

Historic Resources Code Project

Improving Portland's regulations for identifying, designating, protecting, and reusing historic places

RECOMMENDED DRAFT — AS-AMENDED
JANUARY 2022

VOLUME 2: ZONING CODE AMENDMENTS



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

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Testimony on the recommended zoning code amendments:

The Portland City Council considered written and oral testimony on the Historic Resources Code Project *Recommended Draft* in fall 2022. Public hearings were held on November 3 and December 15, 2021. Written testimony was accepted online through the MapApp. The written and oral testimony period concluded on December 15, 2021.

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Table of Contents

Volume 1: Staff Report (under separate cover)

Volume 2: Code Amendments

33.120 Multi-Dwelling Zones	6
33.130 Commercial/Mixed Use Zones	8
33.140 Employment and Industrial Zones	10
33.207 Accessory Short-Term Rentals	14
33.266 Parking, Loading, And Transportation And Parking Demand Management.....	18
33.420 Design Overlay Zone	22
33.445 Historic Resource Overlay Zone	26
33.510 Central City Plan District	154
33.710 Review Bodies	164
33.720 Assignment of Review Bodies	168
33.730 Quasi-Judicial Procedures	170
33.740 Legislative Procedure	172
33.805 Adjustments	174
33.815 Conditional Uses	176
33.825 Design Review	182
33.846 Historic Resource Reviews	188
33.855 Zoning Map Amendments	260
33.910 Definitions.....	266
32.34 Additional Regulations For Specific Uses, Overlay Zones, And Plan Districts.....	272

Zoning Code Amendments

This section presents zoning code amendments recommended by the Portland Planning and Sustainability Commission. The section is formatted to facilitate readability by showing draft code amendments on the right-hand pages and **related commentary** on the left-hand pages. Underlined formatting indicates added text, while ~~striethrough~~ formatting shows what text is deleted. Chapter 33.445, Historic Resource Overlay Zone, is proposed for replacement in its entirety for ease of readability; therefore, there is no ~~striethrough~~ or underline for the draft code amendments for that chapter.

The recommended amendments are organized by code chapter.

Only those sections of the code that are recommended to be amended are included in the document.

Commentary

33.120.210.D Transfer of FAR

Changes to this subsection provide consistent terminology. Changes to this subsection also remove the existing requirement of the Historic Resource Overlay Zone that transfer of FAR from a historic resource requires an additional covenant subjecting the property to demolition review. Under these code amendments, demolition review applies to all historic resources eligible to transfer FAR, rendering the previous covenant requirement redundant with regulations of chapter 33.445.

33.120 Multi-Dwelling Zones

120

33.120.210 Floor Area Ratio

A.-C. [No change]

D. Transfer of FAR. FAR may be transferred from one site to another subject to the following:

1. Sending site. FAR may be transferred from:

a.-b. [No change].

c. A site that contains a Historic or Conservation landmark or a contributing resource in a Historic or Conservation ~~d~~istrict. Sites that are eligible to send floor area through this transfer are allowed to transfer:

(1)-(2) [No change].

2.-3. [No change]

4. Covenants. The property owner must execute a covenant with the City that meets the requirements of Section 33.700.060 and is attached to, and recorded with, the deeds of both the site transferring and the site receiving the density. The covenant must reflect the respective increase and decrease of potential FAR. In addition:

~~a. The covenant for the historic resource transferring the density must also meet the requirements of 33.445.610.D., Covenant.~~

~~b. The covenant for the site where trees will be preserved must:~~

~~(1)~~a. Require that all trees be preserved for at least 50 years; and

~~(2)~~b. Require that any tree covered by the covenant that is dead, dying or dangerous be removed and replaced within a 12-month period. The trees must be determined to be dead, dying, or dangerous by the City Forester or a certified arborist. If a tree covered by the covenant is removed in violation of the requirements of this Section, or is dead, dying, or dangerous as the result of a violation, Tree Review is required.

Commentary

33.130.205.C. Transfer of floor area from historic resources

Changes to this subsection are consistent with changes made to 33.120.210.D. See commentary for 33.120.210.D.

Table 130-3

Changes to Table 130-3 allows 10' of bonus height for certain development proposals in Historic and Conservation Districts in the CM2 zone. This change aligns Historic and Conservation Districts with the existing 10' bonus height allowance for sites in the CM2 zone that have a Comprehensive Plan Map designation of Mixed Use-Urban Center or Mixed Use-Civic Corridor and are located within the Design overlay zone. This 10' bonus height allowance is already allowed in portions of the Kenton Commercial Historic District, Alphabet Historic District, Mississippi Conservation District, and Piedmont Conservation District that are also in the Design overlay zone. Use of the bonus height on sites where a landmark or contributing resource was demolished in the past 10 years is not allowed.

33.130 Commercial/Mixed Use Zones

33.130.205 Floor Area Ratio

A.-B. [No change]

C. **Transfer of floor area from historic resources.** Floor area ratios may be transferred from a site that contains a historic resource as follows:

1. Sending sites. FAR may be transferred from a site that contains a Historic or Conservation ~~Landmark~~ or a contributing resource in a Historic or Conservation ~~District~~. Sites that are eligible to send floor area through this transfer are allowed to transfer:

a.-b. [No change].

