

ORDINANCE No. 184147

Amend ordinance to change effective date of amendments to Northwest District Plan and Official Zoning and Comprehensive Plan maps in portion of Northwest Portland (Ordinance; amend Ordinance NO. 183915)

The City of Portland ordains:

Section 1. The Council finds:

SUMMARY OF BACKGROUND

1. In 2003 and 2004, City Council adopted the Northwest District Plan (NWDP) and a number of implementing and other actions. Four ordinances and a resolution were used for this adoption: Ordinances Nos. 177920, 177921, 177993, and 178020, and Resolution No. 36171
2. The four ordinances and the resolution were appealed to the Oregon Land Use Board of Appeals (LUBA).
3. After an initial decision by LUBA, an appeal to the Oregon Court of Appeals, and a remand to LUBA, LUBA remanded Ordinance No. 177920 to the City of Portland in 2005 and affirmed the other three ordinances and the resolution.
4. Ordinance No. 177920 had incorporated the NWDP into the City's Comprehensive Plan, amended the Zoning Code, and amended the Official Zoning Map and Comprehensive Plan Map for a number of properties.
5. In its remand of Ordinance No. 179220, LUBA found that the City had not meet its evidentiary burden under Statewide Planning Goal 12, Transportation, and Oregon Administrative Rules 660-0012-0060, Transportation Planning, to show that Comprehensive Plan Map redesignations and rezones north of NW Pettygrove and Comprehensive Plan Map redesignations north of NW Vaughn would not have significant adverse traffic impacts on NW Vaughn Street or the NW Vaughn and 23rd intersection. In all other respects, LUBA upheld Ordinance No. 179220, the other three ordinances and the resolution.
6. In an unrelated 2009 decision on a quasi-judicial case involving property within the NWDP area, LUBA indicated that the effect of the 2005 remand of Ordinance No. 179220 was to invalidate the ordinance, and that the regulations and implementing actions adopted by that ordinance were no longer effective. This was affirmed by the Oregon Court of Appeals.
7. In response to the 2005 remand and the 2009 LUBA and Court of Appeals opinions, the City Council began readopting actions and elements that had been part of the remanded ordinance (Ordinance No. 179220). On October 21 2009, the City Council adopted Ordinance No. 183269, which repealed Ordinance No. 179220 and readopted the bulk of the NWDP that was unchallenged and/or sustained on appeal by LUBA.
8. On June 17, 2010, City Council adopted Ordinance No. 183915, which readopted the amendments to the Zoning and Comprehensive Plan maps that were affected by LUBA's remand of Ordinance No. 179220. It included supplemental findings that addressed the deficiencies noted in the remand order. It also included supplemental findings to address Metro's Title 4 and State Planning Goal 9, both of which had been amended since Ordinance No. 177920 was adopted.
9. Ordinance No. 183915 set an effective date of December 1, 2010 "in anticipation of approval of these amendments by the Metro Council in August 2010. Metro Council's actions are effective 90 days after

adoption." It also directed staff of the Bureau of Planning and Sustainability to return to Council to establish a new effective date if the Metro Council did not act by September 15, 2010.

10. The Metro Council hearing was held September 16, 2010. Metro approved these amendments. However, because their action was after September 15, a new effective date is required.
11. On August 30, 2010, notice of this ordinance was mailed to approximately 1,200 people or organizations and 88 property owners.

NOW, THEREFORE, the Council directs:

- a. The effective date of Ordinance No. 183915 is amended to January 2, 2011 because the Metro Council approved the amendments on September 16, 2010. Metro Council's actions are effective 90 days after adoption.
- b. If any section, subsection, sentence, clause, phrase, diagram 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 and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: OCT 06 2010


Mayor Adams

Prepared by: J. Richman

Date Prepared: September 17, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By



Deputy

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Agenda No.
ORDINANCE NO. 184147
Title

Amend Ordinance 483915 to change effective date of amendments to Northwest District Plan and Official Zoning and Comprehensive Plan maps in portion of Northwest Portland (Ordinance); amend Ordinance No. 183915

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>SEP 24 2010</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <u>[Signature]</u> Deputy
Position 2/Works - Fish	ACTION TAKEN:
Position 3/Affairs - Saltzman	SEP 29 2010 PASSED TO SECOND READING OCT 06 2010 9:30 A.M.
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <u>[Signature]</u>	
Prepared by: Jessica Richman Date Prepared: Sep. 17, 2010	
Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date Sep. 29, 2010	
City Attorney Approval <u>[Signature]</u>	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish		
3. Saltzman	✓	
4. Leonard		
Adams	✓	