

Ordinance No. 188259 As Amended

Improve land use and other City regulations through the Regulatory Improvement Code Amendment Package 8—Technical Amendments (Ordinance; amend Title 17, Title 24 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 RICAP (Regulatory Improvement Code Amendment Package), followed by a number. This ordinance pertains to the amendment items contained in RICAP 8 amending Title 17, 24 and 33. The remaining amendments, to Title 11, will be adopted by separate ordinance.
2. During the winter and spring of 2015, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked together to develop a draft workplan for RICAP 8. Potential code amendments were drawn from a database that contains regulatory improvement requests.
3. On April 13, 2015, notice was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested parties, to notify them of the Planning and Sustainability Commission hearing on the *RICAP 8 Proposed Workplan*.
4. On April 28, 2015 the Planning and Sustainability Commission held a hearing and adopted the RICAP 8 workplan. The *Adopted Workplan* included 37 potential code amendment items. Fourteen additional items were identified by staff as needing urgent resolution and were added after April 29, 2015, for a total of 51 potential code amendment items.
5. During the summer and fall of 2016, BPS staff conducted research and worked with BDS staff, as well as staff from other City agencies to develop a proposal for each of the 51 potential code amendments. Forty-four of the 51 workplan items were determined to warrant an amendment to City code; seven of the workplan items were determined to be either not timely or not warranting an amendment to City code.
6. On November 7, 2016 notice of the proposed action was emailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
7. On November 14, 2016 notice of the proposal and the December 13, 2016 Planning and Sustainability Commission RICAP 8 hearing was mailed to all neighborhood associations,

neighborhood coalitions, and business associations in the city of Portland, as well as other interested persons, as required by ORS 227.186 and PCC 33.740.

8. On December 13, 2016 the Planning and Sustainability Commission held a hearing on the *RICAP 8 Proposed Draft*. The Planning and Sustainability Commission voted to make several minor amendments to the proposal, and then voted to recommend approval of the 44 RICAP 8 proposed code amendment items and to forward them to City Council for adoption.
9. On January 30, 2017 notice of the February 15, 2017 City Council hearing on RICAP 8 was mailed to those who presented testimony orally or in writing to the Planning and Sustainability Commission and provided a name and address, those who asked for notice, and other interested persons.

Findings on Statewide Planning Goals

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.

10. **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 several opportunities for public involvement. The findings addressing Portland Comprehensive Plan Goal 9, Citizen Involvement, and its related policies and objectives also demonstrate consistency with this goal. The specific amendments and processes identified below implement this goal and the general process for adopting all of the RICAP 8 amendments complies with this goal in the following ways:
 - a) Amendment item #14 establishes a 120-day delay for the removal of ranked resources from the City's Historic Resource Inventory, and also provides notice of the request to interested organizations and neighbors. This amendment codifies the current process implemented by BDS since September 1, 2016, and further provides a notice requirement, creating opportunity for the public to engage with property owners in exploring alternatives.
 - b) The *Regulatory Improvement Code Amendment Package 8 (RICAP 8): Proposed Workplan* was made available to the public on the City's regulatory improvement program website on April 10, 2015. A copy of the workplan report was mailed to those who requested it.
 - c) Notice of the April 28, 2015 Planning and Sustainability Commission hearing on the *RICAP 7 Proposed Workplan* was mailed on April 13, 2015 to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties.
 - d) Staff from the Bureau of Planning and Sustainability met with the Citywide Land Use Group on April 27, 2015 to review items included in the RICAP 8 workplan.
 - e) The Planning and Sustainability Commission held a public hearing on the RICAP 8 *Proposed Workplan* and took public testimony on April 28, 2015 on the proposed code

amendment items. The Planning and Sustainability Commission voted to adopt the workplan.