2.-5. [No change].

6. The property owner must execute a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density. The covenant must reflect the respective increase and decrease of potential ~~density~~ FAR. The covenants ~~for the receiving both sites~~ must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the historic resource transferring the density must meet the requirements of 33.445.610.D, Covenant.~~

Table 130-3 Summary of Bonus FAR and Height						
		CM1	CM2	CM3	CE	CX
Overall Maximums Per Zone						
Maximum FAR with bonus		2.5 to 1	4 to 1	5 to 1	4 to 1	6 to 1
Maximum height with bonus		35 ft.	55 ft. [1] 75 ft. [2]	75 ft. 120 ft. [2]	45 ft.	85 ft. 120 ft. [2]
Increment of Additional FAR and Height Per Bonus						
Inclusionary Housing (see 33.130.212.C)	FAR Height	1 to 1 none	1.5 to 1 10 ft.	2 to 1 10 ft.	1 to 1 none	2 to 1 10 ft.
Affordable Commercial Space (see 33.130.212.D)	FAR Height	0.5 to 1 none	0.75 to 1 10 ft.	1 to 1 10 ft.	0.5 to 1 none	1 to 1 10 ft.
Planned Development (see 33.130.212.E)	FAR Height	none none	1.5 to 1 up to 30 ft.	2 to 1 up to 55 ft.	1.5 to 1 up to 30 ft.	2 to 1 up to 45 ft.

[1] Bonus height in the CM2 zone is only allowed on sites that are within a Historic District, Conservation District, or the Design Overlay Zone and that have a Comprehensive Plan Map designation of Mixed Use–Urban Center or Mixed Use–Civic Corridor. Bonus height on a site where a Historic or Conservation Landmark or a contributing structure in a Historic or Conservation District has been demolished within the past ten years is prohibited unless the landmark or contributing structure was destroyed by fire or other causes beyond the control of the owner or the only structure on the site that was demolished was an accessory structure.

[2] This larger overall maximum is only allowed through the Planned Development bonus option and required Planned Development Review.

Commentary

33.140.100 Primary Uses

This change restores an inadvertent deletion that occurred with the Shelter to Housing Continuum Project. Reference to Daycare in the use notation number [9] in Table 140-1 was inadvertently deleted and this change restores it.

33.140.205.D. Transfer of FAR from historic resources in the EX Zone

Changes to this subsection allow floor area to be transferred from sites containing a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District. Amendments are intended to be consistent with changes to the multi-dwelling and commercial/mixed use zones.

This subsection is also amended consistent with changes made to 33.120.210.D. See commentary for 33.120.210.D.

33.140 Employment and Industrial Zones

140

33.140.100 Primary Uses

- A. [No change]
- B. **Limited uses.** Uses allowed that are subject to limitations are listed in Table 140-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 140-1.
- 1-8. [No change]
9. Daycare and Community Service in the I zones. This regulation applies to all parts of Table 140-1 that have a [9].
- a. Short term and mass shelters are prohibited. Outdoor shelters are regulated by Chapter 33.285, Short Term, Mass, and Outdoor Shelters.
- b. Daycare and ~~a~~All other Community Service uses up to 3,000 square feet of net building area are allowed. Uses larger than 3,000 square feet of net building area are a conditional use.
- 10-15. [No change]

33.140.205 Floor Area Ratio

A.-C. [No change]

- D. **Transfer of FAR from ~~Landmarks~~historic resources in the EX Zone.** Floor area ratios may be transferred from a site zoned EX that contains a Historic or Conservation Landmark or contributing resource in a Historic or Conservation district as follows:
1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from ~~Landmarks~~historic resources, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers.
 2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Subsection C;
 3. Receiving site. The transfer must be to a site that is:
 - a. Zoned C or EX; and
 - b. Within the recognized neighborhood where the Historic or Conservation Landmark or contributing resource in a Historic or Conservation District is located, or to any site within two miles of the Historic or Conservation Landmark or contributing resource in a Historic or Conservation District; and

Commentary

33.140.205.E. Transfer of FAR from historic resources in the EG Zones

Changes to this subsection are consistent with changes made to 33.120.210.D. See commentary for 33.120.210.D.

4. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential ~~density~~FAR. The covenants ~~for the receiving both sites~~ must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.~~
- E. Transfer of FAR from ~~Landmarks~~historic resources in the EG Zones.** Floor area ~~ratios~~ may be transferred from a site zoned EG1 or EG2 that contains a Historic or Conservation Landmark or contributing resource in a Historic or Conservation District as follows:
1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from ~~Landmarks~~historic resources, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers.
 2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Subsection C;
 3. Receiving site. The transfer must be to a site that is:
 - a. Zoned EG1 or EG2; and
 - b. Within the recognized neighborhood where the Historic or Conservation Landmark or contributing resource in a Historic or Conservation District is located, or to any site within two miles of the Historic or Conservation Landmark or contributing resource in a Historic or Conservation District; and
 4. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential ~~density~~FAR. The covenants for both sites must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.~~

Commentary

33.207.040.B Standards

The section on commercial meetings is revised for accuracy due to the elimination of the previous open house requirement of the Oregon Special Assessment of Historic Property Program. Although the Special Assessment program no longer requires annual open houses, some historic preservation grant and incentive programs do require open houses as a condition of participation. Significant Resources, National Register Landmarks, Historic Landmarks, Conservation Landmarks, and resources in National Register Districts, Historic Districts, and Conservation Districts may participate in such historic preservation programs.

