



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

06/30/2014

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 002-14

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, July 15, 2014

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: Morgan Tracy, City of Portland  
Gordon Howard, DLCD Urban Planning Specialist  
Anne Debbaut, DLCD Regional Representative

<paa> YA



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE 002-14  
File No.: (20266)  
[17919]  
Received: 6/24/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Portland

Local file no.: **RICAP 6**

Date of adoption: 6/11/2014

Date sent: 6/12/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): March 14, 2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

**The short term rental amendments are being considered separately. Another DLCD Form 2 will be delivered following the final outcome fo those amendments.**

Local contact (name and title): Morgan Tracy, City Planner II

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City: Portland

Zip: 97202-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- |             |    |        |  |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

See attached list

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

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List affected state or federal agencies, local governments and special districts: Multnomah County Drainage District

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

The Regulatory Improvement Code Amendment Package 6 (RICAP 6) is a collection of code amendments addressing 34 issues including several amendments to clarify and make the code consistent. Issues that affect policy include: amendments to regulations for radio frequency transmission facilities; temporary activities; regulations for environmental restoration standards; applying historic reviews to public rights of way; allowing public art in lieu of windows without an adjustment.

# ORDINANCE No. 186639

Improve land use and other City regulations through the Regulatory Improvement Code Amendment Package 6—Technical Amendments (Ordinance; amend Code Title 16 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 6, except for the amendments relating to short-term rentals (Items 12 -14).
2. During the spring and summer of 2013, 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 6. Potential code amendments were drawn from a database that contains regulatory improvement requests.
3. On July 25, 2013, 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 6 Proposed Workplan*.
4. On August 13, 2013 the Planning and Sustainability Commission held a hearing and adopted the RICAP 6 workplan. The adopted workplan included 42 potential code amendment items. Three items were added after August 13, 2013, for a total of 45 potential code amendment items.
5. During the summer and fall of 2013, BPS staff conducted research, met with neighborhood land use chairs, and worked with BDS staff and staff from other City agencies to develop a proposal for each of the 45 potential code amendments. Thirty-four of the initial 45 workplan items were determined to warrant an amendment to City code; 11 of the initial 45 were determined to not warrant an amendment to City code. Thirty-one of the 34 proposed code amendment items relate to technical or minor policy issues, and three of the code amendment items relate to short-term rentals. This ordinance does not pertain to the items related to short-term rentals (Items 12 -1 4), which are the subject of a separate ordinance.
6. On March 18, 2014 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 660-018-0020 and ORS 197.610.
7. On March 20, 2014 notice of the proposal and the April 22, 2014 Planning and Sustainability Commission RICAP 6 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 April 22, 2014 the Planning and Sustainability Commission held a hearing on the *RICAP 6 Proposed Draft*. The Planning and Sustainability Commission voted to make two minor amendments to the proposal, and then voted to recommend approval of the 34 RICAP 6 proposed code amendment items and to forward them to City Council for adoption.
9. On May 13, 2014 notice of the June 4, 2014 City Council hearing on RICAP 6 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 identified below implement this goal and the general process for adopting all of the RICAP 6 amendments complies with this goal in the following ways:
  - a) Amendment item #40 clarifies the required information for a land use notice to ensure involvement of property owners in the planning process.
  - b) Amendment item #16 clarifies the requirement to contact neighbors when establishing a convenience store. Inclusion of timelines and procedures for notification will increase the quality and timeliness of citizen involvement opportunities.
  - c) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) on July 15, 2013 and the land use chairs of the Neighborhood Coalition offices on July 25, 2013 to review potential items for inclusion in the RICAP 6 workplan.
  - d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available the public on the City's regulatory improvement program website on July 24, 2013. A copy of the workplan report was mailed to those who requested it.
  - e) Notice of the August 13, 2013 Planning and Sustainability Commission hearing on the RICAP 6 proposed workplan was mailed on July 25, 2013 to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties.
  - f) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed workplan and took public testimony on August 13, 2013 on the proposed code amendment items. The Planning and Sustainability Commission voted to adopt the workplan.
  - g) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public on January 6, 2014. The report was posted on the City's regulatory improvement program website and mailed to those who requested a copy.

