



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

03/23/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Portland Plan Amendment
DLCD File Number 012-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, April 05, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Shawn Wood, City of Portland
Gloria Gardiner, DLCD Urban Planning Specialist
Anne Debbaut, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

MAR 16 2011

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Portland**

Local file number: **N/A**

Date of Adoption: **3/2/2011**

Date Mailed: **3/15/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/23/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The Schools and Parks Conditional Use Code Refinement Project (Schools Component) addressed three major issues: 1. When should a land use review be required for fluctuations in enrollment? 2. When should a land use review be required for changes of grade levels? and 3. What is the appropriate time a school site can be vacant before it loses its conditional use status?

Recreational field amendments associated with the project have been separated from those covered under this notice were adopted by Council on May 5, 2010.

Does the Adoption differ from proposal?

No.

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 012-09 (17958) [16567]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro, Multnomah County, and Public school districts: Portland, Centennial, Reynolds, Parkrose, David Douglas, and Riverdale

Local Contact: **Jessica Richman**

Phone: (503) 823-7847 Extension: N/A

Address: **1900 SW 4th Ave, #7100**

Fax Number: **503-823-7700**

City: **Portland**

Zip: **97201-5350**

E-mail Address: **Jessica.Richman@portlandoregon.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. **Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:**
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009



City of Portland
Bureau of
**Planning and
Sustainability**

Sam Adams, Mayor
Susan Anderson, Director

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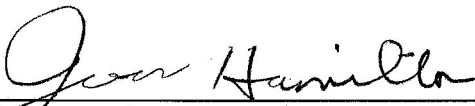
Printed on recycled paper

Certificate of Mailing

I hereby certify that on March 15, 2011, I mailed a correct copy of the adopted **Schools and Parks Conditional Use Code Refinement Project** materials and DLCD Notice of Adoption to the following persons by first class mail at the post office at Portland, Oregon.

The following is a list of persons to whom a copy of this document was mailed:

Name	Address
Plan Amendments Specialist	Dept. of Land Conservation & Development 635 Capitol Street, Suite 150 Salem, Oregon 97301-2540
Stuart Farmer	Multnomah County Land Use Planning 1600 SE 190 th Ste 116 Portland OR 97233
Planning Manager	Metro Planning Department Community Development 600 NE Grand Avenue Portland, OR 97232-2736

 March 15, 2011

Joan Hamilton
Management Assistant
Bureau of Planning

Date

SUBSTITUTE
184443

ORDINANCE No.

Improve land use regulations related to schools as part of the Schools and Parks Conditional Use Code Refinement Package (Ordinance; Amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. This ordinance represents one of two components of the Schools and Parks Conditional Use Code Refinement Project and addresses regulations associated with schools only. Regulations associated with recreational fields used for organized sports were addressed in Ordinance No. 183750, which took effect on June 4, 2010.
2. On October 28, 2008, the Planning Commission held a public discussion on schools-related issues that had been raised during a previous Planning Commission hearing on the City's periodic review work plan. Time did not allow for everyone to speak.
3. On December 4, 2008, Planning Commission held an additional meeting to discuss school-related issues and invited those who were not able to speak at the Oct 28th meeting to testify.
4. In January 2009, a project website was established to provide the public with updates on the project, staff contact information, and access to project materials.
5. On March 23, 2009, staff presented their initial recommendations on the Schools and Parks Conditional Use Code Refinement Project to the Citywide Land Use Chairs and asked for their feedback.
6. On April 17, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the availability of the *Schools and Parks Conditional Use Code Refinement Project – Public Review Draft* and an open house/discussion/community meeting on May 7, 2009.
7. On April 28, 2009, the *Schools and Parks Conditional Use Code Refinement Project – Public Review Draft* was published and posted on the project website. The public review comment period extended to May 29, 2010.
8. On May 7, 2009, an open house and community discussion was attended by approximately 20 people.
9. On July 28, 2009, the Planning Commission held a project briefing/discussion and invited interested parties to discuss their ideas and concerns about the Schools and Parks Conditional Use Code Refinement Project. Planning Commission supported staff's suggestion that, due to its complexity, code language for recreational field uses be separated from the package of code amendments related to schools.
10. On August 5, 2009 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.