33.207 Accessory Short-Term Rentals

207

33.207.040 Type A Accessory Short-Term Rentals

- A. [No change]
- B. **Standards.** The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:
- 1.-7. [No change]
8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. ~~A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year.~~ A historic resource may be open to the public for 4 hours one day each year if required as part of a historic preservation grant or incentive program. This is not considered a commercial meeting.
9. A Type B accessory home occupation is prohibited with a Type A accessory short-term rental.
- C-D. [No change]

Commentary

33.207.050.B Standards

The section on commercial meetings is revised for accuracy due to the elimination of the previous open house requirement of the Oregon Special Assessment of Historic Property Program. Although the Special Assessment Program no longer requires annual open houses, some historic preservation grant and incentive programs do require open houses as a condition of participation. Significant Resources, National Register Landmarks, Historic Landmarks, Conservation Landmarks, and resources in National Register Districts, Historic Districts, and Conservation Districts may participate in such historic preservation programs.

33.207.050 Type B Accessory Short-Term Rentals

A. [No change]

B. Standards.

1.-7. [No change]

8. Commercial meetings.

a. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are regulated as follows:

(1) In the single-dwelling zones, commercial meetings are prohibited;

(2) In all other zones, up to 24 commercial meetings per year may be approved as part of a conditional use review. The maximum number of visitors or guests per event will be determined through the conditional use review. Adjustments to the maximum number of meetings per year are prohibited.

b. Historic ~~resources~~landmarks. ~~A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year. A historic resource may be open to the public for 4 hours one day each year if required as part of a historic preservation grant or incentive program.~~ This does not count as a commercial meeting.

c. Meeting log. The operator must log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.

9.-10. [No change]

C.-D.[No change]

Commentary

33.266.110.D. Exceptions to the minimum number of parking spaces

A new exception to minimum parking requirements provides designated historic resources with greater flexibility for continued use, adaptive reuse, alterations, and new construction. Many of Portland's historic resources were built during a time when automobile use and parking was non-existent or less commonplace than in more recent decades. Providing this exception allows for removal of unused parking pads, reuse of garages for other uses and flexibility for landmarks and contributing and noncontributing resources in districts to adapt to a more intensive use without the need for paving site area or harming the design of a historic resource—including design patterns in a district—to accommodate vehicles. This exception allows for construction of new buildings in districts to more closely follow the design patterns of development seen prior to the proliferation of the automobile. Accommodating automobile parking spots often requires designs that depart from historic patterns, therefore reducing required parking to zero on all sites in Historic Districts, Conservation Districts, and National Register Districts provides designers of new buildings with greater flexibility to design infill that is more compatible with surrounding contributing properties than would be the case if on-site parking were required.

33.266 Parking, Loading, And Transportation And Parking Demand Management

266

33.266.110 Minimum Required Parking Spaces

A.-C. [No change]

D. **Exceptions to the minimum number of parking spaces.** The minimum number of required parking spaces may be reduced as follows:

1. Affordable housing exceptions. The minimum number of required parking spaces may be reduced to zero when the applicant demonstrates compliance with the on-site or off-site affordable dwelling unit requirements of Chapter 33.245, Inclusionary Housing, the on-site or off-site affordable dwelling unit requirements of an applicable voluntary inclusionary housing bonus, or the requirements of the deeper housing affordability bonus of Section 33.120.211. This exception does not apply if the applicant pays a fee-in-lieu of complying with the requirements of Chapter 33.245, Inclusionary Housing, or makes a payment into the Affordable Housing Fund in exchange for bonus density or FAR.
2. Historic resource exception. The minimum number of required parking spaces may be reduced to zero on sites that contain a Historic Landmark, Conservation Landmark, or National Register Landmark and on sites located within a Historic District, Conservation District, or National Register District.
- ~~23.~~ Other exceptions. The minimum number of required parking spaces may not be reduced by more than 50 percent through the exceptions of this Paragraph. The 50 percent limit applies cumulatively to all exceptions in this Paragraph:
 - a.-f. [No change]

Commentary

33.266.210 Bicycle Parking Development Standards

The Bicycle Parking Code Project became effective on March 1, 2020. The amendments included updated standards for bike lockers holding one or two bikes. Two elements of the standards—the dimensions required for a 2-space triangular locker and the minimum height dimensions for all lockers—have been found to be too limiting, resulting in some locker designs that are acceptable to PBOT requiring an adjustment for approval. This amendment reduces the size requirement for a triangular locker and removes the height requirement.

