

City of Portland
City Council

Relief and Recovery Ordinance

Bureau of Development Services

June 16, 2021
Staff Presentation

COVID-19 Emergency

- Emergency declared on March 12, 2020 and extended every two weeks since;
- Portland Zoning Code implements the Comprehensive Plan and land use plans to protect health, safety and general welfare of Portlanders; and
- The COVID-19 emergency has had an adverse effect on the health, safety and general welfare of Portlanders.



Ordinance Background and Focus

Presentation and Process

1. Ordinance focus, approach and outreach
2. Timelines
3. Ordinance items, including:
 - Reduced and modified operations;
 - Ventilation and air circulation,
 - Nonconforming upgrades;
 - Entrepreneurialism;
 - Temporary signs; and
 - Boarded up windows and murals
4. City Council Discussion and vote



Ordinance Presentation and Process

Ordinance Details

The ordinance is a menu of potential options, items can be selected or discarded;

- Timelines are adjustable (see next slide); and
- All items are temporary and COVID-19 related.

Ordinance Details

Ordinance Timelines

- Different timelines and deadlines are reflected in the ordinance:
 - State of Emergency;
 - August 1, 2021 – DOZA;
 - April 1, 2022 – land use and permit review; and
 - March 31, 2023 – full recovery estimated by State of Oregon economic office



Ordinance Timelines

Ordinance Outreach

- Outreach focused on City staff as well as announcements and requests for ideas at various forums including:
 - DRAC;
 - NAIOP/BOMA;
 - Mayor's Action Tables meeting including break-out sessions: BIPOC and Vulnerable Businesses and Small Businesses;
 - Portland Business Alliance; and
 - Oregon Smart Growth



**PORTLAND
ACTION TABLES**



**BUSINESS
SUCCESS &
JOB CREATION**



**REPUTATION
RECOVERY &
REBRANDING**



CLEAN & GREEN



**SAFETY &
COMPASSION**



**PDX
RECOVERY +
EVENTS**

Ordinance Outreach

Reduced and Modified Operations

1. Allow certain Retail Sales and Service uses to occur outside, such as hair cutting and gyms; and
2. Allow tented structures associated with Retail Sales and Services to avoid Design Review or Historic Resource Review if present for over 180 days

Timeline: Economic Recovery – March 31, 2023



**Ordinance
Components:**

**#1 and #2
Reduced and
Modified
Operations**

Reduced and Modified Operations

Intent: Allow outdoor business and retail operations to occur

Pros:

- Addresses needs for businesses to continue modified operations

Cons:

- Some outdoor operations or tented structures would eventually need approval through a building permit and land use review, or be removed

Ordinance Components:

#1 and #2 Reduced and Modified Operations

Ventilation and Air Circulation

3. Exempt certain façade and rooftop venting and rooftop mechanical from Design Review



**Ordinance
Components:**

**#3 Ventilation
and Air
Circulation**

Timeline: DOZA Adoption – August 1, 2021

Ventilation and Air Circulation

Intent: Implement allowances from the Design Overlay Zoning Amendment project before adoption

Pros:

- Allows businesses and building owners to improve ventilation and air circulation without a Design Review

Cons:

- The Design Overlay Zoning Amendment project is currently at City Council

Ordinance Components:

#3 Ventilation and Air Circulation

Nonconforming Upgrades

- 4. Waive nonconforming upgrade requirements



Ordinance
Components:

#4
**Nonconforming
Upgrades**

Timeline: Economic Recovery – March 31, 2023

Nonconforming Upgrades

Intent: Reduce customer and applicant costs as well as permit and land use review timelines

Pros:

- Reduces timeline for City staff review of permit and land use review applications;
- Reduces cost of plan development for BDS customers; and
- Reduces the complexity of plans

Cons:

- Nonconforming upgrade requirements only apply to projects valued at over \$300,000; and
- Upgrades such as parking lot landscaping or additional bicycle parking may be deferred for a longer period of time

Ordinance Components:

#4

Nonconforming Upgrades

Entrepreneurialism

- 5. Waive additional requirements for Convenience Stores
- 6. Allow Home Occupations with 1 non-resident employee and up to 15 customers per day



**Ordinance
Components:**

**#5 Convenience
Stores; and
#6 Home
Occupations**

Timeline: Economic Recovery – March 31, 2023

Entrepreneurialism

Intent: Encourage greater entrepreneurialism, promote small business development and address equity.

