

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1102

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Comprehensive Plan and Map Revisions Related to Adoption and Implementation of the Regulatory Improvement Package 3 in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On January 4, 2007, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1088.
- f. Since the adoption of Ordinance 1088, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.
- h. The City Council adopted the land use code, plan and map amendments set out in Section 1 below and attached as Exhibits 1 and 2. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 and 2, effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Effective / Hearing Date
1	Ordinance amending Titles 1 and 33 to Improve Land Use Regulations (PDX Ord. #181357)	11/10/07
2	Regulatory Improvement Code Amendment Package 3	8/22/07

Section 2. In accordance with ORS 215.427(3), the changes resulting from Section 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION: November 8, 2007



BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*

Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Department of Community Services

EXHIBIT LIST FOR ORDINANCE

1. Ordinance amending Titles 1 and 33 to Improve Land Use Regulations (**PDX Ord. #181357**)
2. Regulatory Improvement Code Amendment Package 3

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

ORDINANCE No. 181357

Improve land use regulations through the Regulatory Improvement Code Amendment Package 3 (RICAP 3) (Ordinance; Amend Title 1 and Title 33)

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 Summer of 2006, staff from the Planning Bureau and the Bureau of Development Services (BDS) worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to develop a workplan for the third Regulatory Improvement Code Amendment Package (RICAP 3). The RISAT includes participants from city bureaus and the community and advises staff. They also communicate information about each RICAP to those they represent and invite comment.
3. On October 10, 2006, the Planning Commission held a hearing to discuss and take testimony on the RICAP 3 workplan. The workplan consisted of 38 issues proposed for further research in order to find potential solutions. The Planning Commission added three items to the staff-proposed 38 issues to address resource violations in the Pleasant Valley natural resource overlay zone, access easements on private streets in the Cascade Station plan district, and vehicle sales, display and storage along the light rail alignment in the Central City plan district.
4. During the Winter of 2006 and Spring of 2007, Planning staff worked with BDS and RISAT to address the 41 issues in the workplan. In addition, another item was added later at the request of BDS to address loading spaces in the Central City plan district, for a total of 42 issues.
5. After preliminary work on all of the issues, staff determined that several items did not warrant an amendment to the code. The amendments to Title 1, General Provisions and Title 33, Planning and Zoning in RICAP 3 addressed 35 of the 42 issues initially included. Planning Commission forwarded 33 of the items to City Council.
6. On May 30, 2007, notice of the proposed RICAP 3 code amendments was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by ORS 197.610.
7. On June 22, 2007, notice 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 3.
8. There were many comments in response to the notice; almost all were about regulations affecting recycling operations and Waste-Related Uses. The comments from a number of businesses that would be affected by these amendments, as well as from many citizens concerned about the effect of the changes on their neighborhoods, made it clear to staff that these proposed amendments were not ready for Planning Commission review.

9. On July 24, 2007, the Planning Commission held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 3 (RICAP 3), Proposed Draft Report*. Staff presented the proposal and public testimony was received.
10. Staff recommended, and the Planning Commission agreed, to remove the amendments related to recycling operations and Waste-Related Uses from consideration as part of RICAP 3. The Planning Commission did hear public testimony on these amendments, and agreed that staff needs more time to study the recycling and waste industries, their issues, and the terminology related to them.
11. The Commission voted to recommend that City Council adopt the staff recommendation, after removing the amendments related to recycling operations and Waste-Related Uses.
12. On September 12, 2007, City Council held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 3 (RICAP 3), Recommended Draft Report*. Staff presented the proposal and public testimony was received.
13. On September 19, 2007, Council voted to adopt the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 3 (RICAP 3), Recommended Draft Report* and amend the Zoning Code as shown in the report.

Findings on Statewide Planning Goals

14. 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.
15. **Goal 1, Citizen Involvement**, requires the 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:
 - During 2006 and 2007, staff from Planning and BDS met monthly with the RISAT to review the selections proposed for the Regulatory Improvement Code Amendment Package 3 (RICAP 3) workplan and the proposed amendments to the Zoning Code.
 - On August 11, 2006, notice 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 for the RICAP 3 workplan.
 - On August 17, 2006, the *Regulatory Improvement Code Amendment Package 3 – 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 October 10, 2006, the Planning Commission held a public hearing on the RICAP 3 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 on the 38 issues listed in the workplan, plus three additional items.
 - On June 22, 2007, notice 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 3.
 - On June 25, 2007 the *Regulatory Improvement Code Amendment Package 3 Proposed Draft Report* 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 June 29, 2007 notice was sent to all owners of property zoned CS, CG, CX, EG1, EG2, EX, IG1, IG2 and IH and to owners of 5 properties near the light rail transit alignment in the Goose Hollow subdistrict of the Central City plan district. This notice met the statutory requirements of Measure 56 requiring that property owners be notified of changes affecting the uses allowed on a property.
 - On July 24, 2007, the Planning Commission held a public hearing to discuss and take testimony on the report. Although they agreed with the staff recommendation to remove amendments related to recycling operations and Waste-Related Uses from consideration as part of RICAP 3, they did accept testimony on the subject.
 - On September 12, 2007, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.
16. **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.
 17. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. Amendments addressing stormwater outfalls in environmental overlay zones support this goal by clarifying regulations without changing policy or intent. The intent of the standards for stormwater outfalls in environmental zones was to allow each site to have a single outfall pipe no larger than 4 inches in diameter. This amendment clarifies the original intent, and will prevent situations where a number of smaller pipes might be substituted for one larger pipe. In addition, these amendments will remove a sunset clause designed to automatically delete the regulations on October 1, 2007. Removal of the sunset clause will allow monitoring of the outfall standards to continue, as directed by this ordinance. Amendments that clarify regulations for radio frequency (RF) facilities in historic districts also support this goal.
 18. **Goal 7, Areas Subject to Natural Disasters and Hazards**, requires the protection of people and property from natural hazards. The amendments support this goal because they make allowance for transferring density from sites within the 100-year floodplain of Johnson Creek to sites outside the floodplain. This will encourage development to occur outside of areas subject to higher risk of natural disaster.
 19. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they clarify under what circumstances open spaces that provide passive and recreational opportunities are required in the Gateway Plan District.
 20. **Transportation**, requires provision of a safe, convenient, and economic transportation system. The amendments are consistent with this goal, because they do not change the policy or intent of any of the existing regulations pertaining to transportation.