33.266.210 Bicycle Parking Development Standards

A-B. [No change]

C. **Standards for all bicycle parking.** The Bureau of Transportation maintains a bicycle parking handbook that includes information on rack standards, siting guidelines and other standards of this code chapter. Long-term and short-term bicycle parking must be provided in lockers or racks that meet the following standards:

1-3. [No Change]

4. Bicycle lockers. Bicycle lockers are fully enclosed and secure bicycle parking spaces.

- a. The locker must be securely anchored to the ground.
- b. There must be an aisle at least 5 feet wide behind all bicycle lockers to allow room for bicycle maneuvering.
- c. Locker Dimensions. All bicycle lockers must meet one of the following~~these~~:
 - (1) The locker space has a minimum depth of 6 feet, ~~with an~~ and an access door ~~of that is a minimum of 2 feet wide and a minimum height of 3 feet 11 inches.~~
 - (2) A locker ~~space~~ provided in a triangle locker layout for two bicycle parking spaces must have a minimum depth of 6 feet ~~6 inches~~; and an access door that is a minimum of 2 feet wide on each end ~~with a minimum width of 2 feet 6 inches; and a minimum height of 3 feet 11 inches.~~

5-6. [No Change]

Commentary

33.420.425 Where These Regulations Apply

This amendment incorporates the new historic resource types National Register Landmark and National Register district into the Design Overlay Zone chapter and provides clarity as to where the Historic Resource Overlay Zone applies and where the Design Overlay Zone applies in situation where both are present.

33.420 Design overlay zone

420

33.420.025 Where These Regulations Apply

The regulations of this chapter apply to all design overlay zones. Meeting the regulations of this chapter may also be a requirement of a plan district, other overlay zone, or as a condition of approval of a quasi-judicial decision. This chapter does not apply to sites located within ~~the Historic Resources overlay zone~~the boundary of a Historic Landmark, Conservation Landmark, Historic District, or Conservation District.

Commentary

33.445 Historic Resource Overlay Zone

This chapter is replaced in its entirety for ease of readability. The replacement chapter includes the addition, removal, and amendment of existing organization and text. Similarly, some language in the replacement chapter is retained as it was previously. Refer to [existing Chapter 33.445](#) to compare text changes between the previous and the replacement chapter. For commentary explaining text that has not changed between the previous chapter and the replacement chapter, see the commentary associated with previous code amendments.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

~~33.445 Historic Resource Overlay Zone~~

445

[Delete this chapter. Replace with the revised Chapter 33.445 shown on the following pages]

Commentary

33.445 Historic Resource Overlay Zone

The table of contents for this chapter has been updated to reflect new organization and numbering.

33.445 Historic Resource Overlay Zone

445

Sections:

General

- 33.445.010 Purpose
- 33.445.020 Historic Resource Inventory
- 33.445.030 Where These Regulations Apply
- 33.445.040 Types of Historic Resources and Map Symbols
- 33.445.050 Adoption of Design Guidelines
- 33.445.060 Notice of Building and Housing Code Violations

Landmarks

- 33.445.100 Historic Landmark
- 33.445.110 Conservation Landmark
- 33.445.120 National Register Landmark

Districts

- 33.445.200 Historic District
- 33.445.210 Conservation District
- 33.445.220 National Register District

Significant Resources

- 33.445.300 Identifying a Significant Resource
- 33.445.310 Removal of a Significant Resource
- 33.445.320 Relocation of a Significant Resource
- 33.445.330 Demolition of a Significant Resource
- 33.445.340 120-Day Delay

Historic Preservation Incentives

- 33.445.400 Historic Preservation Incentives

Community Design Standards

- 33.445.500 Purpose
- 33.445.510 When Community Design Standards May be Used

Commentary

33.445.010 Purpose

Amendments to the purpose statement for the Historic Resource overlay zone more accurately reflect the breadth and depth of the Historic Resource Inventory, different historic resource types, and the intent behind protecting those resources. The changes, reflected in the amendments included throughout this and other chapters, elevate architectural, cultural, and historical significance as the primary areas of importance for identifying and designating historic resources. The changes also recognize the myriad of values embodied in the different historic resources subject to this chapter.

33.445.020 Historic Resource Inventory

This section is new to the chapter and describes the Historic Resource Inventory (HRI) more broadly than the previous chapter to better capture the full list of historic resource types under one umbrella. Although this chapter previously identified the HRI as a specific type(s) of historic resource, the HRI is more accurately the name of the complete roster of documented and designated historic resources in Portland. Recasting the HRI as a broader umbrella of historic resources allows the HRI to include the following types of historic resources:

- Resources that have been documented for their historic qualities, but which have not been determined significant or designated by the City or listed by the National Park Service. Formerly named Unranked Resources, these documented resources are no longer addressed by this chapter, but information about them remains publicly available on the HRI.
- Resources that have been documented and determined to be significant through a legislative procedure. Formerly called Rank I, II, III," this type of resource is renamed "Significant Resource."
- Resources designated or identified by the City (Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts), including their constituent parts.
- Resources listed in the National Register of Historic Places (National Register Landmarks and National Register Districts) that have no City designation.
- Demolished resources that had been previously documented or designated (resources that have been demolished, unless intentionally designated as an archaeological site, are not addressed by this chapter).



Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike~~through and underline are not used.

General

33.445.010 Purpose

The historic resource overlay zone protects historic resources that have been identified as significant to the history of the city and region. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting education and enjoyment for those living in and visiting the region. The regulations foster awareness, memory, and pride among the region's current and future residents in their city and its diverse architecture, culture, and history. Historic preservation recognizes social and cultural history, retains significant architecture, promotes economic and environmental health, and stewards important resources for the use, education, and enjoyment of future generations.