Pros:

- Greater home occupation capacity;
- Reduced regulatory barriers

Cons:

- Home occupation allowances will need monitoring; and
- Convenience stores will not have additional “good neighbor” requirements

Ordinance

Components:

Entrepreneurialism

#5 Convenience

Stores; and

#6 Home

Occupations

Temporary Signs

7. Increase time for temporary signs



Ordinance Components:

#7 Temporary Signs

Timeline: Economic Recovery – March 31, 2023

Temporary Signs

Intent: Allow businesses and retail operations to display signs signaling changes to operations.

Pros:

- Addresses need for businesses to notify of modified operations

Cons:

- Some temporary signs may be present for longer than the allowed extension

Ordinance Components:

#7 Temporary Signs

Boarded Windows and Murals

- 8. Waive ground floor window standards for buildings with boarded windows;
- 9. Allow some boarded windows to remain if a mural permit application has been submitted; and



Ordinance Components:

#8 Boarded Windows; and #9 Murals on Boarded Windows

Timeline:

- 8. State of Emergency; and
- 9. Land Use/Permit application – April 1, 2022

Boarded Windows and Murals

Intent: Set a deadline for removal of boards over windows until enforcement may occur and allow some to pursue a City Mural application or be preserved.

Pros:

- Sets a timeline for when boards over windows need to be removed

Cons:

- Allows additional time for boarded windows that are painted to be removed

Ordinance Components:

#8 Boarded
Windows
#9 Murals

Mural Requirements

10. Waive certain mural code requirements



Timeline: Economic Recovery – March 31, 2023

Ordinance
Components:

#10 Mural
Requirements

Mural Requirements

Intent: Modify requirements to address changes to BDS functions and indoor gatherings

Pros:

- Addresses adjustments to operations both at BDS and for indoor gatherings

Cons:

- An evaluation of whether regulations to post a sign and potentially host a public meeting may be warranted

Ordinance Components:

#10 Mural Requirements

Ordinance Summary

Items:

- #1 – Allow outdoor Retail Sales and Services;
- #2 – Allow tented structures to remain beyond 180 days without Design or Historic Review;
- #3 – Increase allowances for air circulation and ventilation improvements;
- #4 – Waive nonconforming upgrade requirements;
- #5 – Waive additional requirements for Convenience Stores;
- #6 – Increase Home Occupation allowances;
- #7 – Increase the timeline temporary signs are allowed
- #8 – Set a deadline for boards on windows to be removed before code compliance occurs;
- #9 – Allow additional time for boards on windows painted with murals to remain; and
- #10 – Modify mural regulations involving posting a sign and hosting a public meeting.

Ordinance Summary



City of Portland
City Council

Relief and Recovery Ordinance

Bureau of Development Services

June 23, 2021 - Second Reading
Staff Presentation

Intent of Ordinances

BDS has presented two ordinances:

1. Safety and Security
2. Relief and Recovery

The intent of these ordinances is to identify regulations administered and enforced by BDS to:

- Make temporary adjustments to reduce regulatory and financial burdens on Portlanders
- Help businesses re-open and recover
- Provide incentives for businesses and organizations to pursue projects which provide and support local jobs

Presentation and Process

1. Nonconforming upgrades
 - What are nonconforming upgrades
 - When are nonconforming upgrades needed
 - Case studies
2. Boarded up windows
3. Boarded up windows painted with murals and artwork
4. City Council discussion and vote

Ordinance Presentation and Process

What are Nonconforming Upgrades

Apply to sites with existing development where alterations or renovations are proposed and certain site features do not comply with current zoning requirements and include:

- Landscaping – particularly parking lot landscaping
- Screening
- On-site pedestrian circulation
- Bicycle parking
- Trees

When are Nonconforming Upgrades needed

- Projects with a value of \$306,000 or higher are subject to nonconforming upgrades
- 10% of project value must be spent to bring nonconforming features into conformance with current code
- Nonconforming upgrades often apply on the following types of sites:
 - Improvements of small commercial spaces
 - Campus style development
 - Redevelopment with surface parking lots
 - Sites formerly located in unincorporated Multnomah County which had lower parking lot landscaping requirements

Nonconforming Upgrades

Proposal: Waive nonconforming upgrade requirements

Intent: Reduce customer and applicant costs as well as permit and land use review timelines