11. On August 19, 2009, the *Schools and Parks Conditional Use Code Refinement Project – Report to Planning Commission* was published.
12. On August 21, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the Planning Commission public hearing on September 22, 2009 and an open house on September 15, 2009.
13. On September 15, 2009 staff held an open house.
14. On September 22, 2009, the Portland Planning Commission held a public hearing on the proposed school-related amendments to the Zoning Code and considered conceptual changes to recreational field regulations.
15. On November 10, 2009, the Portland Planning Commission held a public hearing on the proposed school-related amendments to the Zoning Code.
16. On January 12, 2010, the Planning Commission held a hearing and adopted the schools component of the project.
17. On March 23, 2010 notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for the Schools and Parks Conditional Use Code Refinement Project.
18. On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project. They continued the hearing to April 28, 2010.
19. On April 28, 2010, City Council focused on the Recreational Fields aspects of the project, and deferred discussion of the schools-related issues to a later date. They adopted amendments to the Recommended Draft outlined in a memo dated April 28, 2010.
20. On May 5, Council adopted Ordinance 183750, which took effect on June 4, 2010. That ordinance addressed only the Recreational Fields amendments.
21. On February 4, 2011, notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
22. On February 9, 2011, the Mayor published an alternative proposal. The alternative proposal was posted on the Bureau of Planning and Sustainability website and was available from the Mayor's Office. This alternative proposal differs from the Planning Commission's recommended proposal concerning the school-related elements in two ways. First, the alternative proposal regulates two levels of schools instead of three. Second, the alternative proposal reduces the review procedure from a Type III to a Type II for schools adding lower grades.
23. On February 23, 2011, City Council held a public hearing on the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
24. On March 2, 2011 City Council voted to adopt this ordinance and amend Title 33, Planning and Zoning.

Findings on Statewide Planning Goals

25. 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.
26. **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:
- On October 28, 2008, the Planning Commission held a public discussion on schools-related issues that had been raised during a previous Planning Commission hearing on the City's periodic review work plan. Time did not allow for everyone to speak.
 - On December 4, 2008, Planning Commission held an additional meeting to discuss school-related issues and invited those who were not able to speak at the Oct 28th meeting.
 - In January 2009, a project website was established to provide the public with updates on the project, staff contact information, and access to project materials.
 - On March 23, 2009, staff presented their initial recommendations on the Schools and Parks Conditional Use Code Refinement Project to the Citywide Land Use Chairs and asked for their feedback.
 - On April 17, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the availability of the *Schools and Parks Conditional Use Code Refinement Project – Public Review Draft* and an open house/discussion community meeting on May 7, 2009.
 - On April 28, 2009, the *Schools and Parks Conditional Use Code Refinement Project – Public Review Draft* was published and posted on the project website. The public review comment period extended to May 29, 2010.
 - On May 7, 2009, an open house community discussion was attended by approximately 20 people.
 - On July 28, 2009, the Planning Commission held a project briefing/discussion and invited interested parties to discuss their ideas/concerns about the Schools and Parks Conditional Use Code Refinement Project.
 - On August 5, 2009 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
 - On August 19, 2009, the *Schools and Parks Conditional Use Code Refinement Project – Report to Planning Commission* was published.
 - On August 21, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the Planning Commission public hearing on September 22, 2009 and an open house on September 15, 2009, in compliance with PCC Chapter 33.740 (Legislative Projects)..
 - On September 15, 2009 staff held an open house.
 - On September 22, 2009, the Portland Planning Commission held a public hearing on the proposed school-related zoning code proposals and considered conceptual changes to recreational field regulations.
 - On November 10, 2009, the Portland Planning Commission held a public hearing on the proposed school-related zoning proposals.