- f) The *Regulatory Improvement Code Amendment Package 8 (RICAP 8): Discussion Draft* was made available to the public on August 29, 2016. The report was posted on the City's regulatory improvement program website and mailed to neighborhood coalitions and others who requested a copy.
 - g) Notice of the *Discussion Draft* was emailed to over 1,450 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties.
 - h) Staff attended four neighborhood district coalition meetings, and several special interest group meetings between August 29 and December 13, 2017. The *RICAP 8 Discussion Draft* report was presented and discussed at these meetings. Additionally, the *RICAP 8 Discussion Draft* was presented at public briefings held by the Urban Forestry Commission and Historic Landmarks Commissioner.
 - i) The *Regulatory Improvement Code Amendment Package 8 (RICAP 8): Proposed Draft* was made available to the public on November 9, 2016. The report was posted on the City's regulatory improvement program website and mailed to those who requested it.
 - j) Notice of Planning and Sustainability Commission hearing on the *RICAP 8 Proposed Draft* was mailed to more than 500 recipients, including all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on November 14, 2016.
 - k) The Planning and Sustainability Commission held a public hearing and took testimony on the *RICAP 8 Proposed Draft* on December 13, 2016. The Planning and Sustainability Commission voted to make three minor amendments to the *Proposed Draft*, and then voted to recommend RICAP 8 code amendment items to City Council for adoption.
 - l) The *RICAP 8 Recommended Draft* was made available to the public on January 18, 2017. The report was posted on the City's regulatory improvement program website and mailed to those who requested a copy.
 - m) Notice of the February 15, 2017 City Council hearing on the *RICAP 8 Recommended draft* was mailed on January 30, 2017 to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, to other persons who requested said notice, and to other interested persons.
11. **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 process for identifying and adopting the RICAP 8 amendments supports this goal because development of the recommendations followed established city procedures for legislative actions. See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives. Specifically, amendment item #15 supports this goal by

allowing one-year term extensions for Commission members if a seat would otherwise be vacant. This extension ensures the continuity of these processes and procedures.

12. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. The RICAP 8 amendments are consistent with this goal because they do not substantially change policy, but further support protections for historic and natural resources. The following amendments specifically support this goal:

- a) Amendment item #14 establishes a 120-day delay for the removal of ranked resources from the City's Historic Resource Inventory, and also provides notice of the request to interested organizations and neighbors. This amendment codifies the current process implemented by BDS since September 1, 2016, and further provides a notice requirement, creating opportunity for the public to engage with property owners in exploring alternatives.
- b) Amendment item #4 ensures that wetlands are protected in a tract during the land division process, increasing protections for this type of natural resource.
- c) Amendment items #31 and 33 update the definitions of drainageway; seep or spring; and stream, to ensure that natural resources that eventually drain into a pipe are still considered natural resources where they are on the surface.

13. **Goal 7, Areas Subject to Natural Hazards**, requires the protection of people and property from natural hazards. Amendment #5 is consistent with this goal by allowing the removal of landslide hazard area from the density calculation in land divisions.

14. **Goal 8, Recreational Needs**, requires the satisfaction of the recreational needs of both citizens and visitors to the state. Amendment item # 24 is consistent with this goal in that it exempts gardens and play areas from Pleasant Valley Overlay Zone regulations.

15. **Goal 9, Economic Development**, requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity. The RICAP 8 amendments do not change existing policy related to economic development. All of the amendments are consistent with this goal because they improve the clarity of zoning code regulations in general. Improving land use regulations to make them clear and easily implemented helps to facilitate economic development by reducing costly delays and the amount of plan revisions to get through the entitlement process. The following amendments specifically support Goal 9:

- a) Amendment item #10 clarifies how to apply development standards in situations where street dedications are required, supporting consistent implementation of rules and improving predictability for property owners and developers.
- b) The amendments associated with item #19 provide greater clarity for regulating existing non-conforming uses. This helps owners of non-conforming residential and commercial development better understand the applicable regulations, and consequently, make better investments.

16. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The RICAP 8 amendments are consistent with this goal because they improve the clarity of zoning code regulations in general. Making land use regulations more clear and easily implemented may reduce the time and cost associated with development review and permitting thereby reducing the cost of development. Amendment items #1-10 support this goal, clarifying regulations related to land divisions, property line adjustment and lot confirmations, all of which occur in residential areas. See also findings for Portland Comprehensive Plan Goal 4, Housing and Metro Title 1.

17. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. In general, the RICAP 8 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 support this goal:

- a) Amendment item #2 exempts pedestrian-only connections from site area reductions required for putting in new streets, removing a potential disincentive to create new connections for pedestrian circulation.
- b) Amendment item #11 allows small loading spaces outside of the Central City, located on local service streets, to be exempt from the forward ingress/egress requirement. The amendment better balances community needs for safety, efficient land use and neighborhood design.