Expires: March 31, 2023



Nonconforming Upgrades - Proposal

8037 SE Stark

Proposal: Convert vacant commercial space to urgent care veterinarian clinic

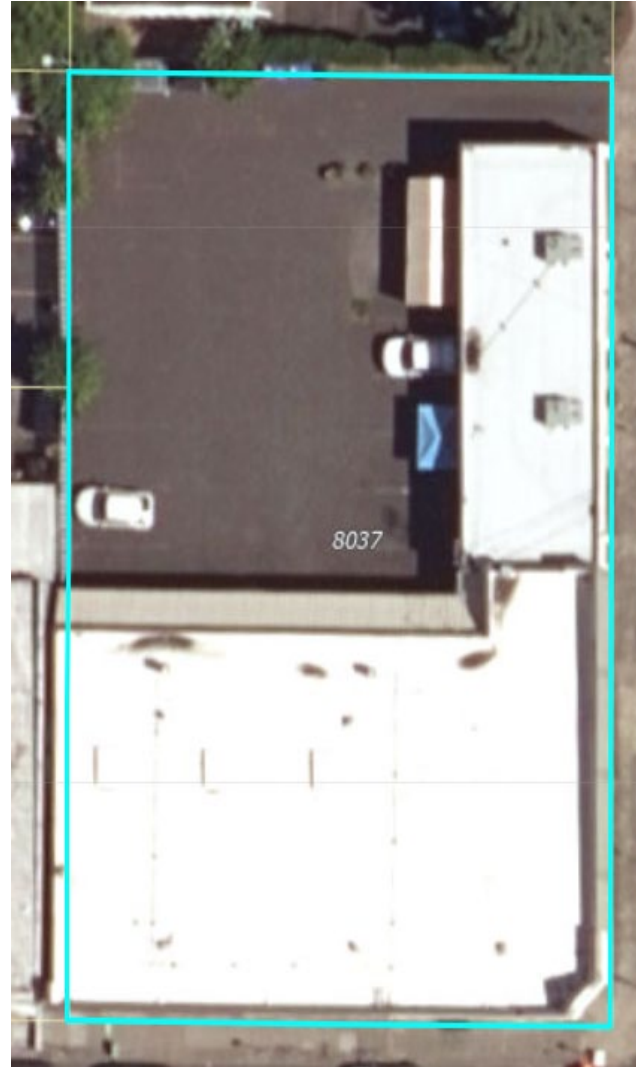
Project value: \$400,000

Nonconforming upgrade improvement cost: \$40,000

Nonconforming development issues:

- Extensive landscaping improvements would consume funds necessary for building conversion in part due to rising cost of construction and materials
- Smaller wood-framed buildings are particularly vulnerable to rising construction and lumber costs

Result: Prospective tenants may need to phase improvements to absorb costs of nonconforming upgrades or abandon the project



Nonconforming Upgrades - Case Studies

Mall 205

Proposal: New tenant in vacant Bed, Bath & Beyond space

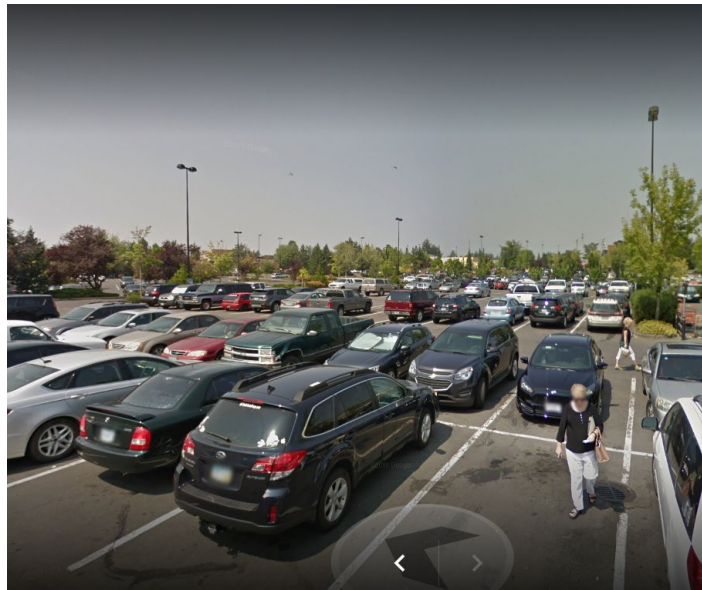
Project value: \$6,800,000

NCU cost: \$680,000

Nonconforming development issues:

- Shared parking lot
- Existing conditions must be documented for entire site including identifying tree species and counting shrubs
- Nonconforming upgrades apply to entire site, not just the area used by the tenant

Result: Prospective tenant abandoned the project due to nonconforming upgrades (as well as a lack of certainty).