33.445.020 Historic Resource Inventory

Portland's Historic Resource Inventory is a record of the buildings, portions of buildings, structures, objects, landscapes, trees, sites, places, and districts that have been documented as having or potentially having architectural, historical, or cultural significance. Historic resources addressed by this chapter are included in the Historic Resource Inventory.

Commentary

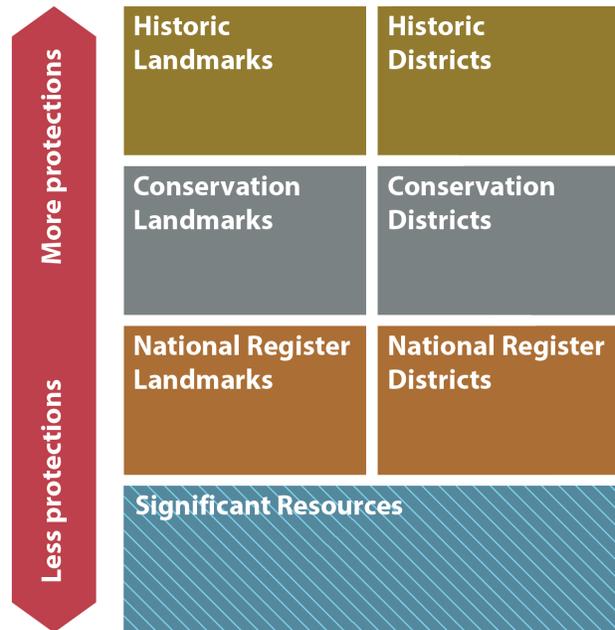
33.445.030 Where These Regulations Apply

Amendments to this section reflect amendments to the regulations that apply to the different types of historic resources addressed by the chapter. In general, the regulations of this chapter apply based on resource type, with landmarks afforded fewer exemptions to otherwise required regulations than their district counterparts at each level. The graphic at right provides a general guide for understanding the hierarchy of historic resource types addressed by this chapter.

The new historic resource types addressed by this chapter include fewer types than the previous code and elevates City designated and identified resources to higher levels of protections than resources that have been listed in the National Register of Historic

Places since 2017. The hierarchy of historic resource types (and protections) codified by this chapter recognizes Significant Resources as likely eligible for Historic, Conservation, or National Register Landmark designation; applies minimum State-required demolition protections to National Register Landmarks and Districts; applies demolition protections to Conservation Landmarks and Districts; and applies the highest level of protections to Historic Landmarks and Districts. Additionally, the amendments establish procedures that allow the City to move resources up and down the hierarchy in the future through a legislative or quasi-judicial procedure. With the exception of changing the naming conventions for two types of existing resources ("Ranked Resources" become "Significant Resources" and recently-listed National Register resources become National Register Landmarks and Districts), the amendments do not add, remove, or change any resources from the Official Zoning Map.

The new table assigns applicable regulations to the different historic resource types based upon the 'highest' historic resource type(s) present on a given property.



Chapter 33.445 has been substantially revised.
 For ease of reading, ~~strike through~~ and underline are not used.

33.445.030 Where These Regulations Apply

- A. Sections 33.445.010 through .060 and .400 through .500 apply to all historic resources.
- B. Sections 33.445.100 through .340 apply as shown in Table 445-1.

Table 445-1				
Where These Regulations Apply				
	In Historic District	In Conservation District	In National Register District	Not in a district
Historic Landmark	33.445.100	33.445.100	33.445.100	33.445.100
Conservation Landmark	33.445.200	33.445.110	33.445.110	33.445.110
National Register Landmark	33.445.200	33.445.210	33.445.120	33.445.120
Significant Resource	33.445.200	33.445.210	33.445.220	33.445.300 through 33.445.340
Not a Landmark or Significant Resource	33.445.200	33.445.210	33.445.220	N/A

Commentary

33.445.040 Types of Historic Resources and Map Symbols

Descriptions of historic resource types have been removed from Chapter 33.445 and consolidated in Chapter 33.910 definitions.

B. Map symbols

The changes to this subsection reflect the addition of the new resource types National Register Landmark and National Register District and ensure that the boundaries of individual landmarks are shown on the *Official Zoning Maps*. Showing the boundaries provides clarity and information when land divisions and sales occur within the boundary of landmarks and districts.

33.445.040 Types of Historic Resources and Map Symbols

- A. Types of historic resources.** The following types of historic resources are regulated by this chapter. Each type of historic resource may contain contributing resources. The definition of each type of historic resource can be found in Chapter 33.910.
1. Historic Landmarks;
 2. Conservation Landmarks;
 3. National Register Landmarks;
 4. Historic Districts;
 5. Conservation Districts;
 6. National Register Districts; and
 7. Significant Resources.
- B. Map symbols.** Boundaries of Historic Landmarks, Conservation Landmarks, National Register Landmarks, Historic Districts, Conservation Districts, and National Register Districts are shown on the Official Zoning Maps.