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 a proposed Comprehensive Plan Map amendment, Zone Change, or 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 will not result in increases in housing units or additional jobs, change allowed land use types or densities, or change the classification of any existing or planned transportation facilities.

Findings on Metro Urban Growth Management Functional Plan

The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 8 amendments.

18. **Title 1, Housing Capacity**, ensures that each jurisdiction contribute its fair share to meeting regional housing needs by requiring each city and county to maintain or increase its housing capacity. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not alter the current housing capacity of the city. See also findings for Comprehensive Plan Goal 10, Housing.

19. **Title 3, Water Quality and Flood Management**, protects beneficial water uses, functions and values, limiting or mitigating development impacts and protecting life and property from flooding danger. Amendment item #4 supports this title by ensuring the protection of wetlands in the land division process.

20. **Title 12, Protection of Residential Neighborhoods**, is intended to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services. Amendments associated with items #6, 7 and 8 clarify regulations related to the provision of services on lots being altered through a property line adjustment or lot consolidation.
21. **Title 13, Nature in Neighborhoods**, conserves, protects and restores continuous ecologically viable streamside corridor systems including their floodplains to control and prevent water pollution for the protection of the public health and safety. Several amendments in RICAP 8 support this title by clarifying the definitions of drainageway, seep or spring, and stream (amendment items #31 and 33); and by ensuring protection of resources like wetlands in the land division process (amendment item #4). See also findings for Statewide Land Use Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources,

Findings on Portland's Comprehensive Plan Goals

The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the RICAP 8 amendments.

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. In general, the RICAP 8 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 RICAP 8 process supports this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. No outside agency comments were received.
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 update and improve the City's land use regulations and procedures that hinder desirable development. By improving these regulations the City can better facilitate the development of housing and employment uses.
25. **Policy 2.9 Residential Neighborhoods**, calls for allowing a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods. Amendment items #1-10 support this policy by clarifying regulations related to land divisions, property line adjustment and lot confirmations, all of which may be done in residential areas. Amendments more clearly require service provision, protect natural resources, simplify procedures, and protect the character of residential neighborhoods.
26. **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 RICAP 8

amendments are consistent with this goal because they improve the clarity of zoning code regulations in general.

27. **Policy 3.5 Neighborhood Involvement**, seeks to actively involve neighborhood residents and businesses. In addition to the direct outreach efforts to district coalitions and directly affected neighborhood associations as part of the RICAP process, this policy is further advanced by amendment item #14, which requires notice to recognized organizations and neighbors when a request is submitted to remove a ranked resource from the City Historic Resource Inventory, so they are made aware of the proposed removal. This allows the neighbors or association an option to engage the property owner and collaborate on alternatives if alteration or demolition are planned.
28. **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 accommodate the needs, preferences, and financial capabilities of current and future households. The RICAP 8 amendments are consistent with this goal because they improve the clarity of zoning code regulations in general making them more understandable to citizens and the development community. Making land use regulations more clear and easily implemented may reduce the time and cost associated with development thereby reducing the cost of development.
29. **Policy 4.3 Sustainable Housing**, calls for housing that supports sustainable development patterns by promoting the efficient use of land and conservation of natural resources, among other things. Amendment item #3 supports efficient, regular lot patterns with flexibility built in to reduce new development's impact on environmentally sensitive areas.
30. **Policy 4.15 Regulatory Costs and Fees**, considers the impact of regulations and fees in the balance between housing affordability and other objectives such as environmental quality, urban design, maintenance of neighborhood character, and protection of public health, safety and welfare. Amendment items #6 and 7 support this policy by allowing the creation of up to three lots in a single lot consolidation and providing a process to remove conditions of approval (from a previous land division) that are no longer applicable, after a consolidation. Both of these amendments will reduce costs while maintaining other objectives.
31. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city. In general, the amendments support this goal because they update and improve the City's land use regulations and procedures that hinder desirable development. See findings under Statewide Land Use Goal 9, Economic Development.
32. **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. Amendment item #11 allows small loading spaces outside of the Central City, located on local service streets, to be exempt from the forward ingress/egress requirement. The amendment better balances community needs for safety, efficient land use and neighborhood design. See also findings under Statewide Land Use Goal 12, Transportation.

33. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the city. In general the amendments support this goal because they don't change policy or intent of any existing regulations pertaining to energy.
34. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water, and land resources, as well as protecting neighborhoods and business centers from noise pollution. In general, the amendments support this goal because they improve the clarity of zoning code regulations related to environmental protections, making them more understandable to citizens and the development community.
35. **Policy 8.8 Groundwater Protection**, calls for the conservation of domestic groundwater and surface water resources from potential pollution through a variety of regulatory measures relating to land use, transportation, and hazardous substances. Amendment items #4, 31 and 33 support this policy by clarifying and expanding protections for wetlands, drainageways, seeps, spring and streams.
36. **Policy 8.13, Natural Hazards**, seeks to control density in areas of natural hazards. See the findings under Statewide Land Use Goal 7, Areas Subject to Natural Hazards
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 supports the goal because it followed the process and requirements specified in Chapter 33.740, Legislative Procedure. Also, amendment item #14 supports this goal by creating a new noticing requirement for the removal of ranked resources from the City Historic Resource Inventory, enabling citizen involvement in the process. See Statewide Planning Goal 1, Citizen Involvement, for additional detailed findings that demonstrate compliance with this goal.
38. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan and implementation of the Plan, as well as addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. 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 in RICAP 8 support this policy 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.
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. In general, the amendments support this goal because they update and improve the City's land use regulations and procedures that hinder desirable development. Amendments detailed below strengthen the protection of established neighborhoods and sites.

40. **Policy 12.3 Historic Preservation**, calls for the enhancement of the City's identify through the protection of Portland's significant historic resources. Amendment item #14 supports this policy by codifying a 120-day delay period for the removal of ranked resources on the City's Historic Resource Inventory.
41. **Policy 12.6, Preserve Neighborhoods**, seeks for ways to respect and strengthen neighborhood values in development projects, encouraging respect for the fabric of established neighborhoods when undertaking infill development projects. Amendment #3 supports this policy by reducing the ability to create non-straight lot lines and oddly shaped lots through a land division or property line adjustment, which could be inconsistent with the established neighborhood fabric and character.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment package 8 (RICAP 8): Planning and Sustainability Commission Recommended Draft*, dated January 2017.
- b. Amend Title 17, Public Improvements, Title 24, Building Regulations, and Title 33, Planning and Zoning, as shown in Sections III and VI of Exhibit A, *Regulatory Improvement Code Amendment package 8 (RICAP87): Planning and Sustainability Commission Recommended Draft*, dated January 2017.
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment package 8 (RICAP 8): Planning and Sustainability Commission Recommended Draft*, dated January 2017; as further findings and legislative intent.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, 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, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

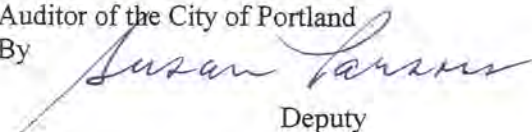
Passed by the Council: MAR 01 2017

Mayor Ted Wheeler
Prepared by: Kathryn Hartinger
Date Prepared: January 23, 2017

Mary Hull Caballero

Auditor of the City of Portland

By


Deputy

Agenda No. **188259** As Amended
ORDINANCE NO.
Title

Improve land use and other City regulations through the Regulatory Improvement Code Amendment Package 8—Technical Amendments (Ordinance; Amend Title 17, Title 24 and Title 33)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>FEB 07 2017</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Wheeler <i>VJD</i>	By: <i>[Signature]</i> Deputy
Position 1/Utilities - Fritz	ACTION TAKEN: FEB 15 2017 CONTINUED TO FEB 22 2017 11:00 am Time Certain FEB 22 2017 PASSED TO SECOND READING As Amended MAR 01 2017 9:30 A.M.
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Michael Armstrong</i>	
Prepared by: Kathryn Hartinger Date Prepared: January 20, 2017	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances <i>TOK</i>	
City Attorney Approval: <i>[Signature]</i> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date February 15, 2017	

AGENDA 1 of 2
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>3pm</u> Total amount of time needed: <u>90 min</u> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>
2. Fish	2. Fish	<input checked="" type="checkbox"/>
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>
Wheeler	Wheeler	<input checked="" type="checkbox"/>