

## **Ordinance No. 178172**

Amend Title 33, Planning and Zoning and Title 32, Signs and Related Regulations, to update and improve various City building and land use regulations and procedures that are hindering desirable development. (Ordinance; amend Titles 32 and 33)

The City of Portland Ordains:

**Section 1.** The Council finds:

### **General Findings**

1. On June 26th, 2002, the City Council adopted Resolution 36080, which authorized the Mayor to develop a process to streamline and update the City's building and land use regulations and to improve regulatory-related procedures and customer services.
2. This process, the Regulatory Improvement Workplan, includes several phases, and a number of projects assigned to several bureaus.
3. On August 14, 2002, Council adopted the FY 2002-2003 Initial Regulatory Improvement Work Plan.
4. On August 13, 2003, Council adopted the FY 2003-2004 Regulatory Improvement Work Plan.
5. These workplans have been divided into several projects. The current proposal is part of Policy Package 2 and is referred to as Policy Package 2-B. It includes items from both the 2002-2003 and the 2003-2004 Regulatory Improvement Workplans. It also includes items that City Council directed staff to consider through their resolution adopted on September 10, 2003. These changes affect Title 17, Public Improvements, Title 32, Signs and Related Regulations and Title 33, Planning and Zoning.
6. The changes to Title 33 affecting short-term bicycle parking are to be implemented in conjunction with the parallel Ordinance authorizing changes to Title 17, Public Improvements.
7. On September 9, 2003, 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.
8. On October 28, 2003, the Planning Commission held a hearing on the proposal. Staff from the Bureau of Planning presented the proposal, and public testimony was received. The Planning Commission split up their discussion of the package and made a recommendation on the proposal for development on vacant lots, known as Policy Package 2-A. City Council adopted Policy Package 2-A on November 19, 2003.
9. On December 9, 2003 the Planning Commission held a work session to discuss the remaining items under the proposal and consider public testimony. The Commission voted to forward Policy Package 2-B to City Council.

10. On January 29, 2004, City Council held a hearing on the Planning Commission recommendation for Policy Package 2-B. Staff from the Bureau of Planning presented the proposal, and public testimony was received.
11. On February 4, 2004 City Council voted to adopt the changes in Policy Package 2-B, with an effective date of March 5, 2004.

### **Statewide Planning Goals Findings**

12. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. The following goals and policies are relevant and applicable to Policy Package 2-B.
13. **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:
  - On September 26, 2003, the Bureau of Planning sent notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of a Community Open House on October 8, 2003. The purpose of the open house was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff.
  - Also on September 26, 2003, the Bureau of Planning sent notice to all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of a Planning Commission public hearing on Policy Package 2. The hearing was also advertised in the Oregonian.
  - On September 30, 2003, the Bureau of Planning published a document titled, *2002-2003 and 2003-2004 Regulatory Improvement Workplan: Policy Package 2 Proposed Draft*. The report was made available to the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website for Regulatory Improvement.
  - On October 2, 2003, the Bureau of Planning sent a notice to 35 owners of CS and RX zoned properties in the Kenton Plan District informing them of the potential changes in allowed uses. This notice was sent to meet the requirements of ORS 227.186.
  - On October 8, 2003, the Bureau of Planning held a Community Open House at which bureau staff from the Bureau of Planning and the Office of Transportation were available to answer questions and copies of the Proposed Draft were available. Ten members of the community attended the open house.
  - On October 28, 2003, the Planning Commission held a public hearing during which citizens commented on Policy Package 2.
  - On January 29, 2004, the City Council held a public hearing on this proposal, during which citizens provided oral and written testimony.

14. **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 ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because development of the recommendations followed established city procedures for legislative actions.
15. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water, and land resources, including the handling of solid wastes. Most of the amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality.

One of the amendments in Policy Package 2-B is particularly supportive of Goal 6. The amendment will allow applicants to bring their sites into conformance with the City's Wellhead Protection regulations, (PCC 21.35) without having to upgrade nonconforming development on the site. This will help property owners to undertake the protection improvements that have a significant public benefit of protecting the City's backup and summer water supply.

16. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

All of the amendments support Goal 9 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

The following amendments are directly supportive of Goal 9:

- Exempt groundwater wellfield improvements from triggering nonconforming upgrades. This amendment allows property owners to make improvements to protect groundwater in certain areas of the city without having to also upgrade nonconforming development on their sites. It allows businesses to make changes that have a public benefit while eliminating any additional costs.
- Short-Term Bicycle Parking. These amendments provide an option for developers to pay into a fund to provide bicycle parking off-site instead of requiring the parking on-site. This allows for more flexibility in the design of buildings and the provision of short-term bicycle parking, especially in the case of developments built to the lot line.
- Changes to the 'a' overlay zone and city-wide R2 and R2.5 zones, including regulations for accessory dwelling units, duplexes and houses on small lots. The amendment to the accessory dwelling unit provision eliminates duplicative and confusing language for accessory dwelling units to help promote development of these units city-wide. Allowing duplexes by right in the R2.5 zone and allowing houses on small lots in more zones allows for the opportunity to develop a wider variety of housing in the city, while maintaining overall density goals.
- Awnings in Design Overlay zones. This amendment exempts simple awnings in the design overlay zones from Design Review. This allows businesses to avoid the time and expense of a Land Use Review.
- Required residential development in the Central City plan district. The current code requires that large additions to existing development must include a significant amount of residential

units. This amendment eliminates this requirement for additions to existing development, and applies it only to new development. The change eliminates a disincentive for existing businesses to expand and allows them to continue to operate and grow without an excessive burden.

- **Kenton plan district and vehicle sales.** This amendment allows some vehicle sales or leasing in the Kenton Plan District, by allowing up to 3,000 square feet of floor area to be dedicated to this use. Current provisions prohibit vehicle sales and leasing in the plan district. Adoption of the provision will allow a wider variety of businesses to operate in the plan district.
- **Type IIX Land Use Reviews and pre-application conferences.** This provision eliminates the requirement for Pre-application conferences for Type IIX Land Use Reviews, eliminating significant costs and time delays for these types of reviews, including many land divisions and planned developments.

17. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal as they foster the provision of housing in the City of Portland and therefore support Goal 10 and its policies:

- **Changes to the ‘a’ overlay zone and citywide R2 and R2.5 zones**, including regulations for accessory dwelling units, duplexes and houses on small lots. The amendment to the accessory dwelling unit provisions eliminates duplicative and confusing language for accessory dwelling units and allows greater flexibility for a variety of accessory dwelling units including detached units city-wide. The duplex provision provides for additional housing choice in the R2.5 zone. Allowing houses on small lots in more zones allows for the provision of a wider variety of detached housing options in the city, while maintaining overall density goals.
- **Type IIX Land Use Reviews and pre application conferences.** This amendment eliminates the requirement for Type IIX Land Use Reviews -- including Land Divisions and Planned Developments -- to have a pre-application conference. This removes a disincentive for many smaller land divisions, and helps to simplify the process for these land divisions to allow for increased housing.

One amendment will delete a housing requirement in portions of the Central City plan district when large additions are made to existing development. Housing will still be required as part of new development. Since implementation of this requirement in 1996, there has been no housing built as part of an addition. However, many new developments have included housing to the point where the City is on target to meet its 20 year housing goal in this area. Since this regulation has had no effect on the provision of housing in the area, and since it has been a disincentive to existing development to expand in the area, its elimination will not result in the reduction of housing units.

18. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. In general, the amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services.

One amendment fosters protection of the City’s public wells for drinking water in Northeast

Portland, by exempting improvements made to protect groundwater from triggering upgrades to nonconforming development.

19. **Goal 12, Transportation**, requires provision of a safe, convenient and economic transportation system. In general the amendments are consistent with this goal because, other than the amendments to the bicycle parking regulations, they do not change policy or intent of any of the existing regulations pertaining to transportation.

One amendment that is directly supportive of this goal is the amendment that offers developers in certain situations the option of paying into a short-term bicycle parking fund which will be used to place bicycle racks off-site rather than requiring it be on-site. In addition, the new provision no longer allows short-term bicycle parking to be placed in a building, which ensures that short-term bicycle parking is located to be visible to pedestrians and bicyclists, thus encouraging bicycle use for short trips.

### **Metro Urban Growth Management Functional Plan Findings**

20. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to Policy Package 2-B.
21. **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 city-wide analysis based on calculated capacities from land use designations. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development) and Goal 10 (Housing), several of the amendments in Policy Package 2-B foster economic growth, and facilitate the development of housing within the City, in compliance with this Title.
22. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. Generally, the amendments are consistent with this title because they do not change policy or intent of existing regulations relating to the amount of parking allowed. One amendment, however is specifically supportive of this title because it eliminates requirements for on-site parking for accessory dwelling units citywide.
23. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally the amendments are consistent with this title because they do not change policy or intent of existing regulations relating to affordable housing. One amendment specifically supports this amendment by changing the 'a' overlay zone and citywide R2 and R2.5 zones, including regulations for accessory dwelling units, duplexes, and small lot development. These standardize the requirements for accessory dwelling units citywide, which will encourage their development as an affordable housing option. Other changes allow duplexes and detached houses on small lots in more zones citywide. This allows greater opportunities for a variety of housing types while still maintaining overall density standards.

### **Portland Comprehensive Plan Goals Findings**

24. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.

25. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to Policy Package 2-B.
26. **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 policy or intent of existing regulations relating to metropolitan coordination.
27. **Goal 2, Urban Development**, calls for maintenance of 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 are aimed at updating and improving the City's land use regulations and procedures that hinder desirable development. By improving regulations that hinder desirable development, the City's land use regulations will better facilitate the development of housing and employment uses. The following amendments specifically support Goal 2 and its relevant policies by facilitating the development of housing and employment uses at appropriate locations and intensities:

- Changes to the 'a' overlay zone and citywide R2 and R2.5 zones, including regulations for accessory dwelling units, duplexes, and small lot development. These standardize the requirements for accessory dwelling units citywide, which will encourage their development as an affordable housing option. Other changes allow duplexes and detached houses on small lots in more zones citywide. This allows greater opportunities for a variety of housing types while still maintaining overall density standards.
  - Awnings in the Design Overlay zone. This amendment exempts certain simple awnings from design review. This will be of greatest advantage to small business owners. In many design zones including those in the Central City plan district, any exterior alteration is subject to design review, which creates time delays and expense for businesses. The exemption allows these businesses to create awnings meeting certain design standards and avoid a land use review.
  - Type IIX Land Use Reviews and pre application conferences. This amendment eliminates the requirement for Type IIX Land Use Reviews -- including Land Divisions and Planned Developments -- to have a pre-application conference. This removes a disincentive for many smaller land divisions, and helps to simplify the process for these land divisions to allow for increased housing.
28. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods.

The amendment: changing the 'a' overlay zone and citywide R2 and R2.5 zones, including regulations for accessory dwelling units, duplexes, and small lot development directly supports this goal. These changes clarify when accessory dwelling units are allowed in existing neighborhoods, while providing an option to increase overall housing units. Other changes allow duplexes in the R2.5 zone citywide; development standards of the R2.5 zone will apply to the duplexes ensuring their compatibility with adjoining single dwellings. These changes also allow

detached houses on small lots in more zones to greater situations citywide. This allows greater opportunities for a variety of housing types, while still maintaining overall density standards.

29. **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, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The following amendments are consistent with this goal since they foster the provision of housing in the City of Portland and therefore support Goal 10 and its relevant policies.

- Changes to the 'a' overlay zone and citywide R2 and R2.5 zones, including regulations for accessory dwelling units, duplexes, and small lot development. These standardize the requirements for accessory dwelling units citywide, which will encourage their development as an affordable housing option. Other changes allow duplexes and detached houses on small lots in more zones citywide. This allows greater opportunities for a variety of housing types while still maintaining overall density standards. The increase in housing variety will provide increasing affordability by reducing land costs for houses developed on small lots as well as by allowing duplexes in more situations.
- Type IIX Land Use Reviews and pre application conferences. This amendment eliminates the requirement for Type IIX Land Use Reviews -- including Land Divisions and Planned Developments -- to have a pre-application conference. This removes a disincentive for many smaller land divisions, and helps to simplify the process for these land divisions to allow for increased housing.

One amendment deletes a requirement from the Central City plan district that housing be included when there is a large addition to an existing building. Housing is still required as part of new development. Since implementation of this regulation in 1996, there has been no housing built as part of an addition. However, many new developments have incorporated housing to the point where the City is on target to meet 20 year housing goals in this area. Since this regulation has had no effect on the provision of housing in the area, and since it has been a disincentive to existing development expanding in the area, it's elimination will not result in the reduction of housing units.

30. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development.

In general, all of the amendments support Goal 5 because they update and improve City building and land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

Specifically, the following amendments support of Goal 5:

- Exempt groundwater wellfield improvements from triggering nonconforming upgrades. This amendment allows property owners to make improvements to protect groundwater in certain areas of the city without having to also upgrade nonconforming development on their sites. It allows businesses to make changes that have a public benefit while eliminating any additional costs.

