

# FAQ: Why Portland City Council Can't Unilaterally Revoke the ICE Permit

(Updated 11.29.2025)

## 1. Can the city council revoke the ICE permit unilaterally?

**No.** The City Council does not have the unilateral power to revoke the conditional land use approval (often referred to in public as a permit) for the ICE facility on Macadam Avenue. The conditional land use approval, [granted by the city council in 2011](#), is a legal land use agreement, and the city administration must follow a specific, legally defined process to enforce its conditions and revoke land use approval. Most importantly, a revocation obtained outside the required procedure would be **legally invalid and quickly overturned by the courts**, leaving the original approval/facility in place.

Revocation can only happen through the **administrative enforcement process** in Portland City Code 33.730. As discussed below, this process is lengthy, and includes a Notice of Violation, administrative review, potential hearings, and judicial appeals. This is a process directed by the Mayor and City Administration, with Council becoming involved **only if** the case reaches a Council-level appeal. Under Portland and state land-use procedures, a reconsideration/revocation process can take **18–36 months, more if appeals include federal legal issues (as the ICE case almost certainly would)**.

**Note: the response to FAQ #4 details the revocation process and potential timeline.**

## 2. Why can't the City Council simply revoke the permit through legislation?

The city must follow its own rules, set forward in city code, in assessing penalties for violations of the conditional land use approval and revoking the approval. The city must demonstrate that the permit holder has violated the terms of the agreement through an administrative investigation and decision, and provide the facility the opportunity to correct the violation. If the city council ignores the law and tries to revoke the permit *legislatively*, courts would swiftly overturn the decision.

Additionally, any Councilor who proposes or publicly advocates for legislation to “revoke the permit” outside the required process would likely be **disqualified from**

**participating** if the revocation case later comes before Council on appeal. In quasi-judicial land-use appeals, Councilors must demonstrate impartiality and lack of predetermination. Sponsoring or supporting legislation that predetermines the outcome (revocation) creates evidence of **bias toward the very issue Council would be asked to decide** and can legally bar participation.

For these reasons, revocation can occur **only** through the formal enforcement process, not through legislation, political direction, or a Council vote outside the quasi-judicial appeal structure.

### **3. What is the distinction between the City Council (legislative) and the mayoral (administrative) functions of the city government?**

Under Portland's reformed charter, **City Council** and the **Mayor/City Administrator** serve fundamentally different roles:

- **City Council performs legislative functions.**  
Council adopts citywide policies and ordinances, amends the zoning code (Title 33), sets the city budget, and establishes the rules that apply prospectively to all properties and bureaus. Council's role is to *make general law*, not to enforce individual land-use cases.
- **The Mayor and City Administrator perform administrative and enforcement functions.**  
The Mayor, City Administrator, and their bureaus, such as Portland Permitting & Development (PP&D), are responsible for carrying out the laws Council enacts. This includes interpreting and enforcing city code, investigating complaints, issuing Notices of Violation, determining whether a property is complying with its conditional land-use approval, and imposing penalties when violations occur.

In zoning enforcement and any potential revocation of the ICE facility's conditional use approval, **the administrative side of the City, not the City Council, conducts the investigation, makes findings, applies penalties, and decides whether to pursue revocation.** Council only becomes involved if an enforcement appeal reaches the Council level under Title 33's appeal procedures.

## 4. What is the official process for revoking or amending a permit (conditional land use approval)?

The process is [multi-step and involves several city entities](#), not just the City Council. The official steps, as outlined by the City of Portland, are as follows:

Revoking or modifying a conditional land-use approval follows a formal administrative enforcement process set out in Portland City Code (primarily Title 33.730). This process is handled by the executive branch, Portland Permitting & Development (PP&D), the City Administrator, and the Mayor, not the City Council. The steps are:

1. Filing of a Complaint  
Enforcement begins when PP&D receives a credible complaint alleging violations of the conditional land-use approval. In the ICE case, a formal complaint was filed on July 16, 2025, triggering the investigation.
2. Administrative Investigation  
PP&D conducts an investigation, reviews records, and determines whether the conditions of approval are being violated. This investigative authority lies entirely with the executive branch (i.e., NOT City Council).
3. Notice of Violation (NOV) **(WE ARE HERE)**  
If PP&D finds evidence of violations, it issues a Notice of Violation under Title 33.730. On September 17, 2025, [the city sent a land use violation notice](#) identifying 25 instances in which detainees were held beyond the 12-hour limit, constituting violations of the 2011 conditional use approval.
4. Correction Period  
The city is legally required to give the facility owner 30 days to correct the violations.
5. Administrative Review / Reconsideration of the Approval (~6-12 months)  
If violations are not corrected or recur, PP&D may initiate a reconsideration of the land-use approval under PCC 33.730.140.
  - This involves a formal administrative process before a Hearings Officer.
  - The Hearings Officer may uphold the approval, modify the conditions, impose penalties, or revoke the approval entirely.

- Fines may also be imposed (for the ICE facility, approximately \$950 per month per violation).

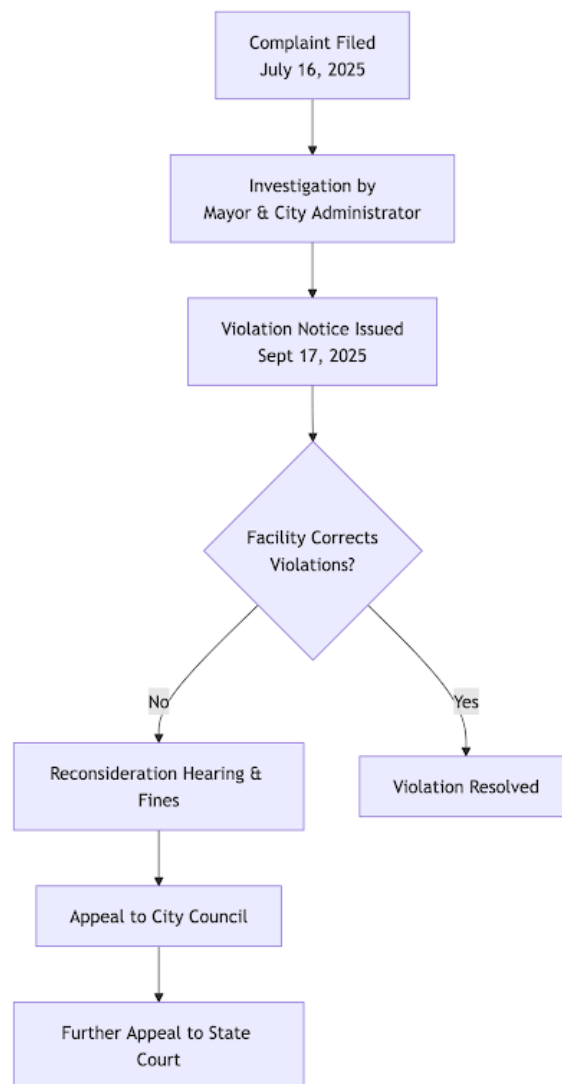
6. Appeals (~9-18 months)

The Hearings Officer's decision can be appealed:

- first to the Portland City Council acting in a *quasi-judicial* capacity,
- then to the Oregon Land Use Board of Appeals (LUBA),
- then to the Oregon Court of Appeals,
- and potentially to the Oregon Supreme Court.

Because each stage includes mandatory procedures and rights of appeal, revocation is a lengthy process that typically takes many months to several years. And as indicated in the response to #1 above, this process can be substantially lengthened at various points (e.g., litigation of the Notice of Violation if, completed prior to Step #5, would add **an additional 6-18 months**; the inclusion of federal claims could extend litigation by anywhere from **3-8 months**).

And in the event the permit is "revoked" actual enforcement must be considered (i.e., how will the City force the Federal government to leave the property?). **That is another matter that will likely take many months to several years to litigate.**



## 5. Why did the city grant an extension to the property owner?

Great question, this decision was made by the mayor, city administrator, and **Portland Permitting & Development (PP&D)** who are ultimately responsible for code enforcement. According to the city's page [land use violation at the ICE facility](#), "[a]dministrative review meetings are not open to the public, and there is no code-required timeline for issuing a decision following an administrative review meeting[.]"

