

Order 222-13/14

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

Effective 6/4/2014

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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 14. LAND USE  
ARTICLE III. Zoning,  
DIVISION 28. Jurisdiction of Board of Appeals,  
Section 14-474  
Re: Conditional Use Permit Standards**

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

*1. That Chapter 14, Article III, Division 28, Section 14-474  
of the Portland City Code is hereby amended to read as follows:*

**Sec. 14-474. Conditional uses.**

(a) *Authority.* The board of appeals may, subject to the procedures, standards and limitations set out in this section, approve the issuance of a conditional use permit authorizing development of conditional uses listed in this article.

(b) *Procedure:*

1. *Application.* Applications for conditional use permits shall be submitted to the building authority. A nonrefundable application fee, as established from time to time by the city council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the building authority but shall in all instances contain at least the following information and documentation:

- a. The applicant's name and address and his or her interest in the subject property;
- b. The owner's name and address if different than the applicant;

- c. The address, or chart, block and lot number as shown in the records of the office of the assessor of the subject property;
  - d. The zoning classification and present use of the subject property;
  - e. The particular provision of this article authorizing the proposed conditional use;
  - f. A general description of the proposed conditional use;
  - g. Where site plan approval is required by article V of this chapter, a preliminary or final site plan as defined by article V of this chapter.
2. *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
  3. *Action by the board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision, in a manner and form specified by article VI of this chapter, granting the application for a conditional use permit, granting it subject to conditions as specified in subsection (d), or denying it. The failure of the board to act within thirty (30) days shall be deemed an approval of the conditional use permit, unless such time period is mutually extended in writing by the applicant and the board. Within five (5) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant and, if a permit is authorized, shall issue such permit, listing therein any and all conditions imposed by the board of appeals.
- (c) *Conditions for conditional uses:*
1. *Authorized uses.* A conditional use permit may be issued for any use denominated as a conditional use in the regulations applicable to the zone in which it is proposed to be located.

2. Standards. The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. The Board shall find that this standard is satisfied if it finds that~~Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:~~

a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and

b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

~~There are unique or distinctive characteristics or effects associated with the proposed conditional use;~~

~~b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and~~

~~e. Such impact differs substantially from the impact which would normally occur from such a use in that zone.~~

(d) *Conditions on conditional use permits.* The board of appeals may impose such reasonable conditions upon the premises

benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

(e) *Effect of issuance of a conditional use permit.* The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval.

(f) *Limitations on conditional use permits.* No conditional use permit shall be valid for a period longer than six (6) months from the date of issue, or such other time as may be fixed at the time granted not to exceed two (2) years, unless the conditional use has been commenced or is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby. A conditional use permit shall be deemed to authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of twelve (12) consecutive months or more.

(g) *Appeals from board decisions.* Appeals from any decision of the board of appeals or, where applicable, the Planning Board respecting a conditional use permit shall be to superior court.