- On January 12, 2010, the Planning Commission held a hearing and adopted a recommendation on the schools component of the project consistent with PCC Chapter 33.740..
 - On March 23, 2010 notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for the Schools and Parks Conditional Use Code Refinement Project.
 - On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project. They continued the hearing to April 28, 2010.
 - On April 28, 2010, they focused on the Recreational Fields aspects of the project, and deferred discussion of the schools-related issues to a later date. They adopted amendments to the Recommended Draft outlined in a memo dated April 28, 2010.
 - On May 5, Council adopted Ordinance 183750, which took effect on June 4, 2010. That ordinance addressed only the Recreational Fields amendments.
 - On February 4, 2011, consistent with PCC Chapter 33.740, notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
 - On February 9, 2011, the Mayor published an alternative proposal. The alternative proposal was posted on the Bureau of Planning and Sustainability website and was available from the Mayor's Office.
 - On February 23, 2011, City Council held a public hearing on the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
27. **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: Title 33, Planning and Zoning, implements the policies of Portland's Comprehensive Plan. Specifically, the legislative process in PCC Chapter 33.740 and the post-acknowledgment review process in ORS 197.610-197.625 ensure that there are processes that act as a basis for legislative land use decisions and the schools-related elements were processed using these procedures. See also findings for Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.
28. **Goal 11, Public Facilities and Services**, requires planning and development of a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for development. The Goal requires urban local governments to plan for the following facilities: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services.

These Goal responsibilities are carried out through Portland's acknowledged comprehensive plan which divides service responsibility into those which the City provides, and those which the City encourages other local governments and special districts to provide. Portland Comprehensive Plan policy 11.1 A. states, in part, "The City of Portland should encourage the planning efforts of those agencies providing the following services: (8) public schools; . . ." Goal 11 and Policy 11.1 do not apply to this ordinance because the ordinance provides for the more efficient utilization of existing school facilities rather than the provision of new schools needed to support a present or expected

overall increase of school age children. Nevertheless the ordinance is in keeping with the "encouraging" spirit of Policy 11.1 and Goal 11 by providing school districts with the flexibility needed to accommodate fluctuations in the number of students attending any particular school, and by extending the time a school site may remain vacant and still retain rights to be used as a school without additional land use review.

29. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The proposed code amendments are consistent with this goal for the reasons stated in the findings addressing Portland Comprehensive Plan Goal 6, Transportation, and its related policies and objectives.
30. **The Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if the proposed regulation will significantly affect an existing or planned transportation facility.

Current regulations require that schools physically expanding above a minimum threshold go through a conditional use review. This proposal will not have a significant effect on existing or planned transportation facilities because that requirement will not be changing.

Within an existing school facility, where no expansion is proposed, the amendments will allow day-to-day fluctuations in enrollment and some variation in the grade levels being taught at the elementary level. These changes may result in some variations in the composition of the student body at a school, but no increases in the number of students so extensive that they will result in changes to the functional classification of any streets, change the City's standards for classifying streets, or result in levels of school or park uses that will negatively affect the performance or classification of existing facilities. As stated in the February 22, 2011 memo from the Bureau of Transportation (Exhibit C):

"Impacts from increased enrollment or grade level changes that do not require an increase in building area are generally operational. Such changes are unlikely to create a nexus that would require additional transportation-related conditions placed on the school to mitigate impacts. A nexus would most likely be created when vehicle trips and occupancies exceed the capacity of the originally approved conditional use or, in the case of grandfathered schools, the capacity the school was designed to accommodate. In short, such changes do not create significant transportation impacts, and so we are comfortable with not requiring a Conditional Use Review for such changes."

As a result, the proposed code amendments will not significantly affect existing or planned transportation facilities.

Findings on Metro Urban Growth Management Functional Plan

31. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not significantly alter the development capacity of the city. See also findings under Comprehensive Plan Goals 4 (Housing) and 5 (Economic Development).
32. **Other Metro Titles**. These amendments are consistent with other Metro Titles because they do not change regulations that implement the other Titles.

