



Memo

Date: October 20, 2023
To: Planning Commissioners
From: Phil Nameny, City Planner
cc: Patricia Diefenderfer and Sandra Wood
Re: Housing Regulatory Relief Project

Hearing Date: October 24, 2023

Staff Recommendation

Staff proposes that the Planning and Sustainability Commission recommend that City Council:

- Adopt this report.
- Amend Title 33, Planning and Zoning, as described in the Housing Regulatory Relief Project Proposed Draft. The amendments provide both temporary suspensions of some rules and permanent clarifications of rules to facilitate the development of housing.

Summary of the Housing Regulatory Relief Package

The Housing Regulatory Relief Project amends the Zoning Code, providing both temporary suspensions of some rules for a period of five years and permanent clarification of some of these rules that will be applicable when the rules go back into effect, after the five-year duration of the proposed project. The amendments are mostly based on the list of development issues identified through a Bureau of Development Services Housing Production Survey that was open to the public from February 16 to March 3, 2023. The Project also includes technical amendments that impact the same code sections that are included in this proposal.



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The proposed project addresses 16 issues which are listed in the table below.

Development & Design Standards	Central City	Process Improvement
1. Bicycle Parking	8. Major remodel projects	12. On-street parking impacts criteria
2. Ground floor active uses	9. Ecoroofs	13. Neighborhood contact
3. Nonconforming upgrades	10. Bird-safe glazing	14. Design review procedures for housing
4. Loading standards	11. Central City master plan amendments	15. Land use expiration dates
5. Façade articulation		16. Land divisions for attached housing
6. Ground floor height/window standards		
7. Security gates & lighting		

Purpose and Background

Purpose

The Housing Regulatory Relief (HRR) project provides regulatory relief from some development standards and processes for projects submitted in the next five years. Relief is mainly provided to housing projects. The intent is to increase housing production as Portland recovers from the COVID pandemic and in response to the ongoing housing crisis. This package focuses on Zoning Code regulations. Other city projects are concurrently looking at permit processing times, system development charges, and developing a coordinated single permitting office. The temporary changes to the zoning code regulations are proposed as interim measures to respond to the housing crisis and the current macro-economic and market forces that are impacting development feasibility, as well as the chronic underproduction of housing that likely began during the recession in 2009 that has created a regional shortfall of 33,000 units. Taken in combination, the reduction in development costs associated with these temporary changes can help improve the feasibility of housing developments in the current economic climate.

Background

During the spring of 2023, the Bureau of Development Services (BDS) released a Housing Production Survey at the request of Commissioner Carmen Rubio who oversees both BDS and the Bureau of Planning and Sustainability (BPS). The survey sought input on processes and policies related to the development of housing that may merit reconsideration to encourage housing production. The survey included a list of 25 development/process requirements, with a focus on zoning regulations, and asked respondents to rank their top 5. Over 600 responses were received. Several items related to zoning code requirements received the highest scores, meaning they had been identified in the top 5 by many respondents. Of the 16 issues being addressed in this project, nine of them were on the survey. Remaining amendments were identified by staff through BPS



coordination with other bureaus such as BDS, Portland Bureau of Transportation, Prosper Portland and the Portland Housing Bureau.

Key Issues

Bicycle Parking

The bicycle parking amendments include both temporary and permanent measures. The temporary measures reduce the number of required long-term bicycle parking for residential uses and remove the requirement to include accommodation for larger or cargo bikes, which can result in larger bike parking areas. The permanent measures simplify the regulations for when long-term bike parking is placed within dwelling units. Bike parking was the issue most identified in the housing survey as a potential barrier. The proposed temporary reduction in bicycle parking is aimed at addressing concerns about underused bicycle parking rooms and loss of dwelling units within projects due to the size of bicycle parking rooms. With people's travel and commute patterns changing due to remote work and other factors, the temporary reduction will allow the city to test new bike parking ratios and evaluate their impact during this finite period of time.

Ground Floor Active Uses

Ground Floor Uses: These amendments temporarily allow greater flexibility in ground floor uses in developments that include housing either by allowing dwelling units on the ground floor where they are not currently allowed and/or by encouraging more residential units by providing temporary relief from active ground floor use standards that otherwise would require specific uses such as retail, office, community service or daycare uses, within buildings, on the ground floor. The intent of this temporary change is to create the option of constructing more dwelling units generally, by allowing them on the ground floor and not requiring other uses that would be required in lieu of dwelling units. While retail is not solely required to meet the requirement for active ground floors, this temporary change is also proposed in recognition of long-standing trends related to on-line shopping that generally alter and reduce the demand for brick-and-mortar commercial space. Being more flexible about the range of uses that can be located on the ground floor will make development more feasible and can reduce the incidence of commercial ground floor vacancy, which can also contribute to inactivity and deteriorate the pedestrian environment. Also allowing more flexibility in ground floor window percentages in the same areas as the use amendments acknowledges the differences in window treatment between commercial and residential ground-floor tenants. Well-designed ground floor dwelling units that meet base zoning development standards, including options to set the unit back or raise the ground floor unit, can contribute to more well-maintained and activated ground floors and are encouraged under current commercial base zoning.

