

SUBSTITUTE

Ordinance No. 188958

* Amend Zoning regulations to implement the 2035 Comprehensive Plan through the Code Reconciliation Project (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The Code Reconciliation Project – Recommended Draft (Exhibit A) amends Title 33 to align regulations and more effectively implement the Portland 2035 Comprehensive Plan, which was adopted in December 2016 (Ordinance #187832) and align it with the Inclusionary Housing Zoning Code Project (Ordinance # 188162), which was adopted on December 21, 2016.
2. On June 15, 2016 the Portland City Council adopted the 2035 Comprehensive Plan (Ordinance #187832) which sets the land use and development policy framework for the City of Portland.
3. On December 21, 2016, the Portland City Council adopted the 2035 Comprehensive Plan Early Implementation Zoning Code Amendments (Ordinance #188177) which implement the 2035 Comprehensive Plan and will become effective May 23, 2018.
4. On December 21, 2016, the Portland City Council adopted the Inclusionary Housing Zoning Code Project (Ordinance #188162) which requires residential projects with more than 20 units to provide a portion of the new units as affordable housing, and became effective February 1, 2018.
5. On November 29, 2017, the Portland City Council passed Ordinance #188695, delaying the effective date of the 2035 Comprehensive Plan and implementation measures until May 24, 2018 at 1:00 p.m.
6. Because of the timing of adoption of the Comprehensive Plan Early Implementation Zoning Code Amendments and the Inclusionary Housing Zoning Code Project, additional amendments to Title 33 are necessary to align the regulations with each other and the 2035 Comprehensive Plan.
7. Extensive community involvement was essential for the development and adoption of the *2035 Comprehensive Plan*, and for the related implementing measures. Community involvement was also undertaken for the Inclusionary Housing Zoning Code Project. Additional community involvement was conducted for the Code Reconciliation Project, and is outlined in Exhibit A.

8. On September 18, 2017 notice of the proposed action was emailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
9. On September 18, 2017 notice of the proposal and the public hearings before the Planning and Sustainability Commission 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 PCC 33.740.
10. On September 19, 2017 notice of changes that affect the allowed use of property were mailed to owners of such affected property as required by Oregon law.
11. On October 24, 2017 the Planning and Sustainability Commission held a public hearing on the *Code Reconciliation Project - Proposed Draft*, and testimony was received. The Planning and Sustainability Commission held additional work sessions on November 14, 2017, December 12, 2017, and January 9, 2018 to address issues raised in testimony. The Commission voted to make several amendments to the proposal, and then voted to recommend approval of the amendments to Title 33 of the *Code Reconciliation Project – Proposed Draft*, as amended by the Commission, to City Council for adoption.
12. The Bureau of Planning and Sustainability is responsible for development and administration of rules for energy efficient buildings for projects that seek to use Planned Development Bonuses in Commercial/Mixed Use zones allowed by Title 33. The Bureau has initiated a process of administrative rule making for Energy Efficient Building requirements that includes stakeholder involvement, and a public hearing process.
13. On February 20, 2018 notice of the March 21, 2018 City Council hearing on the Code Reconciliation Project – Recommended Draft was mailed to those who presented testimony orally or in writing to the Planning and Sustainability Commission and provided a name and address, and those who asked for notice.
14. On February 20, 2018 notice of changes recommended by the Planning and Sustainability Commission that further affect the allowed use of property were mailed to owners of such affected property as required by Oregon law.
15. The regulatory framework for Title 33 amendments encompassed by the Code Reconciliation Project (Exhibit A) was initially developed as part of the 2035 Comprehensive Plan update in 2016, and findings of fact were developed and adopted for the Comprehensive Plan Implementation Ordinance in that process (Exhibit B).
16. The amendments included in the Code Reconciliation Project (Exhibit A) are largely technical changes to better align codes and in many cases do not substantively affect development allowances.
17. The findings of fact for the 2035 Comprehensive Plan Implementation Ordinance, included as Exhibit B, serve as the fundamental findings of fact for the Code Reconciliation Project, except where specifically superseded by the additional findings contained in Exhibit C.

