

ORDINANCE No. **183598** As Amended

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5 (Ordinance; amend Title 33 and Official Zoning Map)

The City of Portland Ordains:

Section 1. The Council finds:

**General Findings**

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number.
2. During the Spring and Summer of 2008, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to develop a workplan for the fifth Regulatory Code Amendment Package (RICAP 5). The RISAT includes participants from city bureaus and the community and advises staff.
3. On July 31, 2008, notice was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested parties, to notify them of the Planning Commission hearing for the RICAP 5 Workplan.
4. The *RICAP 5 Proposed Workplan* was published on August 6, 2008.
5. On August 26, 2008 the Planning Commission held a hearing and adopted the workplan for RICAP 5. The original workplan included 55 items. One item was added by the Planning Commission at the hearing. Six items were added after the adoption of the workplan, five at the request of BDS and one at the request of Mayor Adams. The total number of items was 62.
6. After preliminary work on all of the items, staff determined that five items did not warrant an amendment to the code, bringing the number of items recommended for amendment to 57.
7. During the Fall, Winter and Spring of 2008 and 2009, Planning staff worked with RISAT, BDS and other pertinent City agencies to address the issues in the workplan.
8. On June 19, 2009, the *RICAP 5 Discussion Draft Report* was published.
9. On July 8, 2009, notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
10. On July 14, 2009 staff held an open house at the Bureau offices. Seven people attended the open house.

11. On July 24, 2009 notice of the proposal as required by ORS 227.186 and PCC 33.740 was sent to all neighborhood associations and coalitions and business associations in the city of Portland, as well as other interested persons to notify them of the Planning Commission hearing on the proposed code changes for RICAP 5.
12. On August 4, 2009, the *RICAP 5 Proposed Draft Report* was published.
13. On August 25, 2009, the Planning Commission held a hearing on the *RICAP 5 Proposed Draft Report*. Staff presented the proposal and public testimony was received. Planning Commission directed staff to follow up on two new items and ten existing items 1, 28, 29, 32, 34, 37, 40, 55, 60, and 61.
14. On September 22, 2009, notice was sent to all previously notified parties and property management companies regarding the two new items initiated at the August 25, 2009 Planning Commission hearing.
15. On September 30, 2009, staff responded to Planning Commission's request and issued a follow-up memo on RICAP 5. The memo, directed to the Planning Commission, included responses to several issues and several amended recommendations.
16. On October 13, 2009, the Planning Commission held another hearing, continued consideration of the issues in the follow-up memo, and heard additional testimony.
17. At the conclusion of the hearing on October 13, the Planning Commission made several amendments to the Proposed Draft. They then voted to recommend that City Council adopt the amended version of the Proposed Draft.
18. On November 16 and 20, 2009 notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for RICAP 5.
19. City Council held a public hearing on RICAP 5 on January 6, 2010 and passed it to Second Reading.
20. On January 13, 2010 City Council voted to adopt this ordinance and amend the Portland Zoning Code and Official Zoning Maps.

## Findings on Statewide Planning Goals

21. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
22. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, including:
  - During the Spring and Summer of 2008, staff from the former Bureau of Planning (now the Bureau of Planning and Sustainability) and the Bureau of Development Services (BDS) met monthly with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to review the items under consideration for RICAP 5. The RISAT includes participants from city bureaus and the community and advises staff.

- Concurrently, during the Spring and Summer of 2008, staff from the staff from the former Bureau of Planning (now the Bureau of Planning and Sustainability) and the Bureau of Development Services (BDS) convened the Lot Confirmation Task Force made up of various community stakeholders. The Task Force convened over the course of 6 meeting to discuss issued related to development of existing lots and lots of record. At the conclusion of its meetings, the Task put forth several recommendations , which were added to the proposed workplan for RICAP 5.
- On July 31, 2008, notice was sent to all neighborhood associations and coalitions, business associations in the City of Portland, and other interested parties, to notify them of the Planning Commission hearing for the RICAP 5 workplan.
- On August 6, 2008, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Proposed Workplan* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
- On August 26, 2008, the Planning Commission held a public hearing on the RICAP 5 Proposed Workplan and heard testimony from citizens on the proposed issues. The Planning Commission voted to adopt the workplan, directing staff to work on code amendments for the 55 original amendments and added one amendment.
- Following adoption of the workplan, five additional items were added at the request of the Bureau of Development Services and one additional item was added at the request of the Mayor's office.
- During the Fall, Winter and Spring of 2008 and 2009, staff worked monthly with RISAT as well as BDS and other pertinent city bureaus toward solutions to the workplan items.
- On June 19, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Discussion Draft* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy.
- On July 14, 2009 staff held an open house at the Bureau offices. Seven people attended the open house.
- On July 24, 2009 notice of the proposal was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, and other interested parties, to notify them of the Planning Commission hearing on the staff proposal for RICAP 5.
- On August 4, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Proposed Draft* was published. The report explained the proposed amendments to the Zoning Code. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
- On August 25 and October 13, 2009, the Planning Commission held public hearings to discuss and take testimony on the report.
- At the August 25 2009 hearing, the Planning Commission directed staff to convene a stakeholder group to explore alternatives to parts of one of the items, Item 55. The group met on two occasions, September 16<sup>th</sup> and October 7<sup>th</sup>, 2009. No alternatives were proposed.