- Short-Term Bicycle Parking. These amendments provide an option for developers to pay into a fund to provide bicycle parking off-site instead of requiring the parking on-site. This allows for more flexibility in the design of buildings and the provision of short-term bicycle parking, especially in the case of developments built to the lot line.
- Changes to the 'a' overlay zone and corresponding base zone changes citywide, including accessory dwelling units, duplexes and small lot development. These amendments allow for some regulations that were previously available only under the 'a' overlay zone to be applied city-wide. This allows alternative development such as duplexes and detached houses on small lots in the R2.5 and R2 zones. This provides flexibility to housing developers to meet a variety of market housing demands. This also eliminates duplicative and confusing regulations that currently apply to accessory dwelling units.
- Awnings in Design Overlay zones. This amendment exempts simple awnings in the design overlay zones from Design Review. This allows businesses to avoid the time and expense of a Land Use Review.
- Required residential development in the Central City plan district. The current code requires that large additions to existing development must include a significant amount of residential units. This amendment eliminates this requirement for additions to existing development, and applies it only to new development. The change eliminates a disincentive for existing businesses to expand and allows them to continue to operate and grow without an excessive burden.
- Kenton plan district and vehicle sales. This amendment allows some vehicle sales or leasing in the Kenton Plan District, by allowing up to 3,000 square feet of floor area to be dedicated to this use.. Current provisions prohibit vehicle sales and leasing in the plan district. Adoption of the provision will allow a wider variety of businesses to operate in the plan district.
- Type IIX Land Use Reviews and pre application conferences. This amendment eliminates the requirement for Type IIX Land Use Reviews -- including Land Divisions and Planned Developments -- to have a pre-application conference. This removes a disincentive for many smaller land divisions, and helps to simplify the process for these land divisions to allow for increased housing.

31. **Goal 6, Transportation**, calls for the development of 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 are consistent with this goal due to the following:

- Short-Term Bicycle Parking. This amendment offers developers in certain situations the option of paying into a short-term bicycle parking fund which will be used to place bicycle racks off-site rather than requiring it be on-site. In addition, the new provision no longer allows short-term bicycle parking to be placed in a building, which ensures that short-term bicycle parking is located to be visible to pedestrians and bicyclists, thus encouraging bicycle use for short trips.



- Changes to the ‘a’ overlay zone and corresponding base zone changes citywide, including accessory dwelling units, duplexes and small lot development. One provision of this amendment has eliminated additional parking spaces for accessory dwelling units. This establishes a consistent parking policy for these accessory units city-wide and will reduce excessive driveways and curbcuts.
32. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment.
- Exempting improvements to protect the Columbia Southshore groundwater wellfields from triggering the requirements to upgrade nonconforming development meets the Water Quality Policies for Interagency Cooperation (8.5) and Groundwater Protection (8.8). This change aids in the application of the Water Bureau’s program to protect city groundwater resources. Property owners who make improvements to meet the new Water Bureau requirements will not also have to provide additional upgrades to meet zoning code requirements. This amendment is consistent with the City’s policy to exempt certain types of improvements that contain a substantial public benefit..
33. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process.
34. **Goal 10, Plan Review and Administration**, is broken down into several policies and objectives. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. These amendments are supportive of Policy 10.10 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.
35. **Goal 12, Urban Design**, calls for the enhancement of 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. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban design.

The following amendments support Goal 12.

- Awnings in Design Overlay Zones. This amendment will support the provision of awnings that match previously approved design review on existing buildings without forcing the new awnings through an additional design review. This provision will help to insure consistent design for small awnings within the design overlay zone while eliminating the time and expense of subsequent design reviews which can often be an excessive burden to small businesses.
- Changes to the ‘a’ overlay and expansion of housing types allowed in the R2.5 and R2 zones. These amendments, such as the allowance for detached accessory dwelling units in the single

dwelling zones citywide, and the allowance for small lot detached houses in additional zones allows for the enhancement of design variety in neighborhoods while helping to protect the existing housing stock.

NOW, THEREFORE, the Council directs:

- a. Exhibit A, *2002-2003 and 2003-2004 Regulatory Improvement Workplan: Policy Package 2-B Recommended Draft*, dated December 30, 2003 is hereby adopted;
- b. Title 33, Planning and Zoning, is hereby amended as shown in Exhibit A, *2002-2003 and 2003-2004 Regulatory Improvement Workplan: Policy Package 2-B Recommended Draft*, dated December 30, 2003;
- c. Title 32, Signs and Related Regulations, is hereby amended as shown in Exhibit A, *2002-2003 and 2003-2004 Regulatory Improvement Workplan: Policy Package 2-B Recommended Draft*, dated December 30, 2003; and
- d. The commentary and discussion in Exhibit A, *2002-2003 and 2003-2004 Regulatory Improvement Workplan: Policy Package 2-B Recommended Draft*, dated December 30, 2003 are hereby adopted as legislative intent and further findings.

Passed by the Council, February 04, 2004

Mayor Vera Katz

Phil Nameny, Bureau of Planning  
January 15, 2004

**GARY BLACKMER**  
Auditor of the City of Portland

By /S/ Susan Parsons

Deputy

BACKING SHEET INFORMATION

AGENDA NO. ~~90~~ 98-2004

ACTION TAKEN: JANUARY 29, 2004 PASSED TO SECOND READING  
FEBRUARY 04, 2004 9:30 AM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 178172

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
FRANCESCONI	X	
LEONARD	===	===
SALTZMAN	X	
STEN	===	===
KATZ	X	