

ORDINANCE No.

*Amend Title 17 Public Improvements Code to align with changes to the Residential Infill Project (Ordinance; amend Code Chapters 17.04 and 17.42)

The City of Portland ordains:

Section 1. The Council finds:

1. The Portland Bureau of Transportation (PBOT), along with partner bureaus, continually seeks to improve its processes to provide the best possible services to residents of the City of Portland. Many of these processes are governed by City Code Title 17, which occasionally requires updates to reflect changing bureau policies and practices.
2. The changes are administrative in nature to align PBOT code with the Residential Infill Project (RIP). This packet of changes encompasses code used across multiple divisions and groups of PBOT and includes updates to select definitions and program language pertaining to RIP.
3. Code changes can be found in Exhibit A, with specific reasoning provided in the impact statement of this ordinance.

NOW, THEREFORE, the Council directs:

- a. Amend City Code Chapters 17.04 and 17.42 as shown in Exhibit A.

Section 2. The Council declares that an emergency exists do to the changes in the code are being completed in parallel with updates to BES code and administrative rules; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

Commissioner Jo Ann Hardesty

Prepared by: GY: IR

Date Prepared: 5/24/2021

Mary Hull Caballero

Auditor of the City of Portland

By

Deputy

521
 Agenda No.
ORDINANCE NO.
 Title

*Amend Title 17 Public Improvements Code to align with changes to the Residential Infill Project (Ordinance; amend Code Chapters 17.04 and 17.42)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Jo Ann Hardesty</p>	CLERK USE: DATE FILED <u>June 22, 2021</u>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p>ACTION TAKEN:</p>
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Rubio	
Position 2/Works - Ryan	
Position 3/Affairs - Hardesty <i>Jo Ann Hardesty</i>	
Position 4/Safety - Mapps	
<p style="text-align: center;">BUREAU APPROVAL</p>	
Bureau: PBOT Bureau Head: Christopher Warner <small>Digitally signed by Christopher Warner Date: 2021.06.14 16:06:14 -0700</small>	
Prepared by: Date Prepared: <u>5/24/2021</u>	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances DB	
City Attorney Approval: Eric Shaffner <small>Digitally signed by Eric Shaffner Date: 2021.06.04 17:24:53 -0700</small> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date <u>June 30, 2021</u>	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <u>10</u> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Rubio	1. Rubio		
2. Ryan	2. Ryan		
3. Hardesty	3. Hardesty		
4. Mapps	4. Mapps		
Wheeler	Wheeler		

Exhibit A

a. Amend Section 17.04.010 as follows:

17.04.010 Definitions.

(Amended by Ordinance Nos. 186902, 189629, 189837 and 190307, effective April 2, 2021.) The following definitions apply to the entirety of Title 17. Additional section-specific definitions may be found in other sections.

A. **“Alley”** has the definition provided by Section 33.109.030.

AB. **“Best Management Practices (BMPs)”** means operational, maintenance and other practices that prevent or reduce environmental, health or safety impacts. BMPs include structural controls, modification of facility processes, and operating and housekeeping pollution control practices.

BC. **“Brownfield”** means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

CD. **“Building Permit”** means a permit required under Chapter 24 or state administrative rule to erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or to do any clearing or grading, or cause any of the same to be done.

DE. **“Chief Engineer”** means the engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the City Engineer. For the Bureau of Transportation this shall be the City Engineer, for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau.

EF. **“City Engineer”** means the duly appointed City Engineer, or appropriate designees.

FG. **“Department of Environmental Quality (DEQ)”** means the Oregon Department of Environmental Quality.

GH. **“Development”** means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities which create the need for additional usage or construction of public infrastructure.

HI. **“Director of the Bureau of Environmental Services”** means the duly appointed Director of the Bureau of Environmental Services, or the lawfully designated subordinate of the Director of Environmental Services acting under the orders of the Director of the Bureau of Environmental Services.

IJ. **“Director of the Bureau of Transportation”** means the duly appointed Director of the Bureau of Transportation, or the lawfully designated subordinate of the

Director of the Bureau of Transportation acting under the orders of the Director of the Bureau of Transportation.

- JK.** “**Dwelling Unit**” means a building or a portion of a building consisting of one or more rooms which may include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.
- KL.** “**Engineer’s Estimate**” means the calculation of anticipated total dollar cost of the construction of a public or local improvement project as determined by the Chief Engineer. The estimate is used in determining the face value of performance bonds where applicable.
- LM.** “**EPA**” means the United States Environmental Protection Agency.
- MN.** “**Frontage**” means the length of public right-of-way adjacent to a property, measured in feet.
- NO.** “**Lateral**” means the underground pipe that connects the plumbing system of a building or buildings to a public or private sewer.
- OP.** “**Local Improvement**” means an improvement of, on, over or under property that is or will be owned or controlled by the public, by construction, reconstruction, remodeling, repair or replacement, when the improvement is determined by the Council to confer a special benefit on certain properties, and such properties are to be charged through assessment all or a portion of the improvement cost.
- Q.** “**Local street**” means any street classified as a Local Traffic Service Street in the City’s adopted Transportation System Plan.
- PR.** “**Oregon Administrative Rules (OAR)**” means the State of Oregon Administrative Rules as amended.
- QS.** “**Owner**” means an owner-of-record of real property according to the appropriate county’s assessment and taxation records.
- RT.** “**Person**” means any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, and/or the manager, lessee, agent, servant, officer, or employee of any of them.
- SU.** “**Projected Future Curbline**” means:
1. The location of the curbline as designated on City plans for street construction;
 2. To the edge of existing pavement; or
 3. To the appropriate width of the designated street classification as described in ~~the~~ TRN-1.09 Design Standards for Public Streets.
- FV.** “**Public Improvement**” means an improvement of, on, over or under property owned or controlled by the City, or property to be controlled by the City upon plat and easement recording for approved land divisions, by construction,

reconstruction, remodeling, repair or replacement, when no property is intended to be charged through assessment any portion of the improvement cost.

