

Ordinance No. 179980

Amend Title 33, Planning and Zoning, to update and improve land use regulations and procedures through the Regulatory Improvement Code Amendment Package 1 (RICAP 1). (Ordinance; Amend Title 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. On August 13, 2003, Council adopted the FY 2003-2004 Regulatory Improvement Workplan and directed the Bureau of Planning (BOP) and the Bureau of Development Services (BDS) to take over the responsibility of coordinating future regulatory improvements.
3. On October 13, 2004, staff from BOP and BDS presented City Council with the *Regulatory Improvement Workplan: Progress Report and Process Update* detailing the accomplishments during the 2002-2004 time frame. Staff also presented a new process for coordinating future regulatory improvement workplans, which Council accepted.
4. The new workplan process tracks requests for improvements with an online database and establishes an ongoing stakeholder advisory group. The new process also combines the old Code Maintenance and Policy Package legislative projects into one project, the Regulatory Improvement Code Amendment Package (RICAP).
5. During 2004, BOP staff created the online database to track requests for improvement to codes and processes. This database was made available to the public in December 2004.
6. In late 2004, BOP and BDS established the Regulatory Improvement Stakeholder Advisory Team (RISAT), including participants from city bureaus and the community. This group advises staff reviewing the requests for regulatory improvement in the database.
7. During the spring of 2005, BOP and BDS staff worked with the RISAT to prioritize the items in the database, and proposed the first Regulatory Improvement Code Amendment Package (RICAP) workplan.
8. On June 23, 2005, the Planning Commission held a hearing to discuss and take testimony for the RICAP 1 workplan. The workplan consisted of 46 issues proposed for further research in order to find potential solutions. The Planning Commission voted to approve the workplan as presented by Planning staff.
9. During the summer 2005, Planning staff worked with BDS and members of the RISAT to address the 46 issues in the workplan.

10. Three of the 46 issues are being deferred to future workplans, and one issue has been resolved through a separate legislative package. The resulting code language addresses 42 of the 46 issues identified in the workplan.
11. The RICAP 1 package contains code amendments that affect Title 33, Planning and Zoning.
12. On October 26, 2005, notice of the proposed RICAP 1 code amendments was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
13. On December 13, 2005, the Planning Commission held a hearing on the code language proposed under the RICAP 1 workplan. BOP staff presented the proposal and public testimony was received. The Commission voted to forward the staff recommendations for the package to City Council with only minor changes.
14. On March 1, 2006, City Council held a hearing on the Planning Commission recommendation for the RICAP 1 Code Language. BOP staff presented the proposal and public testimony was received.
15. On March 8, 2006, Council voted to adopt the amendments to the Zoning Code in RICAP 1.

Statewide Planning Goals Findings

16. 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 Regulatory Improvement Code Amendment Package 1 (RICAP 1).
17. **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:
 - On August 13, 2003, the City Council voted to adopt the 2003-2004 Regulatory Improvement Workplan. This workplan included a directive for the Bureau of Planning (BOP) and the Bureau of Development Services (BDS) to take over the responsibility to coordinate the implementation of future regulatory improvements.
 - In November 2004, staff from BOP and BDS established a Regulatory Improvement Stakeholder Advisory Team (RISAT). Members are made up of a variety of citizens representing business, downtown, and neighborhood interests as well as the Development Review Advisory Committee.
 - In December 2004 an online database to allow employees and the public to view and make regulatory improvement suggestions was made available through the Bureau of Planning's website.
 - On April 25, 2005, BOP staff attended the City-Wide Land Use Group meeting to inform them of the new database and the establishment of the Regulatory Improvement Stakeholder Advisory Team.