Ground Floor Heights: The proposed regulations provide temporary relief from ground floor height requirements in applicable areas outside of the Central City. The temporary suspension will reduce the costs associated with building taller ground floors and more cost-effectively allow the construction of dwelling units on the ground floor, which do not require the taller floor-to-ceiling heights. Having a mix of well-designed residential units and commercial spaces in key nodes and centers can continue to contribute to a vibrant and activated environment. As mentioned above, base commercial zones also provide options for ground floor and window treatment of dwelling units that encourage well designed units.



Ecoroofs and Bird-safe Glazing

The ecoroof standard applies within the Central City plan district, while the bird-safe glazing standard applies in the Central City and in the River overlay zone south of downtown. The amendment suspends these standards for 5 years. While the development community states the standards create additional expenses that either impact feasibility or need to be passed on in the form of higher rents, the standards also provide environmental and resiliency benefits to the city and residents. While ecoroofs can serve a number of purposes, one of the main functions is to manage stormwater. Relaxing ecoroof standards does not relieve development projects from the requirement of the City's Stormwater Management Manual, and projects in the Central City with high lot coverage may still need to provide ecoroofs as part of their solution to managing stormwater. Temporarily relaxing the current code provision gives projects greater flexibility in the options for use of the roof including providing tenant common areas or solar equipment on building roofs.

Neighborhood Contact

There are temporary and permanent amendments proposed that impact the neighborhood contact process. This is a requirement for communication between the developer and the surrounding area for projects exceeding certain thresholds. The neighborhood contact takes place prior to the submission of any land use review or building permit to the City. Neighborhood Contact I generally applies to development between 10,000 and 25,000 s.f. or a land division of 4-10 lots, and requires a site posting. Neighborhood Contact II applies to development in excess of 25,000 s.f. or a land division of 11 or more lots and requires both a posting and an applicant held meeting. Neighborhood Contact III applies in two situations: when a development exceeds 10,000 s.f. in a Design overlay zone, or when a land division also includes an environmental review. This process requires both the posting and a meeting, but the applicant is required to work with the neighborhood association first to attempt to hold the meeting.

The temporary proposal suspends the above neighborhood contact process until January 1, 2029 for projects involving residential uses. While this process provides an avenue for conversation between applicants and neighbors, it can also create a delay at the beginning of the review/permit process. Note that any proposals that would trigger a land use review such as an Adjustment, Conditional Use review, Design, or Historic review are still required to follow the current land use notification and posting processes.

The permanent proposal removes the third type of neighborhood contact process and incorporates those triggers into the other two processes. There has been confusion with the third process because it treats similar situations differently. As an example, a 15,000 s.f. project in a historic or conservation district only triggers Neighborhood Contact I, while the same project in the Design overlay zone triggers Neighborhood Contact III. Removal of the third option does reduce the number of projects in Design overlay zones, and some smaller land divisions that require a meeting. However, the permanent changes also provide greater flexibility for the applicant to work directly with the neighborhood association when meetings are still required.



Outreach and Engagement

As stated above, many of the items in this package were taken from the responses to the BDS/Commissioner survey released early this year. The survey was sent to over 3,000 people, focused on applicants, developers, housing non-profits, BDS Plans Examiner subscribers and employees involved in permitting functions. There were over 600 responses to the survey.

The Proposed Draft was released on September 22. Notice was provided to the BPS's legislative project list and to the State Department of Land Conservation and Development. Staff also reached out to District Coalition offices, targeted neighborhood associations, environmental interests and to the bicycle community. Staff gave presentations to the Development Review Advisory Committee, the Design and Historic Landmarks Commissions, the Home Builders Association, Oregon Smart Growth, the Central Eastside Industrial Council, and the Southeast Uplift district coalition.

The Map App has been open for comments since the release of the Proposed Draft. As of October 19, there had been 90 written entries of testimony. 75 percent of these were similar expressions of concern with the suspension of the ecoroof and bird-safe glazing standards. There have also been several comments expressing concern in waiving or reducing the neighborhood contact process. Some commenters felt that there was not enough data to make these changes. Several testifiers have expressed general support for the measures as a way to reduce regulatory barriers or costs.

Planning Commission Schedule

9/26/23 Briefing
10/24/23 Hearing
11/14/23 Work Session and Vote

For more information

Project Website: portland.gov/bps/planning/housing-regulatory-relief

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