UW. “**Public Sewer**” means the entire City sewage, sludge, and stormwater collection, conveyance, treatment, pollution reduction, reuse, and disposal systems, including all pipes, ditches, sumps, manholes, and other system components that:

1. Have been designed for the collection and transport of stormwater, wastewater, or sanitary sewage received from street inlets, sewer service laterals and common private sewer systems; and
2. Were
 - a. Constructed by the City’s Bureau of Environmental Services; or
 - b. Accepted by the City’s Bureau of Environmental Services under Section 17.32.055.

VX. “**Public Utility**” means a person currently possessing a franchise or privilege granted by the City of Portland to provide utility service, or is a City bureau charged with providing utility service, to the public to generate, transmit or provide any such service within the City, including but not limited to electricity, telecommunications, natural gas, sewer, water, stormwater, cable or pipeline services.

WY. “**Public Works Project**” means any project performed or financed by a local, state, or federal government that results in the construction of a Local Improvement or a Public Improvement.

XZ. “**Responsible Engineer**” as used in this title means the Engineer with the authority to act as the official agent of the bureau or department responsible for a local or public improvement or the lawfully designated subordinate of the Responsible Engineer. For the Portland Bureau of Transportation this shall be the City Engineer; for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services; and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau.

YAA. “**Responsible Official**” means the Official with the authority to act as the official agent of the bureau or department or the lawfully appointed subordinate of the Responsible Official. For the Bureau of Transportation, this shall be the Director of the Bureau of Transportation as defined in this Section. For the Bureau of Environmental Services, this shall be the Director of the Bureau of Environmental Services as defined in this Section. For the Portland Water Bureau, this shall be the Director of the Portland Water Bureau as defined in this Section.

ZBB. “**Street**” means any street as defined in the City Charter, including all area between property lines, and area dedicated to street use.

AACC. “**Tri-County Metropolitan Transportation District of Oregon (TriMet)**” is a public agency established under ORS 267.010 to 267.390 that operates mass transit which spans most of the Portland metropolitan area, and/or the manager, lessee,

agent, servant, officer, or employee of the organization.

b. amend Chapter 17.42 Property Owner Responsibility for Streets as follows:

17.42.010 Policy.

(Amended by Ordinance Nos. 177124 and 189290, effective January 11, 2019.)

A. It has been and remains the policy of the City of Portland that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the applicable standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the unimproved street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in this Code and the City Charter.

The City may, at its discretion, conduct maintenance and repair activities on gravel streets and alleys. Such an action will not constitute an express or implicit decision by the City to accept maintenance responsibility for such a street or alley.

B. Disputes regarding the condition of the unimproved street are private actions among affected property owners.

17.42.020 Maintenance and Construction Responsibility.

(Amended by Ordinance No. 177124, effective January 10, 2003.) The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

A. The street has been constructed to City standards and specifications; and

B. The City has expressly accepted maintenance responsibility for the street by the City Engineer.

17.42.025 Maintenance Restrictions and 17.42.030 Liability remain unchanged.

~~**17.42.040 Definition.**~~

~~(Amended by Ordinance Nos. 173369 and 190307, effective April 2, 2021.) As used in this chapter, the term “street” is defined as provided in Chapter 17.04 of the City Code and includes any drainage facilities associated with the street, and any structures in the dedicated street area. It also includes the run-off from any street where no drainage facilities have been constructed.~~

IMPACT STATEMENT

Legislation title: *Amend Title 17 Public Improvements Code to align with changes to the Residential Infill Project (Ordinance; amend Code Chapters 17.04 and 17.42)

Contact name: Anne Hill

Contact phone: 503-823-7239

Presenter name: Anne Hill

Purpose of proposed legislation and background information:

- Updates to City Code Title 17 are occasionally needed to reflect changes in PBOT practices and programs. As stated in the ordinance, these changes are administrative in nature to align with the Residential Infill Project (RIP).
- The changes in the code are being completed in parallel with updates to BES code and administrative rules.
- The changes to Title 17 are as follows:
 - **Chapter 17.04 Definitions.** Added alley and local street definitions.
 - **Chapter 17.42 Property Owner Responsibility for Streets.** Added clarification that the City could, at its discretion, conduct maintenance on alleys. Added clarification that the City Engineer is the final decision maker when accepting maintenance responsibility for a street. Added a reference to Transportation administrative rule *TRN-1.08 Local Street Pavement Requirements* as the accompanying administrative rule to this code section. Removed 17.42.040 Definition.
 - **Chapter 17.88 Street Access.** Added clarification to when public improvements are required from development. Modified definition for “unimproved street” and removed superfluous definition for “local street”.

Financial and budgetary impacts:

- The Ordinance only seeks to clarify existing code language and does not change long-standing City policy. Therefore, any financial or budgetary impacts will be minimal.

Community impacts and community involvement:

- There are no negative community impacts due to this ordinance.
- Staff have posted the code changes shown in Exhibit A on the PBOT website and in the DJC notifying any who would seek to provide comments or public testimony at City Council.
- The Residential Infill Project (RIP) has undergone significant public outreach since launching. These changes are being made in response to RIP and S2HC to bring PBOT code into alignment with new terminology and requirements that will be established through implementation of those two initiatives.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

mjc 6-9-2021