- On September 22, 2009, notice was sent to all those previously notified and property management companies regarding the two new items initiated by the Planning Commission at the August 25, 2009 hearing.
  - On November 24, 2009, notice of the proposed City Council hearing on the Planning Commission recommendation for RICAP 5 was sent to those who testified at the Planning Commission hearings and to people interested in RICAP5,.
  - On December 21, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Planning Commission Recommended Draft* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
  - On January 6, 2010, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.
  - On January 13, 2010, the City Council voted to adopt the RICAP 5 ordinance and amend the Portland Zoning Code and Official Zoning Maps
23. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because development of the recommendations followed established city procedures for legislative actions, while also improving the clarity and comprehensibility of the City's codes. See also findings for Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.
24. **Goals 3 and 4, Agricultural Lands and Forest Lands**, requires the preservation and maintenance of the state's agricultural and forest lands, generally located outside of urban areas. The amendments regarding accessory dwelling units and FAR and Amenity Bonuses are supportive of this goal because they support additional housing opportunities and the efficient use of land within an urbanized area, thereby reducing development pressure on agricultural and forest lands.
25. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. The amendments regarding procedures for local historic designation and incentives support this goal because they clarify procedures to ease administration of local historic resource protection. See also findings under Portland Comprehensive Plan Goal 12, Urban Design.
26. **Goal 6, Air, Water, and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water, and land resources. The amendments regarding design standards as an alternative to discretionary review for eco-roofs and water collection cisterns support this goal because they increase the ease of local approval for these water resource quality improvement mechanisms.
27. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments support this goal by making it easier to create Accessory Dwelling Units and by modifying regulations that were barriers to quality courtyard housing. See findings for Portland Comprehensive Plan Goal 4, Housing and Metro Title 1.
28. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The amendments support this goal because they align the approval criteria for amendments to the Zoning and Comprehensive Plan maps with the State Transportation Planning Rule and increases bicycle parking requirements for multi-dwelling development. See also findings for Portland Comprehensive Plan Goal 6, Transportation, and its related policies and objectives.

The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, Zone Change, or regulation will significantly affect an existing or planned transportation facility.

This proposal will not have a significant effect on existing or planned transportation facilities because the amendments will not result in increases in housing units or additional jobs, or change allowed land use types or densities.

## Findings on Metro Urban Growth Management Functional Plan

29. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 5 amendments.
30. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not significantly alter the development capacity of the city, though they do provide additional flexibility for housing infill development through accessory dwelling units, development on corner lots, and courtyard housing. See also findings under Comprehensive Plan Goal 4 (Housing).
31. **Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation**, protects the public's health and safety by reducing flood and landslide hazards, controlling soil erosion and reducing water pollution by avoiding, limiting, or mitigating the impact of development on streams, rivers, wetlands, and floodplains. Title 3 specifically implements Statewide Land Use Goal 6. The findings for those statewide goals are incorporated here to show that the amendments are consistent with this Title. See also findings for Comprehensive Plan Goal 8, Environment.
32. **Title 7, Affordable Housing**, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The amendments are consistent with this title because they remove barriers to designs of alternative housing types such as courtyard housing, clarify when existing lots of record may be developed, and providing expanded opportunities for infill development on corner lots.

## Findings on Portland's Comprehensive Plan Goals

33. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to RICAP 5.
34. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change the policy or intent of existing regulations relating to metropolitan coordination and regional goals. One amendment aligns the approval criteria for amendments to the Zoning and Comprehensive Plan maps specifically with the State Transportation Planning Rule. **Policy 1.4, Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. Notified agencies were US Department of Fish and Wildlife, Oregon

Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Transportation, University of Oregon, Portland State University, Multnomah County, Multnomah County Drainage District #1, Port of Portland, Metro, Tri-met, Portland Public Schools, Centennial School District, David Douglas School District, Parkrose School District, Reynolds School District, Riverdale School District, City of Gresham, and City of Salem.

35. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments support this goal because they update and improve the City's land use regulations and procedures that hinder desirable development. By improving regulations, the City will better facilitate the development of housing and employment uses.
36. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they provide clarity on when residential infill development is allowed and provide more flexibility for residential infill through accessory dwelling units, on corner lots, and in courtyard housing development, but do not change the policy or intent of existing regulations relating to the stability and diversity of neighborhoods.
37. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they remove barriers to designs of alternative housing types such as courtyard housing and Accessory Dwelling Units, clarify when existing lots of record may be developed, and provide expanded opportunities for infill development on corner lots. See also the findings for Statewide Planning Goal 10, Housing and for Metro Title 1.
38. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments support this goal because they align the approval criteria for amendments to the Zoning and Comprehensive Plan maps with the State Transportation Planning Rule and support a balanced transportation system by increasing bicycle parking requirements for multi-dwelling development and clarifying standards for its provision. See also findings for Statewide Planning Goal 12, Transportation.
39. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the city. Policy 7.3, Energy Efficiency in Residential Buildings and 7.4, Energy Efficiency through Land Use regulations are relevant to this proposal. The amendments support this goal because they remove barriers to implementation and clarify policies for solar panels, water collection cisterns, eco-roofs, wind turbines and other green technologies that increase energy efficiency and decrease energy consumption.
40. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water, and land resources, as well as protecting neighborhoods and business centers from noise pollution. The amendments support this goal because they remove barriers to implementation and clarify policies for water collection cisterns, eco-roofs, and other technologies that decrease stormwater runoff and thereby maintain and improve water quality.
41. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and

amendment of the Comprehensive Plan. This project supports the goal because it followed the process and requirements specified in Chapter 33.740, Legislative Procedure. See Statewide Planning Goal 1, Citizen Involvement for detail and further findings.

42. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. The amendments support this policy because they clarify and streamline many of the regulations in the zoning code. They also respond to identified current and anticipated problems, including barriers to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.
43. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Policy 12.3, Historic Preservation, calls for protection of historic resources. Policy 12.7, Design Quality, calls for encouraging the built environment to meet standards of excellence while fostering creativity and Policy 12.6, Preserve Neighborhoods aims to preserve and support qualities of neighborhoods that make them attractive places.

There are several amendments that allow developers the option of an exception or standards as an alternative to discretionary design review or historic design review for "green" improvements to buildings in Historic or Conservation Districts. These amendments encourage "green" improvements while ensuring that historic resources and areas in design zones will not be degraded by the improvements. These amendments support Goal 12 and the listed policies.

Several amendments drawn from the Courtyard Housing Competition remove barriers to creativity while encouraging design that is in line with community character, including allowing additional architectural features in setbacks such as trellises and eaves. These amendments also support Goal 12 and the listed policies.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009 as amended.
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009 as amended.
- c. Amend the Official Zoning Maps, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009.
- d. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009; as further findings and legislative intent as amended.
- e. Direct the Bureau of Planning and Sustainability to continue working with the Bureau of Environmental Services and other community partners to refine a study framework to evaluate the effect of small wind turbines on birds.
- f. Direct the Bureau of Planning and Sustainability to monitor the effect of the other amendments as part of their overall monitoring program.
- g. Direct the Bureau of Planning and Sustainability to prepare a work plan that improves the City's implementation of accessory dwelling unit program and expands upon the current compatibility standards.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Section 3. This ordinance will be effective 45 days after adoption. The time between adoption and the effective date will be used by the Bureau of Planning and Sustainability and other City bureaus to print and distribute the new regulations, train city staff on the content of the new regulations and how to use them, and prepare other informational material for the Development Services Center and Development Review staff.

Passed by the Council: **MAR 10 2010**

Mayor Sam Adams  
Prepared by: Emily Sandy  
Date Prepared: December 21, 2009

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

*Susan Parsons*

Deputy



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Agenda No. **183598** As Amended  
ORDINANCE NO. **183598**  
Title

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5 (RICAP-5) (Ordinance; Amend Title 33 and Official Zoning Map)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Sam Adams</b></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Susan Anderson/SPW</i></p> <p>Prepared by: E. Sandy Date Prepared: December 21, 2009</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date January 6, 2010</p> <p>City Attorney Approval <i>KS Beaumont</i></p>	<p>CLERK USE: DATE FILED <u>DEC 31 2009</u></p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p><b>ACTION TAKEN:</b></p> <p>JAN 06 2010 <b>CONTINUED TO</b> FEB 03 2010 3:30 PM TIME CERTAIN</p> <p>FEB 03 2010 <b>CONTINUED TO</b> FEB 11 2010 2 P.M. TIME CERTAIN</p> <p>FEB 11 2010 <b>PASSED TO SECOND READING</b> As Amended MAR 04 2010 2 P.M. TIME CERTAIN</p> <p>MAR 04 2010 <b>PASSED TO SECOND READING</b> MAR 10 2010 9:30 A.M. As Amended</p>
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<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/> Start time: <b>2:00 PM</b></p> <p><b>Total amount of time needed: 1.5 hours</b> (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/> <b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	—	
Adams	✓	