

ORDINANCE No. 184016 As Amended

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5b (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. On March 10, 2010 City Council voted to adopt the previous package of amendments RICAP 5. They amended the Portland Zoning Code and Official Zoning Maps.
3. City Council also directed staff to take two items back to the Planning Commission. One of the items relates to development on Lot Remnants (Item #1), and the other involves standards for retaining walls (Item #2).
4. Between March 10, 2010 and the time work began on this project, five other issues arose which warranted immediate attention and so were added to this project. These items include two that follow up on items in RICAP 5b (Item #3, Green Energy and Use, and Item #4, Historic Design Review for Solar Panels). Also included is an item directed by Council in a separate action (Item #6, Design Review in the Northwest Plan District) and two additional items (Item #5, Historic Design Review for Vents, and Item #7, Pending Designation of Irvington Historic District).
5. On April 21, 2010 notice of the proposed action was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. DLCD received the notice later that day.
6. On April 25, 2010, the *RICAP 5b Discussion Draft* was published.
7. On April 30, 2010, *Excerpts from RICAP 5b Discussion Draft—Report for Historic Landmarks Commission* was published. It included only Item #5 (Historic Design Review for Vents) and Item #7 (Pending Designation of Irvington Historic District), and was somewhat revised from the April 25 *RICAP 5b Discussion Draft*.
8. On May 10, 2010, staff from the Bureau of Planning and Sustainability briefed the Portland Historic Landmarks Commission on RICAP 5b, with the focus on Items #5 and #7. The Landmarks Commission supported the changes proposed in the *Discussion Draft*.
9. On May 28, 2010, the *RICAP 5b Proposed Draft* was published. It was also posted on the Bureau website.
10. On May 21, notice of the Planning Commission hearing on RICAP 5b was mailed to 804 people, including all neighborhood and business associations, and all those who had requested notice. The notice also announced the availability of the *RICAP 5b Proposed Draft*.
11. On June 22, 2010, the Planning Commission held a hearing on the proposal. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received. The Planning Commission voted to forward RICAP 5b to City Council.

12. On June 24, 2010, the *RICAP 5b Recommended Draft* was published. It was also posted on the Bureau website.
13. On June 25, 2010, notice of the City Council hearing on RICAP 5b was mailed to 738 people. The notice also announced the availability of the *RICAP 5b Recommended Draft*.
14. On July 15, 2010, City Council held a hearing on the Planning Commission recommendation for RICAP 5b. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
15. On July 21, 2010, City Council voted to adopt the changes in RICAP 5b.

## Findings on Statewide Planning Goals

16. 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.
17. **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:
  18. The Bureau of Planning maintained and updated as needed a project web site that included basic project information, announcements of public events, project documents and staff contact information.
  19. On May 10, 2010, staff from the Bureau of Planning and Sustainability briefed the Portland Historic Landmarks Commission on RICAP 5b, with the focus on Items #5 [(Historic Design Review for Vents) and Item #7 (Pending Designation of Irvington Historic District)].
  20. On May 28, 2010, the RICAP 5b Proposed Draft was published. It was also posted on the Bureau website.
  21. On May 21, 2010, notice of the Planning Commission hearing on RICAP 5b was mailed to 804 people, including all neighborhood and business associations, and all those who had requested notice. The notice also announced the availability of the RICAP 5b Proposed Draft.
  22. On June 22, 2010, the Planning Commission held a hearing on the proposal. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
  23. On June 24, 2010, the *RICAP 5b Recommended Draft* was published. It was also posted on the Bureau website.
  24. On June 25, 2010, notice of the City Council hearing on RICAP 5b was mailed to 738, people. The notice also announced the availability of the RICAP 5b Recommended Draft.
  25. On July 15, 2010, City Council held a hearing on the Planning Commission recommendation for RICAP 5b. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
26. **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 the proposal provides area-specific implementing actions for the potential Irvington Historic District to guide land use activity there within the framework of the City's adopted Comprehensive Plan. The amendments also 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.

27. **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. The amendments support this goal because the amendments in anticipation of Irvington's designation as a Historic District will provide greater protection to structures in the district than are currently available. In addition, the amendments pertaining to solar panels and mechanical vents in Historic Districts create an avenue for the implementation of desired energy technology, but with limits that maintain the integrity of the historic resources.
28. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments support this goal because allowing lot remnants of sufficient size to be developed increases the supply of land available for housing. See also findings for Portland Comprehensive Plan Goal 4, Housing and Metro Title 1.
29. **Goal 12, 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 regulations 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 proposed amendments are minor changes and clarifications to the Zoning Code, and will not increase development intensity in a manner that will be inconsistent with the function or classification of existing transportation facilities or increase automobile traffic. There are no changes proposed to what uses are allowed, to the types or density of land uses, or to building heights or FARs.