Findings on Portland's Comprehensive Plan Goals

33. Only the Comprehensive Plan goals addressed below apply.

34. **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. **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 goal and this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. These agencies include Metro, Multnomah County, and the following public school districts: Portland, Centennial, Reynolds, Parkrose, David Douglas, and Riverdale. The Bureau of Planning and Sustainability has also been working closely with the school districts to address issues, develop this proposal, and consider non-regulatory approaches.
35. **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 support flexibility for schools, while ensuring an appropriate level of review for changes to individual schools that might have significant impacts on the surrounding area. Strong and nimble school systems are integral to maintaining Portland's role as the major regional employment and population center in the State.
36. **Policy 2.1, Population Growth**, calls for allowing for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households. **Policy 2.19, Infill and Redevelopment**, encourages infill and redevelopment as a way to accommodate expected increases in population. These amendments allow for fluctuation in school enrollments without cumbersome land use reviews, while requiring review for changes to individual schools that will have a significant effect on the surrounding area. In addition, the amendments extend the time school sites may remain vacant without losing their vesting as schools. The combined effect of these amendments is to support Policies 2.1 and 2.19 by allowing schools to be more flexible with appropriate levels of review, and so accommodate a growing and dynamic population.
37. **Policy 2.23, Central City Plan; Policy 2.26, Albina Community Plan; and Policy 2.27, Outer Southeast Community Plan**: The Central City, Albina, and Outer Southeast plans call for strong neighborhoods and schools; the proposed amendments support these policies and plans because they will strengthen the school systems by allowing more flexibility—with an appropriate level of review—and extending the time school sites may remain vacant without losing their vesting as schools.
38. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments support this goal by allowing schools needed flexibility while ensuring an appropriate level of review for changes that might have a significant effect on the surrounding area and by allowing vacant school sites to remain vested as school sites for a longer period of time. This increases the ability of the school districts to retain school uses in existing buildings, which reinforces and strengthens neighborhoods. It also requires public review of changes where appropriate, ensuring that changes to individual schools do not have negative impacts on neighborhoods.
39. **Policy 3.2, Social Conditions**, calls for the provision of programs to minimize the social impact of land use decisions. By clarifying when a land use review is required for adding grades to an existing school, the potential impacts of the addition can be addressed and mitigated, thus minimizing the impacts and supporting this policy. By clarifying when a land use review is not required, it allows school districts the flexibility to make changes that may enhance social conditions in the area without the expense and time of a land use review.

40. **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.

Current regulations require that schools physically expanding above a minimum threshold go through a conditional use review. The conditional use review includes a determination of whether the expansion meets the City's adopted level of service performance standards for transportation. If the level of service standards are exceeded by the proposed expansion, the city can deny permits for the expansion or require mitigation so that the level of service standards are met. These regulations are not being amended, and so will not have a significant effect on existing or planned transportation facilities.

Within an existing school facility, where no expansion is proposed, the amendments will allow day-to-day fluctuations in enrollment and some variation in the grade levels being taught at the elementary level. These changes may result in some variation in the composition of the student body at a school, but no increases in the number of students to the extent that they will have any significant effects on existing or planned transportation facilities.

41. **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 also support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement, and the general findings of this ordinance.
42. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. The amendments support this goal by updating and clarifying the process used when the number of students enrolled at a school change, and when the grades at a particular school change. In addition, the goal is supported by the amendment to allow school sites to remain vacant for a longer period without losing the right for a school to be reestablished without a land use review.
43. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, calls for amendments to the regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. These amendments are clear and concise; they provide clear distinctions about what is required for each change of grade level at a school, and they are clear that review is not required for changes in the enrollment at a particular school. By adding definitions of the different levels of schools, these amendments clarify when specified regulations apply, and use consistent terminology rather than relying on State definitions.

The amendments address present and future land use problems by clarifying the regulations applicable to certain changes at schools, and balance the benefits of regulation against the cost of implementation by allowing some changes to schools without land use reviews, but requiring review when appropriate. The amendments use clear and objective standards, maintain consistent procedures, and are written clearly and organized logically.

44. **Goal 11, Public Facilities**, includes a wide range of goals and policies:
45. **Goal 11-I** calls for enhancing the educational opportunities of Portland's citizens by supporting the objectives of school districts through assistance in planning educational facilities. The amendments support this goal by clarifying what changes to schools are allowed without review and what changes

require a land use review. In addition, extending the time that a school site may remain vacant and still retain rights to be used as a school without additional review gives school districts more flexibility for planning to accommodate changes in population and enrollment.