- During 2005, staff from BOP and BDS met monthly with the RISAT to review the selections proposed for the Regulatory Improvement Code Amendment Package 1 (RICAP 1) workplan and subsequent code language. Staff requested the RISAT to disseminate the information about RICAP 1 amongst their constituents to invite comment.
 - On June 14, 2005, BOP sent notice 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 1 workplan.
 - On June 23, 2005, staff from BOP published the *Regulatory Improvement Code Amendment Package 1 – Proposed Workplan*. 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 July 12, 2005, the Planning Commission held a public hearing on the RICAP 1 Proposed Workplan during which citizens testified on several issues. The Planning Commission voted to adopt the workplan, directing BOP staff to work on code amendments on the 46 issues listed in the workplan.
 - On November 10, 2005, BOP sent notice 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 1.
 - On November 15, 2005 staff from BOP published the *Regulatory Improvement Code Amendment Package 1: Proposed Draft – Code Language*. 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 during which citizens testified. At the close of the hearing, the Planning Commission recommended approval of staff's proposal with minor changes.
 - On March 1, 2006, the City Council held a public hearing on the proposal, during which citizens provided oral and written testimony.
18. **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, while also improving the clarity and comprehensibility of the City's codes.
19. **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. In general, the amendments are supportive of this goal because they provide clarification to existing regulations pertaining to open space, scenic and historic areas, and natural resources, without changing policy or intent. Specifically, an amendment to the Historic Designation Review section clarifies the application of approval criteria to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District.

20. **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:

- **Upgrades to Nonconforming Development.** This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site.
- **Radio Frequency Transmission Facilities.** This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- **Hollywood Plan District Drive-Through.** This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district.
- **Tree Preservation Plans and Land Divisions.** A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.
- **Final Plat Review Process.** The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

21. **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.

The following amendments are directly supportive of Goal 10:

- **Buffer Overlay Zone Landscaping.** This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods.
- **East Corridor Plan District Parking Requirements.** This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- **East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR).** This amendment lowers some minimum FARs in these districts allowing for a greater variety

of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.

- **Final Plat Review Process.** The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

22. **Goal 12, Transportation,** requires provision of a safe, convenient and economic transportation system. 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 transportation.

The following amendments are directly supportive of Goal 12: :

- **East Corridor Plan District Parking Requirements.** This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- **Ownership Provisions for Alleys in Single Dwelling Zones.** This amendment clarifies city policy for when alleys need to be publicly owned, privately owned, or placed in an easement.
- **Pedestrian Standards.** This collection of amendments clarifies the City's existing policy for requiring pedestrian connections from adjacent streets, to encourage a safe and convenient pedestrian network on sites.

Metro Urban Growth Management Functional Plan Findings

23. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 1 – Code Language.
24. **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 RICAP 1 foster economic growth, and facilitate the development of housing within the City, in compliance with this Title.
25. **Title 2, Regional Parking Policy,** calls for more compact development by establishing region-wide parking policies. One amendment specifically addresses this title by providing greater flexibility to the parking regulations in the East Corridor plan district, while maintaining the plan district's intended vehicle area limitations.
26. **Title 7, Affordable Housing,** recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally the proposed amendments are consistent with this Title because they do not change policy or intent of existing regulations relating to affordable housing, including those listed as being in compliance with Statewide Planning Goal 10 (Housing). The Final Plat Review Process amendment specifically

supports this Title by clarifying and simplifying the final plat process. This amendment removes unwanted barriers to the effective division of land, in conformance with the provision 3.07.730.D.6 of Title 7 addressing Local Regulatory Constraints.

Portland Comprehensive Plan Goals Findings

27. 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.
28. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the RICAP 1 – Code Language.
29. **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.
30. **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, 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 the development of housing and employment uses at appropriate locations and intensities:

- **Upgrades to Nonconforming Development.** This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site.
- **Radio Frequency Transmission Facilities.** This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- **Buffer Overlay Zone Landscaping.** This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods, while insuring that the buffering objective, 2.23 is still met.
- **Hollywood Plan District Drive-Through.** This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district, meeting objectives 2.19, Infill and Redevelopment and 2.22 Mixed Use.

- Tree Preservation Plans and Land Divisions. A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.
- Final Plat Review Process. The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

31. **Goal 3, Neighborhoods**, calls for the 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 following amendments are directly supportive of Goal 3.