Commentary

33.445.050 Adoption of Design Guidelines

This section adds clarity that design guidelines are recommended by the Historic Landmarks Commission and adopted by the City Council as the result of a legislative procedure. Adopted design guidelines provide district-specific approval criteria that must be met for proposals that are subject to historic resource review.

An existing section pertaining to modifications considered as part of historic resource review is eliminated (modifications are covered by Chapter 33.846.070).

33.445.060 Notice of Building and Housing Code Violations

Revisions to this existing section adds new historic resource types and extends the number of days from 5 to 10.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

33.445.050 Adoption of Design Guidelines

Design guidelines for Historic Districts and Conservation Districts are recommended by the Historic Landmarks Commission and adopted by City Council. These guidelines are used for historic resource review, which is required for some alterations and new development proposals affecting certain historic resources. Historic resource review ensures the conservation and enhancement of the special characteristics of historic resources.

33.445.060 Notice of Building and Housing Code Violations

When the Bureau of Development Services declares a Historic Landmark, Conservation Landmark, National Register Landmark, or contributing resource in a Historic District, Conservation District, or National Register District to be a dangerous building or posts a landmark to remain vacant, the Bureau of Development Services will notify the Historic Landmarks Commission of such action and of the specific code violations. The notice must be sent within ten working days of the action. The notice provides the Historic Landmarks Commission and the community the opportunity to inform the owner of potential rehabilitation programs and benefits or to pursue public or private acquisition and restoration of the historic resource.

Commentary

Landmarks

Chapter 33.445 is reorganized for readability, ease of implementation, and accommodation of new historic resource types. The resource types have been organized into categories for Landmarks (Historic, Conservation, and National Register), Districts (Historic, Conservation, and National Register), and Significant Resources (formerly called Historic Resource Inventory Rank I, II, III). Each type of historic resource is provided its own section of regulations under the headings: Landmarks, Districts, and Significant Resources for ease of wayfinding and implementation. Although a small handful of properties may have two resource types—such as a Historic Landmark in a Historic District—historic resources generally have only one designation. For those properties that have two or more historic resource types, resolution between the regulations that apply can be found in 33.445.030, and in relevant sections of the resource-specific regulations in the pages that follow.

33.445.100.A Designation of a Historic Landmark

Amendments to "Designation of a Historic Landmark" provide clarity, consistency with other sections, and capture those Historic Landmarks that were automatically mapped as such upon their listing in the National Register of Historic Places. Additionally, the amendments to this section allow for proposals to expand the boundary of an existing Historic Landmark and/or reclassify a noncontributing resource as contributing within the boundary of an existing Historic Landmark.

Paragraph A.1. states that when the federal Keeper of the National Register amends the nomination form for resources that were automatically identified as Historic Landmarks upon listing in the National Register, the changes to the federal listing are automatically mirrored locally for the Historic Landmark designation (See 33.855.075, Automatic Amendments for Historic Resources).

Paragraph A.2. provides a clarification that Historic Landmarks that have been designated by the City legislatively or quasi-judicially can have their boundaries expanded and non-contributing resources reclassified as contributing through a legislative or quasi-judicial procedure.

Landmarks

33.445.100 Historic Landmark

A. Designation of a Historic Landmark

1. National Register listing. Structures, objects, and sites listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 are automatically identified as Historic Landmarks on the Official Zoning Maps. For Historic Landmarks that were listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 but have not been independently designated by the City as the result of a legislative or quasi-judicial procedure, any expansion of the boundary by the federal Keeper of the National Register of Historic Places is automatically identified on the Official Zoning Maps. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
2. City designation. City designation of a Historic Landmark may be established through a legislative or quasi-judicial procedure. Designating a City Historic Landmark includes establishing a new Historic Landmark, expanding the boundaries of an existing Historic Landmark, and reclassifying a noncontributing resource as contributing within the boundaries of an existing Historic Landmark:
 - a. Legislative designation. Historic Landmark designation may be established through a legislative procedure using the approval criteria of Section 33.846.030.D; or
 - b. Quasi-judicial designation. Historic Landmark designation may be established through a quasi-judicial procedure; historic designation review is required.

Commentary

33.445.100.B Removal of a Historic Landmark Designation

Amendments to this section provide clarity, consistency with other sections, and to capture those Historic Landmarks that were automatically identified as such upon their listing in the National Register of Historic Places.

Paragraph B.1. describes the required process for removing a Historic Landmark's City designation and clarifies that removal includes reducing boundaries, reclassification of contributing resources, and changing a Historic Landmark to a Conservation Landmark. The removal procedure could be either quasi-judicial or legislative.

Paragraph B.2. clarifies that when the federal Keeper of the National Register amends the nomination form for resources that were automatically identified as Historic Landmarks, the changes to the federal listing are automatically mirrored locally for the Historic Landmark designation. Finally, Paragraph B.2. allows for removal of Historic Landmark status from resources that are listed in the National Register by changing the resource type to Conservation Landmark or National Register Landmark.

