

Agenda No. ~~344~~ ~~387~~ ~~447~~ 502

**ORDINANCE NO.**

**As Amended**

Amend the Zoning Map, Title 33 Planning and Zoning, and Title 32 Signs and Related Regulations to implement the Design Overlay Zone Amendments project to update the process and tools of the Design Overlay Zone and related code sections (Ordinance; amend Code Titles 32 and 33)

The City of Portland ordains:

**Introduced by**

Commissioner Rubio

Section 1. The Council finds:

**Bureau**

Planning & Sustainability

1. In 2016, City Council replaced the City's 1980 Comprehensive Plan with the new 2035 Comprehensive Plan. This plan was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. This new plan provided the guidance for the development of the Design Overlay Zone Amendments (DOZA).
2. In 2016, the Bureau of Planning and Sustainability (BPS) contracted out with the consultant Walker Macy to provide an assessment of the city's regulations and processes within the Design overlay zone.
3. The Design Overlay Zone Assessment included a review of the current regulations, interviews with stakeholders, a public survey and open house, analysis of built projects, and consideration of best practices in other cities. This analysis result in a list of recommendations for improving the City's tools and processes.
4. This assessment was done in relation to the Comprehensive Plan Update which included Zoning Map changes that added the Design

**Prepared by**

Phil Nameny

**Date Prepared**

April 21, 2021

**Requested Council Date**

May 12, 2021

**Requested Agenda Type**

Time Certain 2:00 pm

3 hours

**Date Filed with Clerk**

May 4, 2021

overlay zone to centers and corridors within the City anticipated to accommodate the City's growth.

5. In April 2017, the consultant, with support of City staff presented a report of their findings to the City Council. The Council supported the report and gave direction to staff to develop a legislative project based on the findings.
6. In April 2018, staff published a DOZA Process Discussion Draft of Zoning Code Changes, and in May 2018, staff published a DOZA Tools Concept Report with ideas for new guidelines and standards. On May 9, 2018, an open house was held to review the proposals.
7. During the spring and summer of 2018, staff continued to meet with neighborhood and stakeholder groups. At this point, staff made the decision to consolidate the code regulations and design guidelines back into one project.
8. In February 2019, staff released a new DOZA Discussion Draft that included all proposed Zoning Code and Map Amendments as well as the proposed Citywide Design Guidelines.
9. During the spring and summer of 2019, BPS staff met with neighborhood and stakeholder groups to review the consolidated DOZA proposal.
10. On September 16, 2019, a notice of proposed action was received by the Department of Land Conservation and Development pursuant to post-acknowledgement review process requirement of OAR 660-18-020.
11. On September 16, 2019, staff published the DOZA Proposed Draft and sent notice of the release and the upcoming public hearing to approximately 350 people by mail, and to approximately 700 people by email.
12. On October 8, 2019, staff held a joint briefing with the Design Commission and the Planning and Sustainability Commission.
13. On October 22, 2019, staff held a joint public hearing with the Design Commission and the Planning and Sustainability Commission (PSC).
14. Per Title 33, both Commissions have a role in providing a recommendation to City Council. The PSC is the recommending body for amendments to the Zoning Code and Zoning Map. The Design Commission is the recommending body for the Citywide Design Guidelines.

15. From November 2019 until June 2020, each Commission held several work sessions on the staff's proposal for DOZA.
16. On June 18, 2020, the Design Commission voted unanimously to forward their recommendation on the Citywide Design Guidelines.
17. On July 14, 2020, the PSC voted unanimously to forward their recommendation on the amendments to Title 33 and the Zoning Map.
18. In November 2020, BPS staff released the DOZA Recommended Draft, posted on the website.
19. On April 23, 2021, notice of the May 12, 2021 City Council public hearings was mailed to the legislative list and to those who presented oral and written testimony at the Planning and Sustainability and Design Commission public hearing.
20. The Findings of Fact Report, attached as Exhibit A, included additional findings demonstrating consistency with the Statewide Planning Goals, Metro Urban Growth Management Functional Plan and the City of Portland 2035 Comprehensive Plan.
21. The amendments to Title 32, Signs and Related Regulations are necessary to provide consistency between this Title and Title 33.

NOW, THEREFORE, the Council directs:

- A. Adopt Exhibit A, As Amended, as additional findings.
- B. Adopt the commentary in Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended as legislative intent and further findings.
- C. Amend Title 32 Signs and Related Regulations of the Municipal Code of the City of Portland as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.
- D. Amend Title 33 Planning and Zoning, of the Municipal Code of the City of Portland, as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.
- E. Amend the official Zoning Map as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.