46. **Policy 11.58, City Schools Policy**, calls for maintaining on-going coordination with Portland School District #1 (Portland Public Schools) to achieve the goals and policies of the adopted City Schools Policy. The City Schools Policy was adopted by the City in 1979 and referenced in the 1980 ordinance adopting Portland's Comprehensive Plan, but was not adopted by Portland Public Schools. The Council interprets the provisions of Policy 11.58 in the context of Policy 11.1. Particularly, the City's role is to "encourage" Portland Public Schools to provide educational services. The plain text of Policy 11.58, read in context, clearly indicates the policy is aspirational and not a mandatory criterion applicable to the adoption of this ordinance.

Nevertheless, code amendments adopted by this ordinance are in keeping with the spirit of Policy 11.58 by responding to the need of the school districts and private schools in Portland to accommodate fluctuations in the number of students attending a particular school. In addition, throughout this project the City has worked closely with Portland Public Schools and other school districts. The amendments and the process used for this project are consistent with this policy's call for ongoing coordination between the City and Portland Public Schools.

47. Recent statutory amendments to ORS Chapter 195 establish requirements for school facility planning involving both the City and large school districts within the City's boundaries. These requirements are more specific than Policy 11.58 and describe a cooperative process for development and adoption of school facility plans. In particular, the school facility plans required by ORS Chapter 195 are focused on identifying desirable new school sites, necessary physical improvements to existing schools, financial planning, capital improvement planning, and increasing the efficient use of existing schools for educational purposes. The Bureau of Planning and Sustainability and the large school districts within Portland's boundaries are in the process of implementing these statutory provisions. ORS Chapter 195 is not directly applicable to the proposed code amendments and, in any event, the proposed code amendments will not impede ongoing school facility planning efforts to achieve compliance with ORS Chapter 195.
48. The City Schools Policy, **Policy Statement 2, School Closures**, speaks to preventing school closures and the process for closing them. Although these amendments do not relate directly to this Policy Statement, extending the time schools may remain vacant and still retain rights to be used as a school without additional review will make it easier to avoid permanent closures of schools.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, the Planning Commission's report entitled *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*, dated March 18, 2010.
- b. Adopt Exhibit B, Memorandum to City Commissioners from Mayor Adams, dated February 9, 2011, regarding revisions to *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*.
- c. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*, dated March 18, 2010, and Exhibit B, Memorandum to City Commissioners from Mayor Adams, dated February 9, 2011, regarding revisions to *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*. The specific amendments adopted by this action are to the following provisions:
 - 33.100.100.B.3 through 7
 - Table 100-1
 - 33.281.020
 - 33.281.030
 - 33.281.030.B
 - 33.281.030.D
 - Table 281-1
 - 33.281.040.B.1
 - 33.281.040.B.6
 - 33.281.050
 - 33.281.050.A.3
 - 33.281.050.A.5
 - 33.281.050.B
 - 33.281.050.C
 - 33.281.050.C.1
 - 33.281.055
 - 33.815.040, 6th sentence
 - 33.815.040.B.1.f and g
- d. Adopt the commentary and discussion in Exhibit A, *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*, dated March 18, 2010; as further findings and legislative intent.
- e. Adopt the discussion in Exhibit B, Memorandum to City Commissioners from Mayor Adams, dated February 9, 2011 regarding revisions to *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft* 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.

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SUBSTITUTE

Agenda No.
ORDINANCE NO. 184443
 Title

Improve land use regulations related to schools as part of the Schools and Parks Conditional Use Code Refinement Package (Ordinance; Amend Title 33)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams</p>	<p>CLERK USE: DATE FILED <u>FEB 23 2011</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Planning and Sustainability Bureau Head: Susan Anderson</p>	<p>ACTION TAKEN:</p>
<p>Prepared by: Jessica Richman Date Prepared: Feb. 23, 2011</p>	
<p>Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date February 23, 2011</p>	
<p>City Attorney Approval <i>[Signature]</i></p>	

AGENDA

TIME CERTAIN
 Start time: 2: 00 pm

Total amount of time needed: 1 hr.
 (for presentation, testimony and discussion)

CONSENT

REGULAR
 Total amount of time needed: _____
 (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	✓

Mayor's Alternative—Code Only

Language **added** by the Planning Commission is underlined
 Language **added** by the Mayor's Proposal is double-underlined
 Language to be **deleted** by the Planning Commission is shown in ~~strike through~~
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33.100.100 Primary Uses

A. Allowed uses. [No change.]

B. Limited uses. [No change.]

1. and 2. [No change]

~~3. Schools. This regulation applies to all parts of Table 100-1 that have note [3]. School uses are subject to the regulations for schools in the R5 zone as well as Chapter 33.281, Schools and School Sites.~~

34. Radio Frequency Transmission Facilities. This regulation applies to all parts of Table 100-1 that have note [34]. Some Radio Frequency Transmission Facilities are allowed by right. See Chapter 33.274.

