

## ORDINANCE No.

\*Delay effective date of Portland's *2035 Comprehensive Plan* and implementing measures to provide time for the required state review. (Ordinance; amend Ordinance Nos. 188177 and 187832)

The City of Portland ordains:

Section 1. The Portland City Council finds:

1. On June 15, 2016 City Council adopted a new *2035 Comprehensive Plan* (Ordinance No. 188177).
2. On December 21, 2016 City Council adopted a variety of measures necessary to carry out the plan, including zoning map and code amendments. (Ordinance No. 187832).
3. Portland's *2035 Comprehensive Plan* and implementing measures were adopted within the structure of a state-mandated process called "periodic review." This process requires the state to review and approve (or "acknowledge") the plan and implementing measures by action of either the Oregon Department of Land Conservation and Development (DLCD) or the Land Conservation and Development Commission (LCDC).
4. To allow time for the state to conduct the required review, and to avoid complications and uncertainties in the City's development review system, both ordinances contained delayed effective dates of January 1, 2018.
5. Portland's periodic review work program was approved with minor modifications on September 30, 2009 by LCDC Order 001773. It is organized into the following five tasks.
  - Task I, Community Involvement Plan
  - Task II, Inventory and Analysis
  - Task III, Consideration of Alternatives
  - Task IV, Policy Choices
  - Task V, Implementation
6. When a periodic review task is completed and adopted by City ordinance it is submitted to the DLCD for review and approval. That process provides an opportunity for any participant in the local proceedings to file an objection. After considering objections, either the DLCD or the LCDC will issue a decision, in the form of an order.

7. After expiration of a 21-day opportunity to appeal an approval order, the periodic review task subject to the order becomes “acknowledged” within the meaning of Oregon Revised Statutes (ORS), Chapter 197.
8. ORS 197.175 requires that land use decisions and limited land use decisions made under an effective but unacknowledged plan or implementing measure be supported by finding of compliance with the Statewide Planning Goals. Acknowledgement provides relief from the requirement make these findings.
9. Tasks I, II, and III contained the factual base and procedural documentation necessary to support approval of Tasks IV and V. They were incrementally approved on August 5, 2010 (Order 00172), January 5, 2011 (Order 001798), May 29, 2013 (Order 001837), May 23, 2014 (Order 001850), and April 27, 2017 (Order 001882). These tasks are now acknowledged.
10. Task IV was submitted to the state for review on April 28, 2017. Task V was submitted on August 27, 2017. Formal objections to both Task IV and V have been filed with the DLCD. The DLCD is expected to complete its review of these objections before January 1, 2018, but that decision may be appealed. Any appeals of the DLCD decision would be heard by the LCDC.
11. The LCDC is a statewide commission that will meet six times during 2018. The first opportunity for the LCDC to consider an appeal of the anticipated DLCD decision would be during their March 15, 2018 meeting. It might take several weeks for the Oregon Department of Justice to prepare and serve an order memorializing the LCDC’s decision, so if the DLCD’s decision is appealed to LCDC, the earliest expected acknowledgement date for Tasks IV and V would therefore be in May of 2018.
12. The City Council wishes to avoid complicating the City’s development review system by having land use plans and regulations coming into effect before they are acknowledged.

NOW THEREFORE, the Council directs:

- a. Section 2 of Ordinance No. 187832 is amended so that directives “b” through “h” become effective on May 23, 2018.
- b. Section 2 of Ordinance No. 188177 is amended so that directives d, e, f, g, h and j become effective on May 23, 2018.
- c. Should the City’s Task IV or V periodic review submittals become acknowledged before May 23, 2018, the Bureau of Planning and Sustainability may prepare an ordinance for the City Council’s consideration advancing the effective dates delayed by this ordinance.

Section 2. The Council declares that an emergency exists because having land use plans and regulations come into effect before they are acknowledged would add complexity and uncertainty to the City's development review system; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:

Mayor Wheeler

Prepared by: Al Burns

Date Prepared: November 15, 2017

**Mary Hull Caballero**

Auditor of the City of Portland

By

Deputy