F. Adopt the Citywide Design Guidelines as the replacement design guidelines for the Community Design Guidelines in areas of the city that do not have their own guidelines, as shown in Volume 3 of Exhibit B, Design Overlay Zone Amendments Recommended Draft.

G. Direct the Bureau of Planning and Sustainability to create character statements with area specific plans that have the Design overlay zone.

Section 2. This ordinance shall be in full force and effect on August 1, 2021.

Section 3. If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document 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 map, report, inventory, analysis, or document 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 Council:

**MARY HULL CABALLERO**

Auditor of the City of Portland

Action Taken: May 12, 2021 Continued to  
May 26, 2021 at 2:00 pm Time Certain

By

Deputy

May 26, 2021 Continued to June 10,  
2021 at 2:00 pm Time Certain

June 9, 2021 Continued to June 23,  
2021 at 3:30 pm Time Certain As  
Amended

Commissioners voted as follows (Yea or Nay)

Rubio -

Ryan -

Hardesty -

Mapps -

Wheeler -

**Agenda No.**

**ORDINANCE NO.**

Amend the Zoning Map, Title 33 Planning and Zoning, and Title 32 Signs and Related Regulations to implement the Design Overlay Zone Amendments project to update the process and tools of the Design Overlay Zone and related code sections (Ordinance; amend Code Titles 32 and 33)

The City of Portland ordains:

Section 1. The Council finds:

1. In 2016, City Council replaced the City's 1980 Comprehensive Plan with the new 2035 Comprehensive Plan. This plan was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. This new plan provided the guidance for the development of the Design Overlay Zone Amendments (DOZA).
2. In 2016, the Bureau of Planning and Sustainability (BPS) contracted out with the consultant Walker Macy to provide an assessment of the city's regulations and processes within the Design overlay zone.
3. The Design Overlay Zone Assessment included a review of the current regulations, interviews with stakeholders, a public survey and open house, analysis of built projects, and consideration of best practices in other cities. This analysis result in a list of recommendations for improving the City's tools and processes.
4. This assessment was done in relation to the Comprehensive Plan Update which included Zoning Map changes that added the Design

**Introduced by**

Commissioner Rubio

**Bureau**

Planning & Sustainability

**Prepared by**

Phil Nameny

**Date Prepared**

April 21, 2021

**Requested Council Date**

May 12, 2021

**Requested Agenda Type**

Time Certain 2:00 pm

3 hours

**Date Filed with Clerk**

May 4, 2021

overlay zone to centers and corridors within the City anticipated to accommodate the City's growth.

5. In April 2017, the consultant, with support of City staff presented a report of their findings to the City Council. The Council supported the report and gave direction to staff to develop a legislative project based on the findings.
6. In April 2018, staff published a DOZA Process Discussion Draft of Zoning Code Changes, and in May 2018, staff published a DOZA Tools Concept Report with ideas for new guidelines and standards. On May 9, 2018, an open house was held to review the proposals.
7. During the spring and summer of 2018, staff continued to meet with neighborhood and stakeholder groups. At this point, staff made the decision to consolidate the code regulations and design guidelines back into one project.
8. In February 2019, staff released a new DOZA Discussion Draft that included all proposed Zoning Code and Map Amendments as well as the proposed Citywide Design Guidelines.
9. During the spring and summer of 2019, BPS staff met with neighborhood and stakeholder groups to review the consolidated DOZA proposal.
10. On September 16, 2019, a notice of proposed action was received by the Department of Land Conservation and Development pursuant to post-acknowledgement review process requirement of OAR 660-18-020.
11. On September 16, 2019, staff published the DOZA Proposed Draft and sent notice of the release and the upcoming public hearing to approximately 350 people by mail, and to approximately 700 people by email.
12. On October 8, 2019, staff held a joint briefing with the Design Commission and the Planning and Sustainability Commission.
13. On October 22, 2019, staff held a joint public hearing with the Design Commission and the Planning and Sustainability Commission (PSC).
14. Per Title 33, both Commissions have a role in providing a recommendation to City Council. The PSC is the recommending body for amendments to the Zoning Code and Zoning Map. The Design Commission is the recommending body for the Citywide Design Guidelines.