- h) Notice of the discussion draft was mailed to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice also included the dates, times and locations of a neighborhood meetings and an open house where the draft would be presented and staff would be available for discussion and questions.
  - i) Staff attended six neighborhood district coalition meetings, and two neighborhood association meetings between January 6 and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at these meetings
  - j) Staff presented the RICAP 6 discussion draft report to the Design Commission, the Historic Landmarks Commission, and the Planning & Sustainability Commission.
  - k) Staff held a RICAP 6 project open house on February 11, 2014. .
  - l) Notice of Planning and Sustainability Commission hearing on the RICAP 6 proposed draft was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on March 20, 2014.
  - m) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to those who requested it.
  - n) The Planning and Sustainability Commission held a public hearing and took testimony on the RICAP 6 proposed draft on April 22, 2014. The Planning and Sustainability Commission voted to make two minor amendments to the proposed draft in addition to the two changes introduced by staff, and then voted to forward RICAP 6 proposed code amendment items to City Council for adoption.
  - o) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to those who requested a copy.
  - p) Notice of the June 4, 2012 City Council hearing on the RICAP 6 recommended draft was mailed on May 13, 2014 to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, and 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 6 amendments supports this goal because development of the recommendations followed established city procedures for legislative actions. Amendment item #45 adds as a criterion to quasi-judicial Comprehensive Plan Map amendment applications, that the requested change is consistent with all Statewide Land Use Planning Goals. This ensures that the process and policy structure for consideration of such requests properly incorporates the statewide land use planning framework. See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.
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 6 amendments are consistent with this goal because they do not substantially change policy related to open space,

scenic, historic or natural resources, and several of the amendments clarify or streamline existing regulations and review procedures pertaining historic areas and natural resources. The amendments do not directly affect any City-identified Goal 5 resources, except for the additional protections afforded to designated historic resources located in public rights of way, as described for amendment item #44, below:

- a) Amendment item #18 is intended to align the zoning code regulations for radio frequency transmission facilities with 47 U.S.C. §1455, which states that local governments must approve requests to modify existing facilities when the result does not “substantially change” the physical dimensions of a radio frequency transmission facility or base station. Amendment item #18 provides that modifications of radio frequency transmission facilities that do not increase the footprint of equipment enclosures on the ground by more than 1,500 sq. feet are allowed without conditional use review, but must meet the development standards in Code Chapter 33.274. This amendment applies to all zones, including the open space zone. The amendments are equally protective of policies conserving open space because they are consistent with the current threshold for conditional use review when altering existing conditional uses per PCC 33.815.040.B. The amendments related to item #18 do not change the zoning code regulations or procedures for establishing a new radio frequency transmission facility. Also see findings for Portland Comprehensive Plan Goal 2, Urban Development.
- b) Amendments related to item #25 streamline the permitting process for resource enhancement projects conducted by the Multnomah County Drainage District (MCDD). The Multnomah County Drainage District conducts resource enhancement projects throughout their jurisdiction in order to improve the function of natural resources, improve stormwater management, and reduce flooding. In 2010 with the adoption of the Airport Futures project, the City implemented a set of development standards for review of enhancement projects conducted by MCDD within the Portland International Airport and Cascade Station/PIC plan districts. Prior to the Airport Futures amendments, resource enhancement projects within the plan districts required a quasi-judicial land use review. The amendments associated with RICAP item #25 expand application of the development standards to a larger portion of MCDD’s jurisdiction within the City of Portland and ensure that these projects avoid, minimize and mitigate impacts to significant natural resources.
- c) Amendment item #44 corrects a mistake that occurred in 1996 when the zoning code was amended to create Chapter 33.445, Historic Resource Protection overlay zone. According to 33.10.030, with a few exceptions, land within a public right-of-way is not regulated by Title 33. When the zoning code went into effect in January 1991 one of the exceptions to this rule was “development within design districts when specified in Chapter 33.825, Design Review” (1991 code Paragraph 33.10.030.B.2). At the time, Chapter 33.825 specified that design review was required in the design overlay zone, for all historic landmarks, and when City Council required design review. In addition, all of the area within the design overlay zone was in a design district in 1991. Therefore, in effect, 33.10.030.B.2 specified that Title 33 applied to development in the public right-of-way when the development was in a design overlay zone, and when the development affected a historic landmark in the public right-of-way.

