

Ordinance No. 187 471

Improve land use regulations through the Accessory Structures Zoning Code Update Project
(Ordinance; amend 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. The focus of this project is on the regulations in the Zoning Code that apply to accessory structures.
2. In 2014, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked together to identify regulatory issues affecting accessory structures. The primary issues were related to detached structures accessory to single dwelling development.
3. During the winter of 2014-2015 BPS staff analyzed the previous five years of permit and land use activity for accessory structures to determine trends and frequency of issues involving these structures.
4. From January through April 2015, BPS and BDS met with an Advisory Committee composed of 16 members representing neighborhood and building interests. Staff reviewed the issues and initial concepts with the group.
5. During the spring and summer of 2015, BPS staff, met with neighborhood land use chairs, and other stakeholder groups to review staff draft proposals.
6. On August 5, 2015 notice of the proposed action was e-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 August 20, 2015 notice of the proposal and the September 22, 2015 Planning and Sustainability Commission Accessory Structure Zoning Code Update 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 September 22, 2015 the Planning and Sustainability Commission held a hearing on the *Accessory Structures: Zoning Code Update*. The Planning and Sustainability Commission voted to recommend approval of the staff proposed code amendments and to forward them to City Council for adoption.

9. On October 20, 2015, notice of the November 12, 2015 City Council hearing on Accessory Structure Zoning Code Update 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 finding addressing Portland Comprehensive Plan Goal 9, Citizen Involvement, and its related policies and objectives also demonstrate consistency with this goal. The processes identified below implement this goal in the following ways:

- a) A project focus group was established to discuss issues and solutions related to accessory structure regulations. The focus group members included neighborhood representatives, and small-scale builders and was supported by technical bureau representatives.
- b) Staff from the Bureau of Planning and Sustainability (BPS) met with the Development Review Advisory Committee (DRAC) several times in 2014 and 2015 to review the scope of the project and proposed code amendments. A member of DRAC was included within the focus group at their request.
- c) Staff attended the Residential Infill Expo, hosted by several neighborhood coalitions and associations on June 4, 2015. Staff gave an overview of the project, provided background information and answered questions.
- d) The *Accessory Structures Zoning Code Update: Discussion Draft* was made available to the public on June 10, 2015. The report was posted on the City's regulatory improvement program website and mailed to those who requested a copy.
- e) Notice of the discussion draft was mailed to over 600 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice also included the dates, times and locations of neighborhood meetings and an open house where the draft would be presented and staff would be available for discussion and questions.
- f) Staff attended six neighborhood district coalition meetings, and several special interest group meetings throughout June, 2015. The discussion draft report was presented and discussed at these meetings.

- g) Staff held a project open house on July 9, 2015. Approximately 20 people attended representing various neighborhood and development interests.
 - h) Notice of the Planning and Sustainability Commission (PSC) hearing on the Accessory Structures Zoning Code Update proposed draft was mailed to over 600 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties on August 20, 2015.
 - i) The *Accessory Structures Zoning Code Update: Proposed Draft* was made available to the public on August 20, 2015. The report was posted on the City's regulatory improvement program website and mailed to those who requested it.
 - j) The Planning and Sustainability Commission held a public hearing and took testimony on the proposed draft on September 22, 2015. The PSC accepted a minor amendment to the proposed draft as introduced by staff, and then voted to forward the proposed code amendment items to City Council for adoption.
 - k) The *Accessory Structure Zoning Code Update: Recommended Draft* was made available to the public on October 20, 2015. The report was posted on the City's regulatory improvement program website and mailed to those who requested a copy.
 - l) Notice of the November 12, 2015 City Council hearing on the recommended draft was mailed on October 20, 2015 to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, 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 accessory structures code amendments supports this goal because development of the recommendations followed established city procedures for legislative actions. 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 amendments are consistent with this goal because they do not change policy related to open space, scenic, historic or natural resources. Accessory structures constructed in areas containing natural, historic and scenic resources continue to be subject to the existing land use regulations that address these resources.
13. **Goal 9, Economic Development**, requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity. The amendments are consistent with this goal because they improve the clarity of zoning code regulations for detached accessory structures. Specifically, the amendments provide flexibility for the

placement of a variety of detached accessory structures in conjunction with single dwelling development.

14. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change the allowed number or density of housing units or accessory dwelling units. The amendments create a more uniform set of regulatory standards for accessory structures, including accessory dwelling units, based upon the bulk, rather than the function of the structure, providing greater flexibility for the layout of structures accessory to houses. The amendments impact the development of accessory dwelling units in the following way:
 - a) The new standards add locational flexibility for small detached accessory dwelling units associated with a house, which provide more options for alternative housing types.
 - b) The removal of design standards for small accessory dwelling units (ADUs) allow for standardized plans to be developed for ADUs, reducing potential costs for plans and permit review for these structures. The limitation of the design standards to taller accessory structures ensures that these standards apply in situations where the structure's bulk may have a greater impact on the neighborhood.
15. **Goal 12, Transportation**, requires the provision of a safe, convenient, and economic transportation system. In general, the 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 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 do not change the allowed number of units within residential neighborhoods, create 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 Accessory Structure Zoning Code Update amendments.

16. **Title 1, Housing Capacity**, ensures that each jurisdiction contributes 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 change the allowed number of housing units or accessory dwelling units in the city. See also findings for Statewide Goal 10, Housing.

17. **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. The amendments may indirectly impact housing choice by providing fewer regulatory barriers for the building of smaller accessory dwelling units, adding to the diversity of housing types within the city.
18. **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 are consistent with the title because they do not change the allowed number or density of housing units or accessory dwelling units within existing residential neighborhoods, while they reduce regulatory barriers for the building of smaller accessory structures in conjunction with existing houses. See also findings for Comprehensive Plan Goal 2 Urban Development, and Goal 3 Neighborhoods.
19. **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 are consistent with the title because they do not amend the regulations affecting environmental protection. See also findings for Statewide Land Use Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources,

Findings on Portland's Comprehensive Plan Goals

The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the Accessory Structure Zoning Code Update amendments.

20. **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 amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.
21. **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 legislative process supports this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. No outside agency comments were received.
22. **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 affect certain types of development. Specifically, these amendments support Policies 2.2 – Urban Diversity, 2.9 – Residential Neighborhoods; and 2.21 – Existing Housing Stock, by creating a more uniform set of regulations that address

detached accessory structures. These amendments allow for additional opportunities to develop a diverse set of accessory structures and accessory dwelling units creating options for living and storage space on residential lots, while considering the impacts on existing neighborhood character through standards to ensure detached accessory structures do not become the predominant element on site, to maintain privacy and limit visual impacts.

23. **Policy 2.2 Urban Diversity**, calls for promoting a range of living environments and employment opportunities for Portland residents in order to attract a stable and diversified population. The amendments support this policy by simplifying the regulations affecting detached accessory structures which better allow for the development of a range of accessory structures and accessory dwelling units, facilitating options for living and storage space on residential lots.
24. **Policy 2.9 Residential Neighborhoods**, allows for a range of housing types to accommodate increases in population growth while improving and protecting the city's residential neighborhoods. The amendments support this policy by simplifying the regulations for detached accessory structures and accessory dwelling units, creating flexibility for various accessory structures. This flexibility encourages a broader range of options for living and storage arrangements within existing neighborhoods.
25. **Policy 2.19 Infill and Redevelopment** calls for encouraging infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. The amendments are consistent with this policy because they do not change the allowed number or density of housing units or accessory dwelling units. The amendments simplify the regulations affecting detached accessory structures which better allow for the development of a range of accessory structures and accessory dwelling units, facilitating options for living and storage space on residential lots.
26. **Policy 2.21 Existing Housing Stock**, calls to provide for a full utilization of larger single-family homes with conditions that preserve the character of the neighborhood and prevent speculation. The amendments are consistent with the policy by creating a more uniform set of standards for constructing detached accessory structures on the property, potentially reducing the need to remove the existing house to meet current living and storage needs, while considering the impacts on existing neighborhood character through standards to ensure detached accessory structures do not become the predominant element on site, to maintain privacy and limit visual impacts.
27. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they improve the clarity of zoning code regulations as they apply to detached accessory structures. These amendments provide more consistent regulations for detached accessory structures based upon the bulk of the structure rather than the use, acknowledging the increase in the diversity of uses for these structures within residential lots. This potentially reduces the need to remove the existing house to meet current living and storage needs, while considering the impacts on existing neighborhood

character through standards to ensure detached accessory structures do not become the predominant element on site, to maintain privacy and limit visual impacts.