15. From November 2019 until June 2020, each Commission held several work sessions on the staff's proposal for DOZA.
16. On June 18, 2020, the Design Commission voted unanimously to forward their recommendation on the Citywide Design Guidelines.
17. On July 14, 2020, the PSC voted unanimously to forward their recommendation on the amendments to Title 33 and the Zoning Map.
18. In November 2020, BPS staff released the DOZA Recommended Draft, posted on the website.
19. On April 23<sup>0</sup>, 2021, notice of the May 12, 2021 City Council public hearings was mailed to the legislative list and to those who presented oral and written testimony at the Planning and Sustainability and Design Commission public hearing.
20. The Findings of Fact Report, attached as Exhibit A, included additional findings demonstrating consistency with the Statewide Planning Goals, Metro Urban Growth Management Functional Plan and the City of Portland 2035 Comprehensive Plan.
21. The amendments to Title 32, Signs and Related Regulations are necessary to provide consistency between this Title and Title 33.

NOW, THEREFORE, the Council directs:

- A. Adopt Exhibit A, As Amended ~~dated April 2021~~, as additional findings.
- B. Adopt the commentary in Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended as legislative intent and further findings.
- C. Amend Title 32 Signs and Related Regulations of the Municipal Code of the City of Portland as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.
- D. Amend Title 33 Planning and Zoning, of the Municipal Code of the City of Portland, as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.
- E. Amend the official Zoning Map as shown in Volume 2 of Exhibit B, Design Overlay Zone Amendments Recommended Draft – As Amended.



- F. Adopt the Citywide Design Guidelines as the replacement design guidelines for the Community Design Guidelines in areas of the city that do not have their own guidelines, as shown in Volume 3 of Exhibit B, Design Overlay Zone Amendments Recommended Draft.
- G. Direct the Bureau of Planning and Sustainability to create character statements with area specific plans that have the Design overlay zone.

Section 2. This ordinance shall be in full force and effect on August 1, 2021.

Section 3. If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document 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 map, report, inventory, analysis, or document 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 Council:

**MARY HULL CABALLERO**

Auditor of the City of Portland

Action Taken:

By

Deputy

Commissioners voted as follows (Yea or Nay)

Rubio -

Ryan -

Hardesty -

Mapps -

Wheeler -



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
 FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner  
 Rebecca Esau, Director  
 Phone: (503) 823-7300  
 Fax: (503) 823-5630  
 TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

## MEMORANDUM

DATE: April 13, 2021

TO: Mayor Ted Wheeler  
 Commissioner Jo Ann Hardesty  
 Commissioner Dan Ryan  
 Commissioner Mingus Mapps  
 Commissioner Carmen Rubio

FROM: Kara Fioravanti, Supervisor of the BDS Design & Historic Review Team  
 Staci Monroe, Senior Planner with the BDS Design & Historic Review Team

RE: Updates to the September 16, 2019 BDS DOZA Administrative Improvements Report

The BDS DOZA Administrative Improvements (DOZA Recommended Draft, Volume 4, Appendix A) detail BDS efforts through Fall 2019 to make the Design Review program more efficient, focused, predictable, and effective for all participants— applicants, Design Commission, staff, and the public. As BPS initiated the DOZA Assessment in 2015, BDS staff immediately seized the opportunity to establish administrative improvements that did not have to wait for approval of the legislative DOZA Assessment and Amendments. BDS continued implementing new administrative improvements until late 2019 due to staff reductions, and that pause continued until March 2020 as COVID hit. While the COVID pandemic impacted workflow across the City, it also provided an opportunity to improve additional elements critical to the success and efficiency of the Design Review program such as virtual hearings, information access, outreach and digital tools.

With support from Council, BDS's commitment to leading with a racial equity framework to address the disparities that exist in our services is stronger and more resourced since the initial planning phases of the DOZA Assessment in 2015. Portland's 2019 Historical Context of Racist Planning reasserts Vision PDX's (2007) concepts that, "the benefits and burdens of growth and change should be shared fairly among communities, and all residents and groups should be fully involved as equal partners in public decision-making"; staff notes that design is a shared process of adding value and that these concepts are more relevant than ever. The DOZA project values affirm that the City is updating its d-overlay zone processes and tools to ensure that they serve to move us toward the future described in the 2035 Comprehensive Plan and to ensure that new development meets the needs of current and future residents. BDS staff has worked diligently to ensure the Design Review program and processes focus on inclusivity, diversity and expanding the knowledge and access for all to participate.

This memo serves as an addendum to the attached September 16, 2019 Report and captures additional improvements made by BDS. The following improvements align with recommendations from the DOZA Assessment.

### 1. **More efficient and effective public hearings**

*(DOZA Assessment Recommendation A2)*

#### Implemented:

- Facilitated more timely hearings for applicants with the flexibility afforded by virtual meetings.
- Created virtual hearing guides for all hearing participants - public, applicant, staff and Design Commission.