In 1996, historic resources (districts and landmarks) were pulled out of the design overlay zone and given their own overlay zone and land use review (33.445, Historic Resource Protection overlay zone, and 33.846, Historic Reviews). When this occurred, 33.10.030 was not amended to reflect the new organization of the code. To be consistent, 33.10.030.B should have been amended to ensure that Title 33 continued to apply to development in public rights-of-way within historic and conservation districts, and that Title 33 continued to apply to historic and conservation landmarks in public rights-of-way, as was the case prior to 1996. This amendment



corrects that oversight and ensures that designated historic resources in the public right of way are protected similarly as designated historic resources located elsewhere in the City. See also findings addressing Portland Comprehensive Plan Goal 12, Urban Design.

- d) Amendment item #45 ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including conservation of Open Space, Scenic and Historic Areas, and Natural Resources.
13. **Goal 6, Air, Water, and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water, and land resources. The amendments associated with item #25 support this goal by encouraging natural resource enhancement projects within the Multnomah County Drainage District (MCDD). Currently, resource enhancement projects must be approved through a land use review process. The amendments will streamline the approval process by allowing projects within the district to meet a set of development standards and avoid a longer and more costly land use review process. While the process will be simpler, the standards have been designed to ensure that resource enhancement projects avoid, minimize and mitigate impacts to significant natural resources, including water and land resources. MCDD conducts resource enhancement projects in order to improve natural resource function, improve stormwater management, and reduce flooding. Amendment item #45 also ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including Air, Water and Land Resource Quality.
14. **Goal 7, Areas Subject to Natural Hazards**, requires the protection of people and property from natural hazards. The amendments identified below implement and are generally consistent with this goal by clarifying several regulations related to natural hazards in the following ways:
- a) The amendments associated with items #20, #21, #22, #23 and #24 amend Chapter 33.296, Temporary Activities to ensure that activities conducted in response to a natural disaster or other emergency, such as establishing a heating or cooling center, are allowed. Currently, regulations in Chapter 33.296 imply that an activity conducted in response to a natural disaster or other emergency could not be repeated until a time duration of four times as long as the last emergency has transpired. The amendments enable the city and other emergency assistance agencies to respond to natural emergencies and disasters regardless of their frequency or duration.
  - b) The amendments associated with item #25 will encourage natural resource enhancement projects conducted by the Multnomah County Drainage District (MCDD). The amendments will streamline the approval process by allowing projects within the district to meet a set of development standards and avoid a longer, and more costly, land use review process. MCDD conducts resource enhancement projects within their jurisdiction in order to improve natural resource function, improve stormwater management, and reduce flooding. The amendments facilitate these projects that will help to protect the public and low-lying properties from impacts of flooding.
  - c) Amendment item #33 clarifies land division criteria related to sites in potential landslide hazard areas by clarifying the existing criterion for locating lots and development on a site and more clearly stipulating what measures an applicant must meet to reasonably limit landslide potential. The amendments support Goal 7 by helping to ensure that development is located in suitable areas with limited landslide risk.



