

Part 2

Ordinance No. 1 78425

***Amend Title 33, Planning and Zoning, to implement the South Waterfront Plan and clarify the development regulations without changing the original policy or intent (Ordinance; amend Title 33)**

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
2. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need "fine-tuning" to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
3. The City Council adopted the South Waterfront Plan in October 2002 and directed that specific Zoning Code amendments be made in order to fully implement the Plan.
4. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
5. Code Maintenance 2004 is part of the City's 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
6. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review

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process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

7. On January 7, 2004, Notice of the Proposed Amendment 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. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
8. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
9. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
10. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
11. The Planning Commission's recommended amendments on Code Maintenance 2004 are contained to two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The findings in this ordinance pertain to *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.
12. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
13. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.

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Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

14. **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. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:

- The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
- On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.
- In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
- On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
- Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.

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- On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
 - On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
 - On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
 - During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments* contain the Commission's full recommendation on Code Maintenance 2004.
 - On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.
 - On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
 - On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the recommendation, and public testimony was received.
15. **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 are supportive of this goal because they clarify

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- existing language in Title 33, Planning and Zoning, which implement the policies of Portland's *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination also support this goal.
16. **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 are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
 17. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources, including the handling of solid wastes. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan. Portland *Comprehensive Plan* findings on Goal 8, Environment, and its related policies and objectives also support this goal.
 18. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
 19. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area.
 20. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing.

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The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.

21. **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 policy or intent of any of the existing regulations pertaining to transportation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
22. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.
23. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway. A specific amendment is supportive of this goal because it adopts a map that locates of the top of bank line as directed by the City Council in their action on the South Waterfront Plan. Another specific amendment clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
24. **Goals 16, 17, 18, and 19 deal with Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

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Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions.

25. **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 has generally been implemented through citywide analysis based on calculated capacities from land use designations. The amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1. Specific amendments are consistent with this title because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
26. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy.
27. **Title 3, Water Quality and Flood Management Conservation**, calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.
28. **Title 4, Retail in Employment and Industrial Areas**, calls for retail development that supports Employment and Industrial areas, and that does not serve a larger market area. The amendments are consistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.
29. **Title 5, Neighbor Cities and Rural Reserves**, defines Metro's policy regarding areas outside of the Urban Growth Boundary. This title does not apply because this ordinance, and the amendments it adopts, applies within the urban growth boundary.
30. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility.

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31. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the development of affordable housing.
32. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

33. 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.
34. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
35. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
36. **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. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
37. **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 are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.

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38. **Goal 3, Neighborhoods**, calls for 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 policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is expected to create a new neighborhood in the last largely undeveloped area of Portland's Central City.
39. **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, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
40. **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. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in the area.
41. **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. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
42. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.

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43. **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. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
44. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. Beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process.
45. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for 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 area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code. The South Waterfront related amendments are consistent with the purposes of Code Maintenance projects.
46. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
47. **Goal 11 F, Parks and Recreation**, calls for maximizing the quality, safety and usability of parklands and facilities through the efficient maintenance and operation of park improvements, preservation of parks and open space, and equitable allocation of active and passive recreation opportunities for the citizens of Portland. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to parks and recreation. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.

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NOW, THEREFORE, the Council directs:

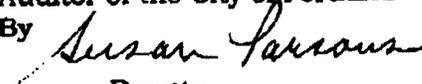
- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated March April 26, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated April 26, 2004; and
- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated April 26, 2004.

Section 2. The Council declares an emergency exists because significant public and private funds and effort have been expended in pursuing development of the South Waterfront District since the South Waterfront Plan, which specifically calls for the adoption of a top of bank map, was adopted in October 2002. Delay in adopting the top of bank map will prevent the timely approval of building permits for development that is supportive of the South Waterfront Plan and the signed Development Agreement for the area.

PASSED BY THE COUNCIL, MAY 20 2004

Mayor Vera Katz
Commissioner Randy Leonard
Susan Hartnett, Bureau of Development Services
May 11, 2004

GARY BLACKMER
Auditor of the City of Portland

By 
Deputy