45. Community Services. This regulation applies to all parts of Table 100-1 that have note [45]. Most Community Service uses are a conditional use. However, short term housing and mass shelters are prohibited.

56. Basic Utilities. This regulation applies to all parts of Table 100-1 that have note [56]. Basic Utilities that serve a development site are accessory uses to the primary use being served. All other Basic Utilities are conditional uses.

6. 7. Manufacturing and Production. This regulation applies to all parts of Table 100-1 that have note [6-7]. Utility Scale Energy Production from Large Wind Turbines is a conditional use. All other Manufacturing And Production uses are prohibited.

Table 100-1 Open Space Zone Primary Uses	
Use Categories	OS Zone
Residential Categories	
No change	
Commercial Categories	
No change	
Industrial Categories	
Manufacturing And Production	CU <u>[6 7]</u>
Warehouse And Freight Movement	N
Wholesale Sales	N
Industrial Service	N
Railroad Yards	N
Waste-Related	N
Institutional Categories	
Basic Utilities	L/CU <u>[5 6]</u>
Community Service	CU <u>[4 5]</u>
Parks And Open Areas	L/CU <u>[2]</u>
Schools	CU <u>[3]</u>
Colleges	N
Medical Centers	N
Religious Institutions	N
Daycare	CU
Other Categories	
Agriculture	Y
Aviation And Surface Passenger Terminals	N
Detention Facilities	N
Mining	CU
Radio Frequency Transmission Facilities	L/CU <u>[3 4]</u>
Rail Lines And Utility Corridors	CU

Mayor's Alternative—Code Only

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CHAPTER 33.281 SCHOOLS AND SCHOOL SITES

33.281.010 Purpose

The City recognizes that schools have a special relationship to the community. This chapter provides regulations for schools and school sites located throughout the City's neighborhoods. The regulations acknowledge that school sites provide an important community resource and that traditionally a wide variety of activities take place at school sites. The regulations also reflect the fact that there is a constant change in uses, programs, and buildings as school districts respond to changing demographics and educational innovations. At the same time, the regulations protect surrounding uses from negative impacts by providing a forum for the review of major changes to uses or buildings.

33.281.020 Relationship to Base Zone and Conditional Use Regulations

The base zone chapters indicate whether school uses are allowed by right, are conditional uses, or are prohibited. In OS and R zones, schools are generally regulated as conditional uses. In C and E zones, schools are generally allowed by right. In I zones, schools are prohibited. This chapter provides supplemental information and regulations specific to school uses and school sites. The requirements of the base zone apply unless superseded by the regulations in this chapter. In situations where the use is regulated as a conditional use, the regulations that apply are located in this chapter, except for the conditional use approval criteria, which are in 33.815.105. ~~the conditional use regulations approval criteria in 33.815.040, .050, and .105 also apply.~~ If a school site has previous conditions of approval, the specific conditions take precedence over the threshold levels of review in this chapter.

Regulations in OS and R zones

33.281.030 Review Thresholds for School Uses

This section The following thresholds states when a conditional use is required and the type of procedure used the type of procedure used in the conditional use review for changes to school uses in the OS and R zones. Changes that are allowed by right are also stated.

- A. **New school use.** The creation of a school use on a site that does not have a school use or is not a school site is reviewed through the Type III procedure.
- B. **Change of school grade levels.** Changes from an elementary to a middle or junior high or to a high school, or from a middle or junior high to a high school are reviewed through a Type III procedure. Changes from a high school to a middle or junior high or to an elementary school, or from a middle or junior high to an elementary school are reviewed through a Type II procedure. Changes from a middle to a junior high, or from a junior high to a middle school are allowed by right. Removing grades from any school is allowed. Adding grades is allowed or a conditional use, as specified in Table 281-1.