- d) Amendment item #45 ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including protection of people and property from natural hazards.
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 6 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) The amendments associated with item #18 delete outdated standards affecting radio frequency transmission facilities and replace them with standards that address current technology, and are in compliance with recent rulings from the Federal Communications Commission (FCC). These changes will simplify the process for the deployment of wireless technology, while continuing to allow local review of visual impacts. The amendments strike a balance between the economic benefits of facilitating wireless deployment and the need to support neighborhood economic vitality by considering visual impacts.
  - b) The amendments associated with items #20, #21, #22, #23 and #24 clarify and simplify the regulations for several temporary activities that support economic development. These amendments allow for commercial filming activities to take place in all areas of the city. The amendments also address construction activity, by facilitating the temporary staging of buildings that are in the process of being relocated, and allowing off-site construction staging areas for sites in high-intensity development zones.
  - c) The amendments associated with item #30 resolves a conflict related to the limits on retail sales in the Columbia South Shore plan district. The amendments clarify that the current 20,000 square foot size limit applies to the IG2 zone and not the EG2 zone (currently limited to 25,000 square feet). This ensures that previously adopted policies regarding appropriate levels of retail versus industrial uses are consistently implemented.
  - d) The amendments associated with items #35 and #36 allow some uses and developments operating under a revocable permit to continue as non-conforming situations rather than expire. The amendments provide a higher level of certainty that the use or development can continue, thereby encouraging owners to make investments in and improvements to their property.
  - e) The amendments associated with item #43 streamlines the development processes by eliminating the requirement for a land use review in order to provide public art in lieu of providing ground floor windows. The amendments allows the Regional Arts and Culture Commission to approve the proposal. These amendments provide additional opportunities for storefront improvements by reducing the regulatory barriers associated with obtaining approval of public art in lieu of meeting the ground floor window requirement while retaining a process to ensure the vitality and continuity of commercial areas.
  - f) Amendment item #45 ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including Economic Development.
16. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The RICAP 6 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. Specifically, amendment item #15 addresses inconsistencies between Community Design Standards that address exterior finish materials for residential projects in design and other overlay zones. Amendment items #35 and #36 allow revocable permits that granted additional housing density to continue in effect as non-conforming residential density, rather than expire when the ownership changes. This provides a mechanism to allow these housing units to remain. Amendment item #45 ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including Housing. Also see findings addressing 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 6 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 #11 limits the number and size of work vehicles associated with a home occupation that can be parked in the public street. Because many residential streets are narrow in width and because trucks above the allowed size for home occupations are generally wider (up to a maximum of 102 inches) than allowed passenger vehicles (generally up to 72 inches), restricting the parking of these wider vehicles on residential streets reduces congestion by lessening the impediments to traffic circulation in residential neighborhoods.
  - b) Amendment item #45 ensures that quasi-judicial Comprehensive Plan Map amendments are consistent with Statewide Land Use Planning Goals, including Transportation.

The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if 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 6 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.
19. **Title 3, Water Quality and Flood Management**, protects the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigation the impact of development on these areas and protecting life and property from the dangers

associated with flooding. Title 3 implements Statewide Land Use Goal 6. The findings addressing that statewide goal are incorporated here and demonstrate that the amendments are consistent with this Title. See also findings for Comprehensive Plan Goal 8, Environment.

20. **Title 4, Industrial and Other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Industrial and Employment Areas and provides for the benefits of clustering industries. Title 4 also seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. Amendment items #30 and #31 clarify existing policies related to development and uses in the Columbia South Shore employment and industrial areas. This ensures that these regulations will be consistently applied and avoids potential misapplication of retail use size limits in employment zones.
21. **Title 7, Housing Choice**, calls for establishment of voluntary affordable housing production goals and reporting on progress toward increasing the supply of affordable housing. Cities' implementing ordinances must include measures to maintain the existing supply of affordable housing. None of the amendments impact housing choice or reduce the supply of affordable housing. Amendment item #35 and #36 allow revocable permits that granted additional housing density to exist as non-conforming residential density, rather than expire when the ownership changes. While these are not necessarily deemed affordable housing, these units do add to the overall supply and variety of available housing.
22. **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. The amendments associated with item #18 require that applications to install accessory equipment related to a radio frequency transmission facility include documentation of compliance with the city's noise standards when located in or near residential zones, and the amendments help facilitate the deployment of wireless services and emergency communication in residential areas. Amendments associated with items #20, #21, #22, #23, and #24 clarify regulations and limit impacts from temporary activities including construction staging, large gatherings, and commercial filming.
23. **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. The amendments associated with item #25 will streamline the approval process for resource enhancement projects within the Multnomah County Drainage District (MCDD) by allowing projects to meet a set of development standards and avoid a longer, and more costly, land use review process. While the process will be simpler, the standards have been designed to ensure that resource enhancement projects avoid, minimize and mitigate impacts to significant natural resources, including water and land resources. MCDD conducts resource enhancement projects in order to improve natural resource function, improve stormwater management, and reduce flooding.