- Enabled real-time screen editing during deliberations to assist Commission feedback.

Next Steps:

- Consider the real time experience for hearing “attendees” versus “panelists” to improve transparency.
- Research ways to incorporate a visible virtual hearing timer to manage time similar to in-person hearings.
- Explore the pros and cons of hybrid hearings for post-pandemic.

## 2. Improve public participation and access to information for all participants

*(DOZA Assessment Recommendations A2, A4 and A5)*

Implemented:

- Removed a barrier for public participation with the implementation of virtual hearings on Zoom.
- Enabled the live closed-caption feature in Zoom, improving access for the hearing impaired.
- Expanded archives to include video and written transcripts.
- Improved online public hearing agendas; they are now more user-friendly and include the ability to view archived agendas with links to past case information.
- Increased staff coordination with Neighborhood Associations to assist in their effective participation.
- Increased access to Design and Historic Team staff via free services such as the Zoning Hotline and 15-Minute Appointments.
- Improved access to technology and digital tools for staff and Participants (allowance of digital submittals, use of Adobe Suite, virtual meetings, video cameras, laptops, cell phones).

Next Steps:

- Revise the Commission’s “Guide to Design Review” to improve applicants’ and public’s understanding of the process and implementation of the design guidelines (approval criteria).
- Coordinate with BDS and other City Bureaus to increase digital access for public participation.
- Investigate translation of live closed-caption and transcripts to increase participation for non-English speakers.

## 3. Further training opportunities for staff and Commission and prioritize opportunities for engagement

*(DOZA Assessment Recommendations A2 and A5)*

Implemented:

- Facilitated training for virtual hearings via Zoom, including mock hearings, with Design Commissioners and staff.
- Expanded staff equity trainings with focused monthly discussions.
- Continued support from Equity Policy Development team to reflect on and expand equity conversations and Commission recruitment practices.
- Continued annual equity trainings for the Design Commission via OCCL, Oregon Humanities and other organizations.
- 57% of current Commission members are BIPOC members.

Next Steps:

- Expand collaboration with other organizations for staff and Commission equity trainings.
- Expand efforts to support the retention of BIPOC Commission members.
- Further engagement and relationship-building for Commission recruitments to maintain Citywide racial equity commitments.

## 4. Better communicate the role of urban design and the opportunity of the Design Overlay tool

*(DOZA Assessment Recommendations A4 and A5)*

Implemented:

- Collaborated with BPS in drafting Character Statements for two centers in the d-overlay (Macadam and West Portland Town Center) to identify the desired qualities that will guide redevelopment in these communities.
- Initiated discussions with BPS to address how the Design Review process and tools can encourage and support equitable and inclusive development.

Next Steps:

- Continue to work with BPS on future Character Statements for all communities within the d-overlay.
- Utilizing the framework established in the BPS report, Historical Context of Racist Planning (2019), continue to reflect on the purpose of the design overlay zone and how it has changed over time, and explore how this tool can increase accountability to communities in support of the equity-focused, place-based participation policies outlined in the 2035 Comprehensive Plan.

Moving forward, as resources allow, BDS staff will continue to make improvements to the program and its processes. We welcome suggestions that could further enhance positive and equitable outcomes of the design review program for all participants.

## IMPACT STATEMENT

**Legislation title:** Amend the Zoning Map, Title 33 Planning and Zoning, and Title 32 Signs and Related Regulations to implement the Design Overlay Zone Amendments project to update the process and tools of the Design Overlay Zone and related code sections (Ordinance; amend Code Titles 32 and 33 and amend the Portland Zoning Map)

**Contact name:** Phil Nameny

**Contact phone:** 503-823-7709

**Presenter name:** Lora Lillard / Phil Nameny / Sandra Wood

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

The Design Overlay Zone Amendments (DOZA for short) revise the regulations applicable to areas of the city with the Design overlay zone. This is the first major revision of the regulations in over 20 years. Tools, such as the guidelines and standards, have remained unchanged since the late 1990s. Over time, the application of the Design overlay zone expanded to include centers, commercial corridors, transit station areas and other areas anticipated for growth, with the latest expansion occurring with the Comprehensive Plan Update in 2018.

In 2017, City Council accepted a consultant's assessment of the Design overlay zone (also called DOZA for Design Overlay Zone Assessment). Many of the amendments are the result of recommendations from the assessment.