If people have questions about this decision and timelines, the mayor, city administrator, and PP&D are the best place to direct your questions.

## **6. What is "reconsideration" and who has the authority to call for it?**

In this context, "reconsideration" is a legal term for a formal process to amend the existing permit, not an outright revocation. PP&D, which is under the control of the mayor and city administrator, has the *discretionary* authority to initiate a reconsideration hearing after a violation notice is issued. This decision is made by city staff and administrators, not directly by the City Council.

The **City Council does not have the authority** to initiate reconsideration or direct PP&D to do so. Council becomes involved only if the Hearings Officer's decision is appealed to Council, where it acts in a quasi-judicial, not legislative, capacity.

## **7. Can the City Council directly influence the PP&D's decision?**

**No.** The City Council cannot direct, pressure, or influence PP&D's enforcement decisions. In the land-use enforcement process, the Council's role is strictly appellate and quasi-judicial, not administrative.

Under Portland's charter and Oregon land-use law:

- PP&D (under the Mayor and City Administrator) is solely responsible for investigations, violation notices, and deciding whether to initiate reconsideration or pursue revocation.
- City Council has no legal authority to order PP&D to issue a Notice of Violation, call for reconsideration, or take any specific enforcement action.

If the case is appealed, the Council acts like a court, not a policymaker. Councilors must:

- review the record created before the Hearings Officer,
- apply the applicable land-use criteria, and
- decide the appeal impartially and without bias.

Any attempt by a Councilor to influence PP&D's enforcement choices would constitute an impermissible *ex parte* contact and could invalidate the entire process. It also risks

disqualifying that Councilor from participating in a future appeal, because land-use appeals require strict neutrality and the appearance of fairness.

For these reasons, Council cannot (and legally must not) intervene in PP&D's enforcement decisions.

## **8. Can the City accelerate the revocation timeline?**

Very little. The timelines for NOV responses, administrative review, Hearings Officer hearings, and appeals are set by City Code, state law, court schedules, and due-process requirements. Cutting steps would make the revocation invalid and vulnerable to immediate reversal. It is important to understand that **the strategy of revoking the permit is itself a bureaucratic method** and bureaucratic tools come with bureaucratic timelines. Because the revocation pathway relies on a formal quasi-judicial land-use process, the City must complete every step correctly for the outcome to survive challenge. The City Administration (the Mayor and PP&D) can, and should, be pressed to act with urgency, but the legally required sequence of procedures cannot be bypassed.

Skipping steps would make any revocation legally defective and easily overturned. It's understandable to ask, **"But there is so much evidence, what more do you need?!"** The issue isn't the volume or strength of evidence! It's that the revocation pathway is a bureaucratic, quasi-judicial process that requires evidence to be gathered, presented, and tested through specific, lengthy legal procedures.

## **9. I heard that Councilor Green influenced PP&D to move the Cottonwood School so why can't councilors do this with the permit review?**

The context is different. The Cottonwood School relocation was a voluntary, negotiated solution reached between the parties. It did not involve enforcement actions, land-use violations, or any quasi-judicial process. By contrast, investigating violations, issuing fines, or reconsidering a conditional land-use approval is a formal enforcement proceeding governed by strict rules in state law and City Code. In that process, PP&D must act independently, Council cannot direct outcomes, and Councilors are legally prohibited from attempting to influence enforcement because it creates impermissible *ex parte* contact and jeopardizes the validity of the entire revocation case.

## **10. Why are people criticizing City Councilors for not revoking the permit?**

This is a complex political situation, but many of these critiques either misunderstand city code or are misrepresenting council authority for political purposes and generating outrage on social media. Councilors are consistently soliciting feedback from legal experts and community leaders to maximize impact in light of limited City powers. Council is limited because it is 1) part of a split government (i.e., it does not have direct control over the City bureaus like the Mayor or Bureau Directors) and 2) sitting at the local level (i.e., less powerful than State government which is less powerful than Federal government).