## 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 6 amendments.

24. **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 6

amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals. Amendment item #45 supports Goal 1 because it aligns the approval criteria for Comprehensive Plan map amendments to the Comprehensive Plan maps with Statewide Land Use Planning Goals.

25. **Policy 1.4, Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. The amendments associated with item #25 support this policy by providing a streamlined approval process for resource enhancement projects initiated by the Multnomah County Drainage District (MCDD) or Portland Bureau of Environmental Services. This provides for a more efficient use of public funds while ensuring interagency coordination during project development.
26. **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.
27. **Policy 2.6 Open Space**, calls for preserving Portland parks, golf courses, trails, parkways, and cemeteries for recreation and visual relief. The RICAP 6 amendments are consistent with this policy because they do not affect Portland open spaces. Amendment item #18 provides opportunities for existing radio frequency transmission facilities to expand the ground enclosure areas consistent with existing allowances for increased exterior improvement areas for other conditional uses per PCC 33.815.040.B. Amendment item #19 clarifies existing limits for spectator seating in parks. Because these amendments will continue to allow parks and other open spaces to be preserved for recreation and visual relief, this policy is met.
28. **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 6 amendments are consistent with this goal because they improve the clarity of zoning code regulations in general. Specifically, amendment items #1, #2, #11 and #15 clarify the standards that apply to residential infill development on corner lots and on transitional sites, clarify the limitations on activities related to accessory home occupation that can occur in the public right-of-way, and clarify the requirements for exterior finish materials in design zones .
29. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The RICAP 6 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 thereby reducing the cost of development. Specifically, amendment item #15 addresses inconsistencies between Community Design Standards that address exterior finish materials for residential projects in design and other overlay zones. Amendment item #35 and #36 allow revocable permits that granted additional housing density to exist as non-conforming residential density, rather than expire when the ownership changes. This provides a mechanism to allow these housing units to continue. Also see findings for Statewide Land Use Goal 10, Housing and Metro Title 1.

30. **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 also findings under Statewide Land Use Goal 9, Economic Development.
31. **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. In general the amendments support this goal because they don't change policy or intent of any existing regulations pertaining to transportation. See also findings under Statewide Land Use Goal 12, Transportation.
32. **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. The amendment addressing standards for resource enhancement projects within the Multnomah County Drainage District (Item #25) supports this goal by providing a streamlined process for resource enhancement projects within the Multnomah County Drainage District (MCDD) while still subjecting these projects to our environmental regulations to ensure protection of the resources. See also findings under Statewide Land Use Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources.
33. **Policy 8.13, Natural Hazards**, seeks to control density in areas of natural hazards. Amendment item #33 supports this policy by clarifying the application of regulations for land divisions located in areas of potential landslide hazard risk.
34. **Policy 8.20, Noise Abatement Strategies**, is supported by amendment item #18 which requires applications for Radio Frequency Transmission Facilities accessory equipment when located in or near residential zones to submit an acoustical engineer's report that demonstrates compliance with the city's noise standards or that with appropriate sound proofing mitigation the standards will be met.
35. **Policy 8.25 Visual Impacts**, seeks to limit the visual impact of radio and television broadcast facilities in close proximity to residential areas. This policy was adopted in 1987, prior to the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, which included Section 6409, now codified as 47 U.S.C. §1455. The resulting regulation specifies that local governments "may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." Amendment item #18 supports the city policy to the extent allowed by federal law, by allowing facilities to be modified in a manner that does not substantially change the physical dimensions of the support tower, and by requiring that any modification must reasonably maintain the appearance of the original approved facility.
36. **Policy 8.26 Health and Safety**, seeks to protect the health and safety of citizens from the adverse impacts of radio and television broadcast emissions. This policy was adopted in 1987, prior to the enactment of the 1996 Federal Telecommunications Act. The act limits local governments' ability to regulate wireless facilities on the basis of environmental effects of radio frequency emissions. Amendment item #18 is consistent with the City policy to the extent allowed by Federal Law, by replacing the city's radio frequency emissions standards and siting criteria with a requirement that applicants document conformance with the FCC emissions standards.

