

## ORDINANCE No.

Update City Code to revise the definitions of decision or determination and administrative act for purposes of administrative appeals (Ordinance; amend Code Subsections 3.130.010 A. and 22.10.010 B.)

The City of Portland ordains:

Section 1. The Council finds:

1. In 2015, through Ordinance No. 187151, the City Council amended the City Code to eliminate barriers to accessing administrative appeals, including by limiting the fees that can be charged to initiate an appeal and establishing requirements for providing notice of appeal rights.
2. That ordinance added a new Chapter 3.130 to the Code, which covers administrative appeals. Code Subsection 3.130.010 A. defines an “Administrative Act,” for purposes of Chapter 3.130, to exclude actions “applying” Title 33 (Portland Zoning Code).
3. Ordinance No. 187151 also added language to Code Subsection 22.10.010 B., which states that bureau decisions and determinations appealed to the Hearings Office under Chapter 22.10 “do not include any action, decision, determination, or order applying Title 33 or Chapter 16.30.”
4. Ordinance No. 187151 excluded actions applying Title 33 from Chapters 3.130 and 22.10 because the review of City land use and zoning decisions is largely governed by state law—and is addressed through comprehensive requirements set forth in Title 33. However, certain administrative acts that apply standards described in Title 33 can be appealed to the Hearings Office pursuant to Chapter 22.10. The Code should be amended to ensure that the requirements set forth in Chapters 3.130 and 22.10 apply to such appeals.

NOW, THEREFORE, the Council directs:

- a. Code Subsection 3.130.010 A. is amended as follows:

### **3.130.010 Definitions.**

- A. “Administrative Act” means a final action, decision, determination, or order of Council, a bureau, department, or office. Administrative acts do not include legislative acts of Council, any City employment action, decision, determination, or order, or any action, decision, determination, or order applying that is subject to the review procedures set forth in Title 33 of the Code.

b. Code Subsection 22.10.010 B. is amended as follows:

**22.10.010 Definitions.**

- B.** “Decision or determination” means and includes any decision, determination, order, or other action of any City bureau. Decisions or determinations do not include any action, decision, determination, or order applying that is subject to the review procedures set forth in Title 33 or Chapter 16.30 of the Code.

Passed by the Council:

City Auditor Mary Hull Caballero  
Prepared by: Jennifer Amriott  
Date Prepared: June 26, 2019

**Mary Hull Caballero**  
Auditor of the City of Portland  
By

Deputy

## IMPACT STATEMENT

**Legislation title:** Authorize changes to City Code to revise definitions of “decision or determination” and “administrative act” for purposes of administrative appeals (Ordinance; amend Code Subsections 3.130.010 A. and 22.10.010 B.)

**Contact name:** Joshua McNeal, Business Operations Manager

**Contact phone:** (503) 823-3610

**Presenter name:** Mary Hull Caballero, City Auditor

### **Purpose of proposed legislation and background information:**

This legislation proposes housekeeping amendments to definitions set forth in Code Subsections 3.130.010.A and 22.10.010.B to clarify that Chapters 3.130 and 22.10 apply to certain administrative appeals involving standards set forth in the Zoning Code (Title 33).

For example, the Bureau of Development Services (BDS) may issue a stop work order if development violates a zoning requirement set forth in Title 33. The property owner may ask the BDS Director to review the stop work order and may appeal the Director’s decision to the Hearings Office “in accordance with Portland City Code Chapter 22.10.”<sup>1</sup> However, as Subsection 22.10.010 B. is currently written, because the Director’s decision “applies” Title 33, it does not fall within the definition of a “decision or determination” to which Chapter 22.10 applies. The Director’s decision likewise does not fall within the definition of an “Administrative Act” to which the notice requirements set forth in Section 3.130.020 apply. The proposed legislation therefore makes minor changes to the definitions in Subsections 3.130.010.A and 22.10.010.B to address these issues.

NOTE: The proposed legislation does not add or change requirements for cases that are subject to review under Title 33 (Planning and Zoning) or Title 16.30 (Towing & Disposition of Vehicles).

### **Financial and budgetary impacts:**

No impact.

### **Community impacts and community involvement:**

None.

### **100% Renewable Goal:**

No impact.

---

<sup>1</sup> Code § 3.30.080 H.

### Budgetary Impact Worksheet

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>