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 the proposed 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 do not result in increases in jobs, housing units, or density. For the most part, they clarify existing regulations.

Findings on Metro Urban Growth Management Functional Plan

21. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 3 amendments.
22. **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.
23. **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 the Statewide Land Use Goals 6 and 7. The findings for Statewide Goal 7 are incorporated here to show that the amendments are consistent with this Title.

Findings on Portland's Comprehensive Plan Goals

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 RICAP 3.
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 and regional goals.
27. **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. These agencies include Metro, Multnomah County Planning, and the Oregon Department of Land Conservation and Development.

28. **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 are aimed at updating and improving 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.

29. **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 do not change the policy or intent of existing regulations relating to the stability and diversity of neighborhoods. A specific amendment that supports Goal 3 is Item 3, which clarifies how building heights are measured when garages have gambrel or other more unusual roof shapes. This amendment also establishes an overall height limit for detached garages that are located within setbacks. This allows for more flexibility in the placement of structures on lots while also emphasizing compatibility with neighboring properties.
30. **Goal 5, Economic Development**, calls for the 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. All of the amendments are consistent with Goal 5 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.
31. **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 are consistent with this goal because they do not change the policy or intent of existing regulations relating to transportation.

The following amendments are directly supportive of Goal 6. See also findings for Statewide Planning Goal 12, Transportation.

- **Bike Parking Fund.** This amendment supports Goal 6 by clarifying when payment can be made into the City's bike parking fund in lieu of providing parking on-site. The fund provides an alternative at locations where it is difficult or impossible to provide bike parking on-site. Rather than waiving the requirement, this alternative allows payment into a fund that is used to construct bike parking facilities near the site.
 - **Parking lot landscaping and circulation from alleys.** By allowing parking space access directly onto an alley, this amendment encourages the use of alleys as an alternative to parking located next to a sidewalk. This is conducive to developing a streetscape that is oriented more towards pedestrians and transit users rather than cars.
32. **Goal 8, Environment**, calls for the maintenance and improvement of the quality of Portland's air, water, and land resources, as well as the protection of neighborhoods and business centers from noise pollution. Amendments addressing stormwater outfalls in environmental overlay zones support this goal by clarifying regulations without changing policy or intent. The intent of the standards for stormwater outfalls in environmental zones was to allow each site to have a single outfall pipe no larger than 4 inches in diameter. This amendment clarifies the original intent, and will prevent situations where a number of smaller pipes might be substituted for one larger pipe. In addition, these amendments will remove a sunset clause designed to automatically delete the regulations on

October 1, 2007. Removal of the sunset clause will allow monitoring of the outfall standards to continue, as directed by this ordinance.

33. **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 followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement. The amendments also support this goal by clarifying when the Neighborhood Contact requirement applies, and what steps are necessary.
34. **Goal 10, Plan Review and Administration**, includes 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.

All of the 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 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 calls for enhancing the City's identity through protection of Portland's significant historic resources. The amendment addressing exemptions for radio frequency (RF) facilities in design and historic districts supports this policy by clarifying the regulations that apply to these facilities in these districts.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment Package 3 (RICAP 3): Recommended Draft*, dated August 23, 2007;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 3 (RICAP 3): Recommended Draft*, dated August 23, 2007;
- c. Amend Title 1, General Provisions, as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 3 (RICAP 3): Recommended Draft*, dated August 23, 2007;
- d. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 3 (RICAP 3): Recommended Draft*, dated August 23, 2007, as legislative intent and further findings;
- e. Direct staff to continue monitoring the effect of Section 33.430.180, Standards for Stormwater Outfalls, for two years. The monitoring will determine whether adoption of the standards results in a significant increase in the number of stormwater outfalls directed into streams; and
- f. Direct staff to monitor the effect of the other amendments as part of their overall monitoring program.

Passed by the Council: October 10, 2007

GARY BLACKMER

Auditor of the City of Portland

By /S/ Susan Parsons

MAYOR TOM POTTER

Prepared by:
Rodney Jennings Bureau of Planning
August 10, 2007

Deputy

BACKING SHEET INFORMATION

AGENDA NO. 1108, 1244-2007

ACTION TAKEN: SEPTEMBER 12, 2007 CONTINUED TO OCTOBER 10, 2007
2:00 PM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 181357

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
ADAMS	X	
LEONARD	X	
SALTZMAN	X	
STEN	X	
POTTER	X	

Regulatory Improvement Workplan



Regulatory Improvement Code Amendment Package 3

(RICAP 3)

Recommended Draft Report

August 22, 2007



City Council will hold a public hearing on this report on:

Wednesday, September 12, 2007

2:00 PM

Council Chambers

City Hall

1221 SW 4th Ave

Portland, OR 97204

The Bureau of Planning is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

For more information about the **Regulatory Improvement Code Amendment Package 3** please contact:

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A digital copy of this report is at:
www.portlandonline.com/planning/index.cfm?c=36743.