

ORDINANCE No. 18 0619

Improve land use regulations through the Regulatory Improvement Code Amendment Package 2
(Ordinance; amend 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. More information on the Regulatory Improvement Workplan is in Appendix A of Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft Report*, dated October 26, 2006.
3. During the Fall of 2005, Planning and BDS staff worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to propose the second Regulatory Improvement Code Amendment Package (RICAP 2) workplan. The RISAT includes participants from city bureaus and the community and advises staff. They also communicate information about each RISAT to those they represent and invite comment.
4. On December 13, 2005, the Planning Commission held a hearing to discuss and take testimony on the RICAP 2 workplan. The workplan consisted of 32 issues proposed for further research in order to find potential solutions. The Planning Commission voted to approve the workplan as presented by Planning staff.
5. During the spring of 2006, Planning staff worked with BDS and members of the RISAT to address the 32 issues in the workplan. In addition, two items, a clarification for the South Waterfront Urban Design Framework and a clarification to property line adjustment regulations, were added to the workplan, resulting in 34 items to be addressed.
6. After preliminary work on the 34 issues, staff proposed deferring several items to future RICAPs to allow time for further research. Staff also felt that several other items did not warrant a code amendment. The resulting amendments to Title 33, Planning and Zoning, address 19 of the 34 issues identified in the workplan.
7. On July 21, 2006, notice of the proposed RICAP 2 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.
8. On October 10, 2006, the Planning Commission held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Proposed Draft Report*. Staff presented the proposal and public testimony was received. The Commission voted to

recommend that City Council adopt the staff recommendation with the exception that they directed staff to continue to research the issue on Zoning Map Amendments.

9. On November 15, 2006, City Council held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Recommended Draft Report*. Staff presented the proposal and public testimony was received.
10. On November 22, 2006, Council voted to adopt the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Recommended Draft Report* and amend the Zoning Code as shown in the report.

Findings on Statewide Planning Goals

11. 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.
12. **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 2005 and 2006, staff from Planning and BDS met monthly with the RISAT to review the selections proposed for the Regulatory Improvement Code Amendment Package 2 (RICAP 2) workplan and the proposed amendments to the Zoning Code.
 - On November 10, 2005, 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 2 workplan.
 - On November 21, 2005, the *Regulatory Improvement Code Amendment Package 2 – 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 December 13, 2005, the Planning Commission held a public hearing on the RICAP 2 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 32 issues listed in the workplan.
 - 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 proposed code changes for RICAP 2.
 - On August 9, 2006 the *Regulatory Improvement Code Amendment Package 2 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 October 10, 2006, the Planning Commission held a public hearing to discuss and take testimony on the report. At the close of the hearing, the Planning Commission recommended that Council adopt staff's proposal with the exception that they directed staff to continue to research the issue on Zoning Map Amendments.
 - On November 15, 2006, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.

13. **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.
14. **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. Clarifying soil disturbance expectations when nuisance and prohibited plants are removed from environmental overlay zones, and correcting a reference in the approval criteria for the removal of a historic designation, support this goal because they provide clarification to existing regulations pertaining to natural resources and historic areas, without changing policy or intent.
15. **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:

- Amendments to Mixed Commercial (CM) Zone. These amendments allow greater flexibility for existing businesses to expand and to convert to other uses.
 - Minimum setbacks in Commercial Zones. This amendment reduces the minimum setbacks in commercial zones to allow greater flexibility for the siting of buildings, especially along Transit Streets.
 - Trade School Use Classification. Clarifying that certain Trade Schools are in the Industrial Service use category allows these uses to locate in industrial areas, giving them more appropriate options for locations where there will not be conflicts with neighboring businesses.
16. **Goal 12, 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 following amendments are directly supportive of Goal 12:

- Maximum Transit Street Setbacks for Institutions. This amendment directly supports Goal 12 by allowing the setbacks to be modified through the conditional use process instead of through an adjustment. The conditional use review contains a more comprehensive review of transportation impacts than the adjustment review.
- Minimum setbacks in Commercial Zones. This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
- Garage entrance setbacks in Commercial Zones. This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood. Clear sidewalks are advantageous to pedestrians, and so support walking and transit use.