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. 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 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. Amendment item #33 specifically responds to direction from the State Land Use Board of Appeals to clarify the city's subdivision regulations pertaining to development in potential landslide hazard areas.
39. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Policy 12.5, Promote the Arts, calls for the promotions of the arts and excellence in design. Policy 12.7, Design Quality, calls for encouraging the built environment to meet standards of excellence while fostering creativity. There are several amendments that are supportive of this goal:
- a) The amendments associated with item #15 consistently apply the Community Design Standards to residential projects in design and other overlay zones. Correcting inconsistencies in the exterior materials regulations specifically supports better design quality by removing confusion from application of these standards to ensure the proper materials are used while still offering multiple materials options to foster creativity. Providing more clarity for residential projects located in commercial zones that use the multi-dwelling residential design standards ensures that design goals are applied consistently for similarly situated projects.
  - b) Amendment item #43 clarifies the relationship and process between the Regional Arts and Culture Commission and the Bureau of Development Services when commercial businesses propose to install public art as an option to the provision of ground floor windows. This helps promote the use of public art by reducing the time and cost required to install approved public art.
  - c) The amendments associated with item #44 ensures that the zoning code applies to historic resources located in the public rights-of-way. This ensures that historic City features located in public rights of way, such as landmark bridges, are preserved and that substantial quality public improvements are protected for future generations.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Planning and Sustainability Commission Recommended Draft*, dated May 2014, excluding the amendments pertaining to short-term rentals (Items #12-14).



- b. Amend Title 16, Vehicles and Traffic, and Title 33, Planning and Zoning, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Planning and Sustainability Commission Recommended Draft*, dated May 2014, excluding the amendments pertaining to short-term rentals (Items #12-14).
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Planning and Sustainability Commission Recommended Draft*, dated May 2014; as further findings and legislative intent, excluding the amendments pertaining to short-term rentals (Items #12-14).

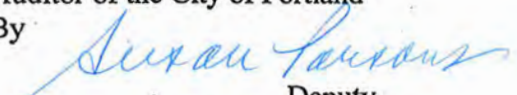
Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council 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: JUN 11 2014

Mayor Charles Hales  
Prepared by: Morgan Tracy  
Date Prepared: May 14, 2014

**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By

  
Deputy



988081

577 = 603

Agenda No. **186639**  
**ORDINANCE NO.**  
Title

Improve land use and other City regulations through the Regulatory Improvement Code Amendment Package 6—Technical Amendments (Ordinance; Amend Title 16 and Title 33)

Code

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Charlie Hales</b>	CLERK USE: DATE FILED <u>MAY 30 2014</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Hales <i>[Signature]</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	LaVonne Griffin-Valade Auditor of the City of Portland  By: <u><i>Susan Larson</i></u> Deputy
<b>BUREAU APPROVAL</b> Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Susan Anderson</i> Prepared by: Morgan Tracy Date Prepared: May 8, 2014	
<b>Financial Impact &amp; Public Involvement Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input checked="" type="checkbox"/>	<b>ACTION TAKEN:</b> <b>JUN 04 2014 PASSED TO SECOND READING JUN 11 2014 9:30 A.M.</b>
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i>	
<b>Council Meeting Date</b> <b>June 4, 2014</b>	

<b>AGENDA</b> <b>TIME CERTAIN</b> <input checked="" type="checkbox"/> <b>Start time: 2 pm</b> <b>Total amount of time needed: 3 hrs</b> (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input type="checkbox"/> <b>Total amount of time needed: _____</b> (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. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	