B. Removal of a Historic Landmark designation

1. Removal of a resource's City designation as a Historic Landmark requires historic designation removal review or a legislative procedure using the approval criteria of Section 33.846.040.C except when the resource is destroyed or demolished as specified in Paragraphs B.3. and B.4. Removing a resource's City designation includes removing an existing Historic Landmark designation, changing a Historic Landmark designation to Conservation Landmark designation, reducing the boundaries of an existing Historic Landmark, and reclassifying a contributing resource as noncontributing within the boundary of an existing Historic Landmark.
2. For Historic Landmarks that were listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 but have not been independently designated by the City as the result of a legislative or quasi-judicial procedure, the following is required:
 - a. Removal by the federal Keeper of the National Register of Historic Places automatically removes Historic Landmark designation. Removal by the federal Keeper of the National Register of Historic Places also includes reducing the boundaries of the listed resource. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
 - b. Removing a resource's designation as Historic Landmark or changing the resource's designation from Historic Landmark to Conservation Landmark requires historic designation removal review or a legislative procedure using the approval criteria of Section 33.846.040.C.
3. If the Historic Landmark is destroyed by causes beyond the control of the owner, its Historic Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
4. If the Historic Landmark is demolished, after approval of demolition through demolition review, its Historic Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

Commentary

33.445.100.C Relocation of a Historic Landmark

Changes to the existing regulations for relocating a Historic Landmark clarify and streamline the process by collapsing the review and approval process within one historic resource review application. See code and commentary in 33.846.060 for additional information about the procedure thresholds and approval criteria that would apply to proposals to relocate a Historic Landmark. Changes to this section allow a Historic Landmark to be moved and retain its designation without having to be designated again on the receiving site.

33.445.100.D Development within a Historic Landmark Boundary

Historic resource review is currently required for most alterations to a Historic Landmark. Changes to the existing regulations capture those activities that would result in the potential loss, alteration, or damage to exterior historic features. Amendments to the regulations clarify that new construction and alterations within the boundary of the Historic Landmark are subject to historic resource review, consistent with current practice, so that development activities within a Historic Landmark boundary will be subject to historic resource review. Existing language related to paint is amended to only require historic resource review for proposals to paint previously unpainted surfaces, such as unpainted brick or stone, which may be irreparably harmed by painting.

Amendments to subsection D.1.f clarifies that while historic resource review does not generally apply to interior spaces, City-designated interior Historic Landmark spaces are subject to historic resource review. Interior Historic Landmark designation requires a quasi-judicial or legislative procedure that specifically designates the interior spaces as a landmark.

- C. Relocation of a Historic Landmark.** Relocating a Historic Landmark requires historic resource review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation. When a Historic Landmark or contributing resource is relocated after approval of relocation through historic resource review, the designation is automatically removed from the sending site and is automatically added to the receiving site. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- D. Development within a Historic Landmark boundary.** Certain development within the boundary of a Historic Landmark requires historic resource review to ensure the resource’s historic value is considered prior to or during the development process.
1. When historic resource review is required. Unless exempted by Paragraph D.2., the following proposals within the boundaries of a Historic Landmark are subject to historic resource review:
 - a. Exterior alterations;
 - b. Building a new structure within the boundary of a Historic Landmark;
 - c. Installation or alteration of exterior signs;
 - d. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review;
 - e. Painting an unpainted exterior surface; and
 - f. Alteration of an interior space when that interior space is specifically designated by the City as a Historic Landmark. Alteration of an interior space of a Historic Landmark that has been listed by the federal Keeper of the National Register of Historic Places but has not also been independently designated by the City as the result of a legislative or quasi-judicial procedure does not require historic resource review.

Commentary

33.445.100.D.2 Exempt from historic resource review

The exemptions provided in this section are for activities that have minimal impact on a historic resource's historic significance, integrity, materials, or features. The exemptions for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts have been reorganized for ease of implementation and amended and expanded to increase the list of activities that are not subject to historic resource review. In general, there are fewer exemptions for Historic and Conservation Landmarks than there are for Historic and Conservation Districts. The shorter list of exemptions for landmarks recognizes that the integrity of individual historic resources may be less forgiving to even minor alterations than larger collections of resources that make up districts. The expanded list of exemptions—especially for Historic and Conservation Districts—are intended to more readily allow tenants and property owners to execute routine improvements, accessibility alterations, seismic upgrades, solar installations, and backyard ADUs without irreparable harm to historic features or materials.

- a. is an existing exemption with a change for technical accuracy.
- b. is an existing exemption.
- c. is an existing exemption.
- d. is an existing exemption with a change for technical accuracy and consistency with an exemption in the Design Overlay Zone.
- e. is a new exemption that would allow for roof and parapet improvements when those improvements do not extend above the roof or parapet and are not visible on exterior walls. This exemption is intended to allow for bracing and structural improvements when obscured by the existing parapet or roof.
- f. is an existing exemption.
- g. is an existing exemption with a change for technical accuracy.
- h. is an existing exemption.
- i. is a new exemption that would apply to new and existing paved and unpaved paths.
- j. is a new exemption that would allow for certain signs and sign structures to be exempt from historic resource review. The sign and sign structure must extend perpendicularly from an existing structure, encompass an area no more than 3 square feet in size, have a width of no more than 2 inches (both the sign and sign structure), and lack any lighting or other electrical components on the sign or sign structure. The sign and sign structure could not affect brick or stone but may be installed into the mortar joints between brick and/or stone.

