

Order 312-08/09

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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, DIVISION 8. R-P RESIDENCE  
PROFESSIONAL ZONE  
SECTION 147.5 CONDITIONAL USE**

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

1. *That Section 14-147.5 Conditional Use of the Portland City Code is hereby amended to read as follows:*

**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) With the exception of Daycare facilities below, 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.

(c) Daycare facilities or home babysitting services not otherwise permitted as a home occupation under section 14-410, and nursery schools and kindergartens for up to twelve (12) children shall be allowed as a conditional use:

(1) Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy.

(2) Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

(3) Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

(d) Daycare facilities, home babysitting services, nursery schools and kindergartens that serve more than 12 children shall meet the following additional standards:

(1) Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy.

(2) The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child.

(3) The play area shall be located in the side and rear yards only and shall not be located in front yards.

- (4) Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height.
- (5) A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines.
- (6) The minimum lot size for a day care facility, home babysitting service, nursery school or kindergarten serving more than twelve (12) children shall be six thousand (6,000) square feet.
- (7) Off-street parking shall be provided on site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. Parking spaces may be stacked or placed side by side in order to lessen their impact on the adjacent residential character of the lot and the neighborhood, and shall not be located closer than (5) five feet from the property line of any abutting residential use or residentially zone site.
- (8) Any additions or exterior alternations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building or preserve the residential appearance of the building.