The project creates new citywide design guidelines and objective design standards to replace the current guidelines and standards. It does not amend guidelines that are specific to certain geographic areas, such as the Gateway district. These new tools are more adaptable to the areas of growth and expands the review beyond the public realm to consider site design and climate resilience. DOZA clarifies and simplifies the processes within the Design overlay zone, including better grouping of exemptions, options for more projects to use the objective standards, including in the Gateway plan district, and a simpler table use to determine the type of reviews. The process for the preliminary Design Advice Requests has been formalized and the background of Design Commission members have been expanded. Corresponding administrative improvements have also been made by the Bureau of Development Services to increase efficiency to the review and public hearing process.

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

DOZA has some short-term and longer-term financial impacts. Since the project rewrites the regulations that apply to projects within the Design overlay zone, there will be the need for some training of Bureau of Development Services (BDS) staff into the intent and application of the new code and to gain comfort and efficacy in reviewing projects against the new standards and guidelines.

The code amendments streamline the development review process for many projects. In some cases, the amendments change the workloads among BDS staff. For example, some development proposals that currently go through a discretionary Design Review process may skip that process and go straight to building permit. In other situations, smaller projects will be exempt from the Design overlay zone and no longer need to be reviewed against design guidelines or standards at all. These changes are not a financial impact to the City, as the current fee system provides cost recovery for these reviews.

There are two amendments that result in changes to BDS's Land Use Review fee structure:

1. Type I Design Review – Currently, the zoning code does not assign any Design Reviews to the Type I land use procedure. This ordinance assigns some projects to a Type I procedure and BDS will need to create a Type I fee for Design Review. This will be included in BDS's July 1, 2021 fee proposal. It is not a financial or budgetary impact as the applicant's fee covers the cost of review.
2. New Design Standards – The ordinance includes a significant change to the design standards that apply to projects. The design standards may take more time due to a point system and added complexity of standards. The current fee in the fee schedule is based on project value and has a maximum fee. For large valuation permits the current fee covers the review. However, for some smaller valuation permits, it does not. Therefore, BDS will be setting a minimum fee for implementing Community Design Standards. Again, this is not a financial or budgetary impact, as the applicant's fee covers the cost of review.

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

This legislation impacts the regulations that apply to the Design 'd' overlay zone. Approximately 7 percent of the area of the city has the 'd' overlay zone, but a majority of the housing units that are expected in the mixed use and higher density residential zones. The new guidelines and standards will impact new development and larger alterations along the city's main corridors and in neighborhood and town centers. This impacts property owners in those areas and tenants and residents of those areas and immediately adjacent.

Prior to the development of the amendments for DOZA, BPS hired a consultant to assess current Design overlay regulations and practices. The consultant's assessment included interviews of architects and builders, city staff, and residents in the affected areas. These interviews helped guide the recommendations of the assessment.

During the development of the legislative project, staff held open houses and attended dozens of meetings with neighborhood & business associations, groups associated with under-represented populations, and professionals involved in the development process. Open houses were held, and 1100 comments were provided during the review of the Discussion Draft. Many changes resulted from the comments received, including staff not proposing to expand the 'd' overlay to emerging neighborhood centers, and modifying the standards and guidelines.

For the Proposed Draft, notice was provided to nearly 700 people who were interested in City projects and specifically with DOZA. A joint hearing was held with the Design Commission and Planning and Sustainability Commission (PSC) on October 22, 2019. This hearing drew 168 pieces of written testimony and 36 people who testified in person. The PSC and Design Commission held several work sessions and incorporated hundreds of changes into their recommendations. The main ones were:

- Increase thresholds to allow development up to 75' to use the standards
- Update the Design Commission membership
- Codify that neither height nor floor-area-ratio (FAR) are subject to design review

Testimony at the PSC and Design Commission hearing included support for the process improvements which clarify and simplify the design process. Testimony also included concern that the changes remove some discretionary review requirements that provide opportunity for testimony on individual projects. There is a desire within some inner Portland neighborhoods to require discretionary review for a greater variety of projects.

Council testimony is expected to both support and oppose the DOZA changes, with the focus on review thresholds and the types of guidelines and standards that will apply. There may be testimony about more preservation of the existing built form in older areas, and suggestions to formally consider community-developed guidelines. These alternative guidelines focus more on the historic context of the streetcar-era main streets and are generally not objective. The guidelines and standards recommended through DOZA do not preclude this approach, but don't dictate historical architectural context as the sole approach to site development.

The intent of this project is to balance the opportunities for review with the need to ensure that the city can meet its housing and development goals with a process that is clear and easy to understand.

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

While this project does not change the City's policies on its own energy use, it does provide incentives for developments to incorporate green building and resiliency practices such as solar installations, green roofs, operable windows and sunshades. All of these have the effect of reducing a site's energy usage or transferring over to renewable energy.

### 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>