### Findings on Metro Urban Growth Management Functional Plan

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 slightly increase the development capacity of the city by allowing development on Lot Remnants of sufficient size. See also findings under Comprehensive Plan Goal 4 (Housing).

### Findings on Portland's Comprehensive Plan Goals

31. Only the Comprehensive Plan goals addressed below apply.
32. **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 and Multnomah County.
33. **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 allowing development on Lot Remnants of sufficient size will increase the opportunities for housing.

34. **Policy 3.4, Historic Preservation**, calls for the preservation and retention of historic structures and areas throughout the city. The amendments proposed because of the potential Irvington Historic District support this policy.
35. **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 by allowing development on Lot Remnants of sufficient size, they increase the opportunities for housing development. This will enhance Portland's role as the center of the region's housing market. See also the findings for Statewide Planning Goal, Goal 10, Housing and for Metro Title 1.
36. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the city. The amendments support this goal because the amendments clarify that Small Scale Energy Production is accessory regardless of where the power is used, which will make installing such facilities more attractive to individuals and businesses. These amendments also allow Small Scale Energy Production in the OS zone, removing a barrier to green energy in the OS zone. By making Utility-Scale Energy Production a conditional use in the OS and RF zones, it allows such facilities to be considered at such locations; currently, they are prohibited. This will make it easier and more attractive to individuals and businesses to install such facilities. The amendments exempting vents from Historic Design Review is designed specifically to encourage homeowners to replace furnaces and hot water heaters with more energy-efficient models by removing the barrier of Historic Design Review.
37. **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.
38. **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 by being written clearly and concisely. The amendments related to Lot Remnants apply to many situations citywide, as do the Green Energy and Use amendments. The amendments related to Historic Design Review of solar panels and vents apply to all Historic Districts and Historic Landmarks, while the two area-specific amendments—one for the Design Review in Northwest and one for the pending Irvington Historic District—apply to very large areas.
39. **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. The amendments support this goal because the amendments in anticipation of Irvington's designation as a Historic District will provide greater protection to structures in the district than are currently available. In addition, the change of most design reviews in the Northwest plan district from Type II reviews to Type III will increase the notification area and the amount of time citizens have to review development proposals, resulting in better design in the area.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment Package 5b, Recommended Draft*, dated June 2010;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 5b, Recommended Draft*, dated June 2010;
- c. Adopt the commentary in Exhibit A, *Regulatory Improvement Code Amendment Package 5b, Recommended Draft*, dated June 2010 as legislative intent and as further findings;
- d. If any section, subsection, sentence, clause, phrase, diagram 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 and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Section 2. The amendments to the Zoning Code included as Item 7, Pending Designation of Irvington Historic District, in Exhibit A, *Regulatory Improvement Code Amendment Package 5b, Recommended Draft*, will be effective on January 2, 2011, in anticipation of listing of the Irvington Historic District on the National Register of Historic Places by the National Park Service, U.S. Department of the Interior, by December 1, 2010 . All other Zoning Code amendments will be effective 30 days after adoption by City Council.

Section 3. In the event that the National Park Service does not list the Irvington Historic District by December 1, 2010, the Bureau of Planning and Sustainability is directed to return to City Council before January 2, 2011 with an ordinance to extend the effective date of the amendments to the Zoning Code included as Item 7, Pending Designation of Irvington Historic District, in Exhibit A, *Regulatory Improvement Code Amendment Package 5b, Recommended Draft*.

Passed by the Council: JUL 21 2010

Mayor Adams  
Prepared by: J. Richman  
Date Prepared: June 9, 2010

LaVonne Griffin-Valade  
Auditor of the City of Portland

By

  
Deputy

1037 = 1071

✓140

Agenda No. **ORDINANCE NO. 184016** As Amended  
Title

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5b (RICAP 5b) (Ordinance; Amend Title 33)

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Sam Adams</b>	CLERK USE: DATE FILED <u>JUL 09 2010</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Adams <i>Amey Davis</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland  By: <u><i>J. Fall</i></u> Deputy
<b>BUREAU APPROVAL</b> Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>SA. by Susan Anderson</i> Prepared by: Jessica Richman Date Prepared: July 7, 2010	<b>ACTION TAKEN:</b>  <b>As Amended</b> <b>JUL 15 2010 PASSED TO SECOND READING / JUL 21 2010 9:30 A.M.</b>
Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date <b>July 15, 2010; 2:00 pm</b>	
City Attorney Approval <i>ksbeaumont</i>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input checked="" type="checkbox"/> Start time: <u>2:00</u>  Total amount of time needed: <u>1 hr</u> (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <u>10 mn.</u> (for presentation, testimony and discussion)

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