33.10.030 Where the Zoning Code applies  
33.110.100 Primary Uses  
33.110.110 Accessory Uses  
33.110.200 Setbacks  
33.110.213 Additional Development Standards  
33.110.215 Height  
33.110.220 Setbacks  
33.110.240 Alternative Development Options  
33.110.250 Accessory Structures  
33.110.253 Garages  
Figure 110-15 Fence Option  
33.120.215 Height  
33.120.220 Setbacks  
33.120.280 Accessory Structures  
33.120.285 Fences  
33.130.210 Height  
33.130.230 Ground Floor Windows  
33.130.265 Detached Accessory Structures  
33.140.210 Height  
33.140.230 Ground Floor Windows in EX Zone  
33.140.270 Detached Accessory Structures  
33.203.040 Site-Related Standards  
Ch. 33.218 Community Design Standards  
Ch. 33.219 Convenience Stores  
33.266.110 Minimum Required Parking Spaces  
33.266.130 Development Standards for All Other Development  
Figure 266-6 Landscape Options  
Ch. 33.274 Radio Frequency Transmission Facilities  
Ch. 33.279 Recreational Fields for Organized Sports  
Ch. 33.296 Temporary Activities  
33.410.040 Development Standards  
33.420.041 When Design Review is Required  
33.420.045 Exempt from Design Review  
33.430.080 Items Exempt from these Regulations  
33.430.140 General Development Standards  
33.430.170 Standards for Resource Enhancement Projects  
33.445.320 Development and Alterations in a Historic District  
33.445.420 Development and Alterations in a Conservation District  
33.455.250 Required Design Review  
33.460.110 Additional Standards in the R1 zone  
33.460.240 Required Design Review  
33.460.310 Additional Standards  
33.508.310 Relationship to Other Environmental Regulations  
3.508.320 Where and When These Regulations Apply  
33.508.330 Measuring Setbacks  
33.508.350 Development Standards  
33.508.360 General Development Standards  
33.508.370 Standards for Resource Enhancement  
33.508.380 Special Procedures for Wildlife Hazard Management  
33.510.205 Height  
33.510.220 Ground Floor Windows  
33.515.120 Commercial Uses  
33.515.130 Additional Conditional Uses  
33.515.205 Airport Way Streetscape

33.521.310 Required Design Review  
33.526.350 Required Design Review  
33.533.050 New Towers and Expanded Facilities  
33.533.080 Monitoring and Power Density Measurements  
33.534.240 Required Design Review  
33.536.290 Maximum Parking Allowed in the RX, CS, and CX Zones  
33.536.310 Required Design Review  
33.538.260 Required Design Review  
33.550.290 Required Design Review  
33.555.230 Maximum Height  
33.555.300 Required Design Review  
33.561.310 Compatibility Standards in the R2.5 and R2 Zones  
33.561.320 Required Design Review  
33.562.310 Required Design Review  
33.565.510 Relationship to Other Environmental Regulations  
33.565.520 Where and When These Regulations Apply  
33.565.530 Measuring Setbacks  
33.565.550 Development Standards  
33.565.560 General Development Standards  
33.565.570 Standards for Resource Enhancement  
33.565.580 Special Procedures for Wildlife Hazard Management  
33.580.030 Design Review  
33.583.290 Required Design Review  
33.632.010 Purpose  
33.632.100 Landslide Hazard Approval Criteria  
33.663.110 Voiding of Final Plat Application  
33.700.025 Neighborhood Contact  
33.700.080 Regulations that apply at Time of Application  
33.700.120 Status of Prior Revocable Permits  
33.710.050 Design Commission  
33.710.060 Historic Landmarks Commission  
33.730.014 Type I Procedure  
33.730.015 Type Ix Procedure  
33.730.020 Type II Procedure  
33.730.025 Type IIx Procedure  
33.730.030 Type III Procedure  
33.730.060 Application Requirements  
33.730.070 Written Notice Requirements  
33.810.050 Approval Criteria  
33.815.040 Review Procedures  
33.815.223 Public Safety Facilities  
33.815.225 Radio Frequency Transmission Facilities  
33.910.030 Definitions  
33.920.540 Radio Frequency Transmission Facilities  
16.20.160 Use of Streets in Lieu of Off-street Parking or Storage Prohibited