Mayor's Alternative—Code Only

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[Replace Table 281-1 of the Recommended Draft with this one]

Table 281-1 Regulations for Adding Grades		
<u>If a school has the following grades:</u>	<u>Regulation for adding the following grades:</u>	
	<u>Allowed</u>	<u>CU required</u>
<u>Any grade K-8</u>	<u>Any grade K-8</u>	<u>Any grade 9-12 (Type III)</u>
<u>Any grade 9-12</u>	<u>Any grade 9-12</u>	<u>Any grade K-8 (Type II)</u>
<u>Any grade K-8 AND Any grade 9-12</u>	<u>Any grade K-12</u>	<u>==</u>

C. [No change]

D. Changes in enrollment and staffing. Changes in the number of students enrolled and the number and classification of staff are allowed without review except where a conditional use review is required by Subsections 33.281.050.B or C.

33.281.040 Review Thresholds for Other Uses

[No change.]

A. Purpose. [No change.]

B. Other uses on school sites.

1. Daycare, Community Service, and nonprofit or social service Office uses are allowed by right at a school site. However, these uses must comply with the parking requirements in Chapter 33.266, Parking and Loading. In addition, any exterior recreation areas including playgrounds and fields must be maintained and open to the public at times when the use is not occupying the areas.
2. through 5. [No change.]
6. Adding an allowed use may or may not require a conditional use depending on the proposed changes to development on the site. See Section 33.281.050.

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33.281.050 Review Thresholds for Development

The following thresholds state the type of procedure used in the conditional use review for changes to development at schools and on school sites in the OS and R zones. Changes that are allowed by right are also stated. This section states when development related to schools and on school sites in the OS and R zones is allowed, when a conditional use review is required, and the type of procedure used. Recreational fields used for organized sports are subject to Chapter 33.279, Recreational Fields for Organized Sports.

- A. ~~Allowed by right.~~** Alterations to the site that meet all of the following are allowed without a conditional use review,
1. The addition of new outdoor recreation areas, or changes to existing outdoor recreation areas;
 2. The addition of up to 1,500 square feet of floor area to the site;
 3. Increases of exterior improvement areas up to 1,500 square feet. Fences, handicap access ramps, and on-site pedestrian circulation systems, and increases allowed by Paragraphs A.5 and A.8 are exempt from this limitation;
 4. Changes that do not result in a net gain or loss of site area;
 5. ~~Alterations to parking areas other than Special Event Parking that meet the following:~~
 - a. ~~Will not result in a net gain in the number of parking spaces;~~
 - b. ~~Sites with up to 15 spaces, not including those used for Special Event Parking; will not result in a net loss in the number of parking spaces;~~
 - e. ~~Sites with 16 or more spaces, not including those used for Special Event Parking; will not decrease the number of spaces except as follows:~~
 - ~~(1) No reduction in shared parking spaces is allowed;~~
 - ~~(2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and~~
 - ~~(3) An individual or cumulative removal of parking spaces in excess of 5 spaces is prohibited. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present.~~
 5. The alteration will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:
 - a. On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; however, the removal of more than 5 spaces requires a conditional use review;
 - b. Up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be added; however, the addition of more than 5 spaces requires a conditional use review; and
 - c. Any cumulative loss or gain of parking allowed in 5.a or 5.b above is measured from the time the use became a conditional use, or the last conditional use review of the use, whichever is most recent, to the present.
 6. through 8. [No change.]

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B. Type II. ~~Alterations to development when the individual or cumulative alterations will not increase the floor area or exterior improvement area by more than 10 percent, up to a maximum of 25,000 square feet are reviewed through a Type II procedure. The increase is measured from the time the use became a conditional use, the effective date of this Title, or the last Type III conditional use review on the site, whichever is most recent. Exceptions are outdoor recreation areas and athletic fields, which are regulated by Subsection A. above, and Subsection C. below. A Type II review is required when the following individual or cumulative alterations are proposed. The increases in paragraphs B.3 through B.6, below, are measured from the time the use became a conditional use or the last conditional use review of the use, whichever is most recent, to the present.~~

1. When proposed alterations to the site will not violate any conditions of approval;
2. When there will be a net loss in site area that will not take the site out of conformance, or further out of conformance, with a development standard;
3. When there will be an increase or decrease in the net number of parking spaces by up to 2 spaces or up to 10 percent of the total number of parking spaces, whichever is greater;
4. When the alterations will not increase the floor area on the site by more than 10 percent, up to a maximum of 25,000 square feet;
5. When the alterations will not increase the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by B.3 above are exempt from this limitation; or
6. When the alterations will not increase the floor area and the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by B.3 above are exempt from this limitation.