Nonconforming Upgrades - Case Studies

Roosevelt High School

Proposal: 10,000 square foot classroom addition

Project value: \$3,450,000

Nonconforming upgrade improvement cost: \$345,000

Nonconforming development issues:

- Full campus site
- Existing conditions must be documented for entire site including identifying tree species and counting shrubs
- Limited area to plant trees

Result: Paid \$53,325 in lieu of planting 79 trees



Nonconforming Upgrades - Case Studies

Boarded Up Windows

Proposal: Temporarily suspend ground floor window standards for buildings with boarded windows

Intent: Set a deadline for removal of boards over windows to be removed before enforcement occurs

Expires: End of State of Emergency



Boarded Up Windows - Proposal

Boarded up windows

- Window requirements are not met when windows are boarded up
- Code violations can result, and owners would have less than one month to correct the violation
- Businesses may not have the financial resources to comply with window requirements due to pandemic which could create hardship



**Boarded up
windows**

Boarded up windows painted with murals and artwork

Proposal: Temporarily suspend ground floor window standards for buildings with boarded windows, allowing additional time for preservation of murals and artwork



Intent: Set a deadline for removal of boards over windows until enforcement may occur, allowing additional time for boards painted with murals or artwork to be preserved in different locations or venues

Expires: April 1, 2022

Boarded up windows painted with murals and artwork - Proposal

Boarded up windows painted with murals and artwork

- Window requirements are not met when windows are boarded up
- Code violations can result, and the owners would have less than one month to correct the violation
- Businesses may not have the financial resources to comply with window requirements due to pandemic which could create hardship
- BDS proposed a temporary code waiver as a way for owners to have additional time to preserve artwork or obtain necessary permits. This item does not address issues of ownership of the murals or artwork



Boarded up windows painted with murals and artwork

Ordinance Summary

Items:

- #1 – Allow outdoor Retail Sales and Services
- #2 – Allow tented structures to remain beyond 180 days without Design or Historic Review
- #3 – Increase allowances for air circulation and ventilation improvements
- #4 – Waive nonconforming upgrade requirements
- #5 – Waive additional requirements for Convenience Stores
- #6 – Increase Home Occupation allowances
- #7 – Increase the timeline temporary signs are allowed
- #8 – Set a deadline for boards on windows to be removed before code compliance occurs
- #9 – Allow additional time for boards on windows painted with murals to remain
- #10 – Modify mural regulations involving posting a sign and hosting a public meeting

Ordinance Summary



City of Portland
City Council

Relief and Recovery Ordinance

Bureau of Development Services

July 14, 2021 – Second Reading with
emergency clause

Presentation and Process

1. Background for two amendments plus emergency clause
 - Nonconforming upgrades
 - City Attorney recommended language clarification related to murals on boarded up windows
 - Emergency clause
2. City Council discussion and vote on amendments
3. City Council vote on ordinance as an emergency

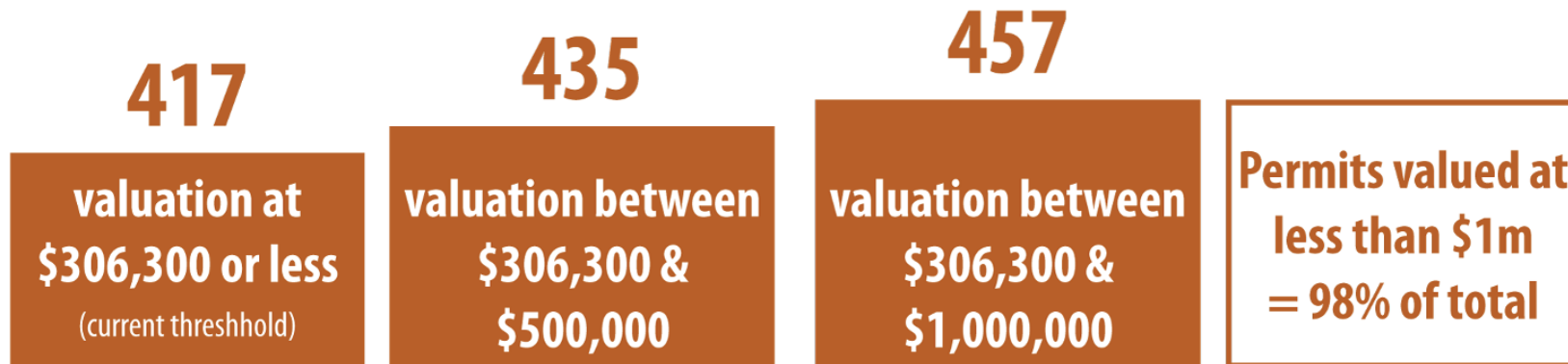
* For reference: Full list of ordinance items and amendment language