28. **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 accommodate the needs, preferences, and financial capabilities of current and future households. The amendments support this goal because they improve the clarity of zoning code regulations for detached accessory structures making them more understandable to citizens and the development community. The amendments provide greater uniformity in regulating detached accessory structures, which are often built in conjunction with single-dwelling development. This reduces the permitting burden and regulatory barriers that affect existing and future households.
29. **Policies 4.7 Balanced Communities, 4.10 Housing Diversity, 4.11 Housing Affordability, 4.12 Housing Continuum, 4.13 Humble Housing, and 4.14 Neighborhood Stability** include objectives that call for a range of housing types within neighborhoods that cover affordability, rental and ownership spectrums. The amendments are consistent with these objectives by removing some of the regulatory barriers for smaller, detached accessory dwelling units, which may encourage the provision of this housing type in a wider variety of situations.
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 are consistent with this goal because they update and improve the City's land use regulations and procedures for detached accessory structures, facilitating desired development. See 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 are consistent with this goal because they don't change any existing regulations pertaining to transportation. See also findings under Statewide Land Use Goal 12, Transportation.
32. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the city. Policy 7.4, Energy Efficiency through Land Use Regulations promotes residential energy efficiency and the use of renewable resources, including through the promotion of land use policies that encourage secondary residential units associated with single family homes. These amendments are consistent with the goal and policy by revising the land use regulations that apply to smaller scale accessory structures, including accessory dwelling units. The amendments may encourage the creation of smaller accessory dwelling units which have reduced energy usage than larger accessory dwelling units.

33. **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 amendments are consistent with this Goal because they do not change existing policies related to environmental resources and noise pollution. Accessory structures continue to be subject to the existing regulations that address these resources and issues.
34. **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.
35. **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 the regulations in the zoning code that apply to accessory structures. 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.
36. **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. The amendments are consistent with this goal by providing a more consistent set of development standards for detached accessory structures based upon the form of the structure rather than its use.
37. **Policy 12.6, Preserve Neighborhoods**, calls on the City to preserve and support the qualities of individual neighborhoods that help to make them attractive places. The amendments support this policy by creating opportunities for development or adaptive reuse of detached accessory structures in conjunction with existing houses in established and new neighborhoods, while including design standards for taller accessory buildings to better fit on the site and in the community.
38. **Policy 12.7, Design Quality**, calls for encouraging the built environment to meet standards of excellence while fostering creativity. The amendments support this policy by revising the existing development standards for accessory dwelling units to apply to all taller detached accessory structures which may have greater impacts on adjoining properties. These standards enable these structures to better fit on the site and in the community.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Accessory Structures Zoning Code Update: Recommended Draft*, dated October 2015.
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Accessory Structures Zoning Code Update: Recommended Draft*, dated October 2015.
- c. Adopt the commentary and discussion in Exhibit A, *Accessory Structures Zoning Code Update: Recommended Draft*, dated October 2015, as further findings and legislative intent.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

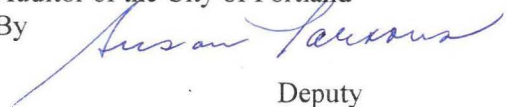
Passed by the Council: DEC 02 2015

Mayor Charlie Hales
Prepared by: Phil Nameny
Date Prepared: October 19, 2015

Mary Hull Caballero

Auditor of the City of Portland

By

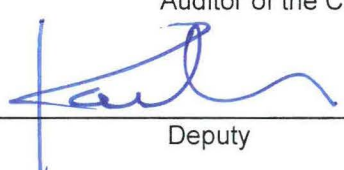


Deputy

1164 - 1198 = 1229

Agenda No.
ORDINANCE NO. 187471
Title

Improve land use regulations through the Accessory Structures Zoning Code Update Project
(Ordinance; Amend Title 33)

<p>INTRODUCED BY Commissioner/Auditor: Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>NOV 03 2015</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Planning & Sustainability Bureau Head: Susan Anderson</p> <p>Prepared by: Nameny Date Prepared: October 19, 2015</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 checked="" 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</p> <p>Council Meeting Date Nov. 12, 2015</p>	<p>ACTION TAKEN:</p> <p>NOV 12 2015 PASSED TO SECOND READING</p> <p>NOV 18 2015 PASSED TO SECOND READING</p> <p>NOV 18 2015 9:30 A.M.</p> <p>DEC 02 2015 9:45 TIME CERTAIN</p>

AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/></p> <p>Start time: 9:45AM</p> <p>Total amount of time needed: 1-hour (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

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