C. Type III. ~~The following alterations to development are processed through a Type III procedure: All other alterations to development on the site, including alterations not allowed by Subsections A. and B. above are reviewed through a Type III procedure.~~

1. ~~All other alterations to development on the site, including alterations not allowed by Subsections A. and B. above. Recreational fields used for organized sports are subject to Chapter 33.279, Recreational Fields for Organized Sports.~~

33.281.055 Loss of Conditional Use Status on School Sites.

If a school use is discontinued for more than 5 continuous years, a new conditional use is required. A school use has been discontinued if the use ceases operations, even if the structure or materials related to the use remain. Any school use proposing to locate at the site after more than 5 years of discontinued use must go through a new conditional use review. The new conditional use is reviewed as follows:

- A. If the school use has been discontinued for less than 10 years, and the proposed new school use does not include any of the Type III changes listed in 33.281.030.B or 33.281.050.C, the conditional use is reviewed through a Type II procedure.
- B. If the school use has been discontinued for less than 10 years, and the proposed new school use includes any of the Type III changes listed in 33.281.030.B or 33.281.050.C, the conditional use is reviewed through a Type III procedure.
- C. If the school use has been discontinued for more than 10 years, the conditional use is reviewed through a Type III procedure.

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CHAPTER 33.815 CONDITIONAL USES

33.815.040 Review Procedures

The procedure for reviewing conditional uses depends on how the proposal affects the use of, or the development on, the site. Subsection A, below, outlines the procedures for proposals that affect the use of the site while Subsection B outlines the procedures for proposals that affect the development. Proposals may be subject to Subsection A or B or both. The review procedures of this section apply unless specifically stated otherwise in this Title. The review procedures for recreational fields for organized sports are stated in Chapter 33.279. The review procedures for schools, school related uses, and school sites, are stated in Chapter 33.281. Proposals may also be subject to the provisions of 33.700.040, Reconsideration of Land Use Approvals.

A. [No change]

B. **Proposals that alter the development of an existing conditional use.** Alterations to the development on a site with an existing conditional use may be allowed, require an adjustment, modification, or require a conditional use review, as follows:

1. Conditional use review not required. A conditional use review is not required for alterations to the site that comply with Subparagraphs a through g. All other alterations are subject to Paragraph 2, below. Alterations to development are allowed by right provided the proposal:

a-d. [No Change]

e. Will not result in a net gain or loss of site area; and

f. ~~Will not increase the net number of parking spaces by more than 1 space or 4 percent of the total number of parking spaces, whichever is greater. However, an individual or cumulative addition of more than 5 parking spaces requires a conditional use review; and~~

g. ~~Will not result in a net loss in the number of parking spaces, except as follows:~~

~~(1) No reduction in shared parking spaces is allowed;~~

~~(2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater;~~

~~(3) An individual or cumulative removal of parking spaces in excess of 5 spaces requires a conditional use review. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present; and~~

~~(4) Removal of parking from sites with 4 or fewer required spaces requires a conditional use review.~~

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f. Will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:

- (1) On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; however, the removal of more than 5 spaces requires a conditional use review;
- (2) Up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be added; however, the addition of more than 5 spaces requires a conditional use review; and
- (3) Any cumulative loss or gain of parking allowed in (1) or (2) above is measured from the time the use became a conditional use, or the last conditional use review of the use, whichever is most recent, to the present.

2. [No change]

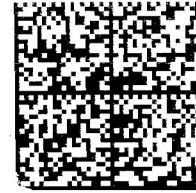
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Director

Phone 7100

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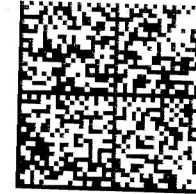
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