Ordinance Presentation and Process

Nonconforming upgrades research

Approach: Examined 2019 permit data to identify appropriate threshold for nonconforming upgrades for Retail Sales and Services uses

467 permits for commercial tenant improvements with a “business” or “mercantile” subtype



Recommendation: Recognizing increases in material costs, amend temporary threshold for Retail Sales and Service uses to \$1m

Ordinance Amendment – Nonconforming Upgrades Research

Nonconforming upgrades

Specifies types of projects and dollar thresholds when temporary nonconforming upgrades waiver applies

- Daycare uses
 - All
- Affordable housing
 - When 50% of dwelling units are under 60% median family income or as defined by Title 30
- Community Service uses
 - All
- Retail Sales and Service uses
 - Project valuation \$1,000,000 or lower

Ordinance Amendment – Nonconforming Upgrades

City Attorney Recommended

Further clarify the difference between directive “i” and direction “j”

- Directive “i”:
 - Boarded up windows
 - Deadline for removal: end of State of Emergency
- Directive “j”:
 - Murals painted on boarded up windows
 - Deadline: December 31, 2021
- Amendment: Add descriptive terms to better differentiate directive “i” and “j”

Ordinance Amendment - City Attorney Recommendation

Emergency clause language

Include an “*” before ordinance description and add the following language:

Section 2. The Council declares that an emergency exists because businesses need urgent relief from the costs, time and regulation involved with land use review and permit review timelines and certain City Code allowances through the economic crisis associated with the COVID-19 emergency, while the State of Emergency, declared by Mayor Ted Wheeler on March 12, 2020 is in effect, as well as dates forecasted concerning when the economy returns to pre-COVID-19 levels and necessary timelines for businesses to transition to pre-COVID-19 operations. Therefore, this ordinance shall be immediately effective upon its passage by Council.

Ordinance Amendment – Emergency Clause

End of presentation

Ordinance Language

Next slides include:

- Full list of ordinance items
- Ordinance language
 - Original item
 - Amendments
 - Directive “i” for reference

Ordinance Summary

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Ordinance Summary

Nonconforming upgrades

Original item:

Waive PCC 33.258.070.D.1 and PCC 33.258.070.D.2 through March 31, 2023 to exempt nonconforming development associated with a new nonconforming use or new residential density or associated with existing nonconforming uses, allowed uses, limited uses, or conditional uses from the requirement to make upgrades. Permits submitted after March 31, 2023 will be subject to upgrade requirements.

**Ordinance
Amendment –
original
language**

Nonconforming upgrades

Amendment:

Waive PCC 33.258.070.D.1 and PCC 33.258.070.D.2 through March 31, 2023 for the following projects:

- Projects including a Community Service Use as defined in 33.920.420;
- Projects including a Daycare Use as defined in 33.920.430;
- Development with affordable housing units when at least 50% of the total number of proposed dwelling units on the site are affordable to those earning no more than 60% of the area median income or an affordability level established by Title 30; and
- Retail Projects including one or more Sales and Service Uses as defined in 33.920.250 if the project valuation is \$1,000,000 or less.

Permits submitted after March 31, 2023 will be subject to nonconforming upgrade requirements.

**Ordinance
Amendment –
amendment
language**

City Attorney recommended

Original item:

Waive PCC 33.130.230.A.3 and B.3, 33.415.340 and 33.510.220.B to allow murals to remain in place without a permit or adjustment until December 31, 2021.

Amendment:

Notwithstanding the time limitation in directive i, waive PCC 33.130.230.A.3 and B.3, 33.415.340 and 33.510.220.B to allow murals and the materials on which they are affixed to remain in place without a permit or adjustment until December 31, 2021.

**Ordinance
Amendment –
original
language and
amendment
language**

Directive i reference

Directive i:

Waive PCC 33.130.230.A.3 and B.3, 33.415.340 and 33.510.220.B to allow boards and other materials covering ground floor windows installed after the COVID-19 Declaration of Emergency was executed to remain until the COVID-19 emergency, or other emergency specifically allowing such coverings, is no longer declared.

**Ordinance
Amendment –
reference
language**