18. On March 21, 2018 Portland City Council held a public hearing and received testimony on the Code Reconciliation Project – Recommended Draft. The Council further amended the Recommended Draft in response to testimony and to further refine and reconcile the code for implementation.
19. The Portland City Council passed Ordinance #188695 on November 29, 2017, delaying the effective date of the 2035 Comprehensive Plan and implementation measures until May 24, 2018 at 1:00 p.m. References to any earlier effective dates noted in the 2035 Comprehensive Plan Early Implementation Zoning Code Amendments and 2035 Comprehensive Plan Code Reconciliation Project should be changed to May 24, 2018 for consistency.

NOW, THEREFORE, the Council directs:

- a. Title 33, the Zoning Code is hereby amended as described in Exhibit A *Code Reconciliation Project - Recommended Draft, As-Amended*, dated April 2018.
- b. The commentary and discussion in Exhibit A *Code Reconciliation Project - Recommended Draft, As-Amended*, dated April 2018, are adopted as findings and legislative intent.
- c. All January 1, 2018 effective dates in Title 33, for zoning changes adopted as part of the 2035 Comprehensive Plan Early Implementation Zoning Code Amendments and 2035 Comprehensive Plan Code Reconciliation Project, shall be changed to May 24, 2018.
- d. The findings of fact for the 2035 Comprehensive Plan Implementation Ordinance, included as Exhibit B are adopted as findings and legislative intent.
- e. Findings in Exhibit C (Revised, dated April 2018) are adopted as further findings and legislative intent. The findings in Exhibit C supplement the findings in Exhibit B. To the extent that findings in Exhibit B and C conflict or are inconsistent, the findings in Exhibit C supersede those in Exhibit B.
- f. The Director of the Bureau of Planning and Sustainability shall develop, administer and periodically amend rules for Energy Efficient Buildings as called for in PCC 33.270.200, Additional Requirements for Planned Development in the Commercial/Mixed Use Zones.
- g. Prosper Portland and the Bureau of Planning and Sustainability shall return to City Council with a report on the Affordable Commercial Space bonus program and its effectiveness by December 31, 2019.

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.

Section 3. The Council declares that an emergency exists because the amendments to city code are critical to implementation of the 2035 Comprehensive Plan, and a delay in the effective date would interrupt the ability to effectively process land use and development proposals and permits; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: **MAY 24 2018**

Mayor Ted Wheeler

Prepared by: Barry Manning

Date Prepared: April 23, 2018

Mary Hull Caballero
Auditor of the City of Portland

By 

Deputy

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<p>INTRODUCED BY Commissioner/Auditor: Ted Wheeler</p> <hr/> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler <i>VC</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p> <hr/> <p>BUREAU APPROVAL</p> <p>Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Valia Thompson</i></p> <p>Prepared by: Barry Manning Date Prepared: April 23, 2018</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>LR</i></p> <p>Council Meeting Date April 25, 2018</p>	<p>CLERK USE: DATE FILED <u>APR 23 2018</u></p> <hr/> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN: APR 25 2018 <i>Substitute accepted.</i> APR 25 2018 CONTINUED TO MAY 24 2018 2 P.M</p>
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<p style="text-align: center;">AGENDA</p> <p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 pm</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p> <hr/> <p>CONSENT <input type="checkbox"/></p> <hr/> <p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th style="width: 35%;">YEAS</th> <th style="width: 35%;">NAYS</th> </tr> <tr> <td>1. Fritz</td> <td>1. Fritz <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>2. Fish</td> <td>2. Fish <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td>3. Saltzman <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td>4. Eudaly <input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Wheeler</td> <td>Wheeler <input checked="" type="checkbox"/></td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz	1. Fritz <input checked="" type="checkbox"/>		2. Fish	2. Fish <input checked="" type="checkbox"/>		3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>		4. Eudaly	4. Eudaly <input checked="" type="checkbox"/>		Wheeler	Wheeler <input checked="" type="checkbox"/>	
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