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

17. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 2 amendments.
18. **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. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development), several of the amendments in RICAP 2 foster economic growth within the City, in compliance with this Title.
19. **Title 4, Industrial and Other Employment Areas**, limits retail and office development in Employment and Industrial areas to those that are most likely to serve the needs of the area and not draw customers from a larger market area. One amendment specifically complies with this Title by clarifying that trade schools where industrial vehicles and equipment are operated are classified as Industrial Service uses, thereby allowing the training facilities to locate in proximity to industrial employers.

Findings on Portland's Comprehensive Plan Goals

20. 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.
21. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to RICAP 2.
22. **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.
23. **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.

24. **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. The following amendments specifically support Goal 2 and its relevant policies by facilitating urban development and employment at levels that support transit:

- Amendments to Mixed Commercial (CM) Zone. These amendments allow greater flexibility for existing businesses to expand and to convert to other uses.
- Minimum setbacks in Commercial Zones. This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
- Trade School Use Classification. This amendment clarifies that trade schools where industrial vehicles and equipment are operated are classified as Industrial Service uses, thereby allowing the training facilities to locate in proximity to industrial employers.

25. **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.

Specifically the following amendments support Goal 3:

- Garage entrance setbacks in Commercial Zones. This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood.
- Maximum Transit Street Setbacks for Institutions. This amendment allows setbacks from Transit Streets to be modified through a conditional use review instead of through an adjustment. It will increase the compatibility of new institutional structures or campuses with single-dwelling neighborhoods. Increasing building compatibility and pedestrian circulation make a neighborhood more attractive and livable, and thus more stable.

26. **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.

Specifically, the following amendments support Goal 5:

- Amendments to Mixed Commercial (CM) Zone. These amendments allow greater flexibility for existing businesses to expand and to convert to other uses, encouraging the growth of small

community-based businesses. They also will help existing businesses remain and expand in Portland.

- **Minimum setbacks in Commercial Zones.** This amendment reduces the minimum setbacks in commercial zones to allow greater flexibility for the siting of buildings, especially along Transit Streets.
 - **Trade School Use Classification.** Clarifying that certain Trade Schools are in the Industrial Service use category allows these uses to locate in industrial areas, giving them more appropriate options for locations where there will not be conflicts with neighboring businesses.
27. **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.

- **Maximum Transit Street Setbacks for Institutions.** This amendment directly supports Goal 6 by allowing the setbacks to be modified through the conditional use process instead of through an adjustment. The conditional use review contains a more comprehensive review of transportation impacts than the adjustment review.
 - **Minimum setbacks in Commercial Zones.** This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
 - **Garage entrance setbacks in Commercial Zones.** This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood. Clear sidewalks are advantageous to pedestrians, and so support walking and transit use.
28. **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. One amendment, addressing environmental overlay exemptions, supports this goal by providing clarification to existing regulations pertaining to natural resources and erosion, without changing policy or intent.
29. **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.
30. **Goal 10, Plan Review and Administration,** includes several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria of specific land use reviews reflect the findings that must be made to approve the request. 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.

Several amendments specifically support Policy 10.9 by clarifying and addressing the approval criteria for one type of Historic Review and for Conditional Use Reviews for Institutional uses.

31. **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 historic designation removal review supports this policy by providing clarification to existing regulations pertaining to historic resources, without changing policy or intent.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26, 2006;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26, 2006; and
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26 2006, as legislative intent and further findings.

Passed by the Council: NOV 22 2006

GARY BLACKMER

Auditor of the City of Portland

By



Prepared by:

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October 17, 2006

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