## **11. What actions is the City Council taking, if not unilateral revocation?**

The City Council is pursuing many legal strategies available **within its legislative authority** while respecting the limits of the land-use enforcement process. These actions do not replace the required administrative process for investigating violations and reconsidering the ICE facility's conditional land-use approval, but they do allow the Council to address harms, regulate future uses, and protect surrounding communities.

- **Sanctuary City Ordinance:** In October 2025, City Council unanimously passed an ordinance introduced by Councilor Sameer Kanal and sponsored by Councilor Angelita Morillo that codifies Portland's sanctuary city status into City Code. The law prohibits all City employees from assisting any federal agency's immigration enforcement actions, requires the City Administrator to adopt trainings, policies, and signage, and empowers the City's Office of Government Relations to push for federal civil-rights protections.
- **Enforcing Existing Permits:** Continuing to encourage the executive branch (PP&D, the City Administrator, and the Mayor) to fully investigate alleged violations of the 2011 conditional land-use approval and to enforce its terms through the legally required process. As Councilor Morillo noted, this work is intended to "offset a public burden and bring that money back to the community it has impacted," ensuring that violations are documented, penalties are imposed where warranted, and the City's enforcement tools are fully applied.
- **Exploring New Regulations:** Working on new zoning and land use regulations that could affect detention facilities in the future, though these cannot apply retroactively to the existing ICE permit. Land use code changes typically include multiple stages that can take over a year.
- **Proposing a Detention Facility Impact Fee:** Councilors Morillo and Green have proposed a [new ordinance](#) that would impose:



- An annual fee on landlords who lease to detention centers and
- Fines on detention facility landlords that fail to prevent toxic chemicals (like tear gas) from harming residents and small businesses in the vicinity of a detention facility.

The detention facility fee applies to new detention facility leases (including those renegotiated **in the face of or in response to permit revocation proceedings**) and the toxic chemical fees apply **to all detention facilities today, including the ICE facility**. Revenue from the fees/fines will first go to impacted residents and businesses.

The goal is to make the property owner pay for public costs associated with the facility, such as environmental cleanup and harm to nearby residents/businesses. As Councilor Morillo stated, this aims to "offset a public burden and bring that money back to the community it has impacted". Many community organizations support this effort, such as 1000 Friends of Oregon

- **Masking and Tear Gas Regulations:** Council is developing policy in this space, more details in the coming weeks.

## **12. Can the city ban detention centers outright?**

**Perhaps, through the zoning code.** The City Council has the power to enact new zoning regulations. However, it is almost certainly not possible to apply these new rules retroactively to an existing, permitted facility like the ICE building. Such a ban would likely apply only to new detention centers seeking to open in the future. In addition, zoning-based bans on detention centers, especially those affecting federal immigration operations, face substantial Supremacy Clause risk, because courts scrutinize local regulations that effectively obstruct or discriminate against federal functions (immigration enforcement is a quintessential federal function).

Some point to Oregon's law prohibition on private immigration detention facilities as proof that outright bans are permissible. But that statute is legally vulnerable under the Supremacy Clause, because blanket prohibitions that obstruct federal detention functions are exactly the type of rules courts have struck down in other states (the Oregon prohibition on private detention facilities is essentially identical to the ones struck down in CA and NJ). For these reasons, a local zoning-based ban is possible only for future facilities, and even then, it must be crafted carefully to avoid the federal preemption problems that already threaten Oregon's statewide restriction.

## **13. Why are there so many barriers to city action?**

City governments operate under tightly constrained legal authority, especially compared to state and federal governments, and much of land-use, immigration, and detention policy is preempted (controlled by higher levels of law). These limits mean Portland cannot retroactively revoke vested permits or regulate federal immigration operations directly, and must instead, if we want to do things like “revoke the permit,” follow a 12–36 month land-use enforcement process that may ultimately end with the federal government declining to leave the site.

However, the City does retain authority to impose generally applicable fees and cost-recovery measures, which courts treat as permissible “incidental economic burdens” rather than interference with federal functions. These tools allow Portland to support affected residents and businesses and mitigate harms while the lengthy land-use process runs its course (even though the City cannot directly compel ICE to depart even if a permit is “revoked”).

## **14. Additional Resources**

- [Public Records regarding complaints and enforcement](#) for the 4310 S Macadam Ave facility.