIONAL ZONE
SECTIONS 14-47, 14-146 THROUGH 14-151**

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

1. *That Sections 14-47 of the Portland City Code is hereby amended to read as follows:*

DIVISION 1. DEFINITIONS

Adult day care facility: A facility which provides a regular program of care and protection for persons over the age of sixteen (16), for consideration, for any part of the day.

2. *That Sections 14-146 through 14-151 of the Portland City Code is hereby amended to read as follows:*

DIVISION 8. R-P RESIDENCE-PROFESSIONAL ZONE

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or

(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

(a) *Residential*: Any residential use as permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.

(b) *Business*:

1. Professional offices, including the offices and facilities of health care practitioners and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
2. Business services, as defined in section 14-47, except copy services.
3. Adult day care services.

(c) *Other*:

1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

(a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under

this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

i. The front yard need not exceed the average depth of immediately abutting front yards; and

ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

a. Principal structures:

Number of Stories Required Side Yard

1 story 10 feet

2 stories 12 feet

3 or more stories . . 14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

b. Accessory structures (detached): Seven (7) feet.

c. Side yards on side streets (corner lot): For both principal or accessory structures:

i. One (1) or two (2) stories: Fifteen (15) feet; and

ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum

permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

| Residential Zone | Surface Ratio |
|----------------------------|---------------|
| R-1/R-2 | 0.60 |
| R-3 | 0.70 |
| R-4/R-5/R-5A/R-6 | 0.80 |

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

| <i>Residential</i> | <i>Floor Area Ratio</i> |
|----------------------------|-------------------------|
| R-1/R-2 | 0.45 |
| R-3 | 0.55 |
| R-4/R-5/R-5A/R-6 | 0.65 |

Sec. 14-150. Other requirements.

All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply .
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.

- (b) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.