- Detached Garage Setbacks. This amendment clarifies the provision allowing detached garages in the side and rear setback, and ensures that development patterns of older neighborhoods are retained.
- East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR). This amendment lowers some minimum FARs in these districts allowing for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.

32. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the regions' 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. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the provision of a variety of housing.

The following amendments are directly supportive of Goal 4:

- Buffer Overlay Zone Landscaping. This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods.
- East Corridor Plan District Parking Requirements. This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR). This amendment lowers some minimum FARs in these districts allowing for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.

- Final Plat Review Process. The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

33. **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 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:

- Upgrades to Nonconforming Development. This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site, and facilitates revitalization of existing sites.
- Radio Frequency Transmission Facilities. This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- Hollywood Plan District Drive-Through. This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district.
- Tree Preservation Plans and Land Divisions. A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.
- Final Plat Review Process. The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

34. **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 because they do not change policy or intent of existing regulations relating to transportation.

Specifically, the following amendments support of Goal 5:

- East Corridor Plan District Parking Requirements. This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail

alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.

- **Ownership Provisions for Alleys in Single Dwelling Zones.** This amendment clarifies city policy for when alleys need to be publicly owned, privately owned, or placed in an easement.
- **Pedestrian Standards.** This collection of amendments clarifies the City's existing policy for requiring pedestrian connections from adjacent streets, to encourage a safe and convenient pedestrian network on sites.

35. **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 as described under Statewide Planning Goal 1.

36. **Goal 10, Plan Review and Administration,** is broken down into several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria with 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.

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.

Several amendments support Policy 10.9 by clarifying and addressing the approval criteria that apply to the Gateway Master Plan Review, Historic Review, and Conditional Use Review for Radio Frequency Transmission Facilities.

37. **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 specifically address this goal:

- **East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR).** This amendment supports the goals 12.2, Enhancing Variety and 12.6, Preserve Neighborhoods by lowering some minimum FARs in these districts to allow for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.
- **Historic Review Approval Criteria** This amendment to the Historic Designation Review section supports goal 12.3 Historic Preservation by clarifying the application of approval

criteria to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District.

- **Pedestrian Standards.** This collection of amendments supports Goal 12.4, Provide for Pedestrians, by clarifying the City's existing policy requiring pedestrian connections from adjacent streets and encourages a safe and convenient pedestrian network on sites

Hollywood and Sandy Plan Findings

38. The Hollywood and Sandy Plan, adopted on April 5, 2000 contains policies, objectives and actions for the Sandy Boulevard and Broadway main streets, and the Hollywood Town Center to help achieve and implement the Hollywood and Sandy vision principles and urban design concept. The following policies are applicable to the RICAP 1 – Code Language.
39. **Policy 1: Land Use, Urban Design and Historic Preservation,** calls for promoting a mix of employment, housing and retail uses to ensure a pedestrian oriented and thriving main street environment and to enhance Hollywood's identity as a vital and attractive town center. The amendment to the Hollywood Drive Through provision meets this policy by only allowing the continuation of an existing drive-through in new development if it is integrated into a mixed use project meeting certain development standards.
40. **Policy 2: Housing,** calls for maintaining and enhancing existing housing while encouraging new housing along and near the Sandy boulevard and Broadway Main Streets, and in the Hollywood Town Center. The amendment to the Hollywood Drive Through provision continues an incentive for certain sites to redevelop as long as they provide new housing as part of their redevelopment, which will encourage housing above commercial spaces in Hollywood.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 1 (RICAP 1): Recommended Draft – Code Language*, dated January 17, 2006;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 1 (RICAP 1): Recommended Draft – Code Language*, dated January 17, 2006;
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 1 (RICAP 1): Recommended Draft – Code Language*, dated January 17 2006, as legislative intent and further findings; and
- d. The effective date for these amendments shall be 45 days from the date of City Council approval, to allow BDS time to establish Administrative Rules to aid in implementing these amendments.

Passed by the Council: **MAR 08 2006**

GARY BLACKMER

Auditor of the City of Portland

By

Colleen Phillips

Prepared by: Phil Nameny, Bureau of Planning
February 7, 2006

Deputy