2. Exempt from historic resource review.
 - a. Alterations that do not require a building, site, zoning, or sign permit from the City, and will not alter the exterior features of a resource having such features specifically listed in the Historic Landmark documentation or National Register nomination as attributes that contribute to the resource's historic significance;
 - b. Repair;
 - c. Maintenance;
 - d. Alterations to a structure to meet the Americans With Disabilities Act's requirements or as specified in Section 1113 of the Oregon Structural Specialty Code when such alterations can be installed and removed without destroying existing materials;
 - e. Seismic improvements to the roof or parapet of existing structures when:
 - (1) The roof is flat or surrounded by a parapet; and
 - (2) The seismic improvements do not extend above the roof or parapet, whichever is higher; and
 - (3) The seismic improvements do not penetrate through the exterior walls;
 - f. Public Art as defined in Chapter 5.74;
 - g. Landscaping unless the landscaping is identified in the Historic Landmark documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - h. Parking lot landscaping that meets the standards of this Title and does not include a wall or a fence;
 - i. New or existing paths unless the path is specifically identified in the Historic Landmark documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - j. New signs and alterations to existing signs when the following are met:
 - (1) The sign projects perpendicularly from the façade of a structure;
 - (2) The sign and sign structure are no more than 3 square feet in area;
 - (3) The sign and sign structure are no more than 2 inches in depth;
 - (4) The sign and sign structure have no electrical components; and
 - (5) The sign and sign structure are not mounted to brick or stone unless the sign or sign structure is mounted through mortar joints on a masonry wall;

Commentary

33.445.100.D.2 Exempt from historic resource review (cont.)

k. is a new exemption that addresses changes to the fabric on existing fabric awnings. This exemption does not apply to new fabric awnings and does not apply to new or changed fabric awning signs. This exemption allows for the exact repair and replacement of fabric, including the exact replacement of signs on existing fabric awnings.

l. is a new exemption that allows for plaques, mailboxes, emergency key boxes, bird and bat houses, and other similar objects to be attached to or removed from the exterior of buildings. The attachments may not exceed 18 inches in length, width, or depth, may not contain electrical components (except for battery-operated components), and must be attached to exterior finish material. The attachments may not be attached to brick, stone, or architectural features.

m. is a new exemption that allows for installation of air conditioners, heaters, pumps, electrical storage and other mechanical equipment that rests on the ground.

n. is an existing exemption that is being amended to delete the limitation on the number of mechanical units allowed to be exempt.

o. is a new exemption that allows for new and altered hoses, conduits, tubes, and pipes near the grade of buildings. The exemption is intended to allow for routine changes to accommodate installation, alteration, and removal of garden, HVAC, electrical, and other ducting.

p. is a new exemption that allows for outlets and meters. Specifically, this exemption allows for EV charging outlets.

q. is an existing exemption.

r. is an existing exemption.

s. is an existing exemption amended to allow vents on rear- and side-facing roof slopes.

- k. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
- l. Plaques, boxes, and other objects that are no more than 18 inches in any dimension, contain no electrical components, and are attached to exterior finish material or mounted through mortar joints when on a masonry wall;
- m. Ground mounted mechanical equipment that is no more than 5 feet in width, length, or height, and is not located closer to a street than any street-facing façade;
- n. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, on the roof of an existing building when the following are met:
 - (1) The area where the equipment will be installed has a pitch of 1/12 or less;
 - (2) The proposed mechanical equipment is set back at least 4 feet from the edge of the roof for every 1 foot of equipment height above the roof surface or top of parapet; and
 - (3) The proposed equipment has a matte finish or is painted to match the roof;
- o. Hoses, conduits, tubes, or pipes when the following are met:
 - (1) The hose, conduit, tube, or pipe is not located on a street-facing facade;
 - (2) The hose, conduit, tube, or pipe is no more than 6 inches in diameter; and
 - (3) The hose, conduit, tube, or pipe is located no more than 5 feet above the adjacent grade;
- p. Electrical, gas, or water meters or outlets, including electric vehicle charging outlets, that are not located on a street-facing facade;
- q. Installation or removal of storm windows and doors and screen windows and doors;
- r. Light wells when fully surrounded by the existing walls of the building;
- s. Rooftop vents on roofs if the vent and associated elements such as pipes, conduits and covers, when the following are met:
 - (1) The area where the proposed vent and associated elements will be installed has a pitch of 1/12 or less or faces within 90 degrees of the rear lot line;
 - (2) The proposed vent and associated elements is not more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
 - (3) The proposed vent and associated elements are set back at least 4 feet from the edge of the rooftop for every 1 foot of vent height above the roof surface or top of parapet; and
 - (4) The proposed vent and associated elements has a matte finish or is painted to match the roof.

Commentary

33.445.100.D.2 Exempt from historic resource review (cont.)

t. is a new exemption for Landmarks, modeled after a previous exemption applied in Historic Districts. The exemption allows for installation of solar energy systems on certain roof slopes, including pitched roofs that face within 45-degrees of a rear lot line. On pitched roofs, the top of the system may not project more than 8 inches from the surface of the roof. Other applicable regulations pertaining to solar energy systems may require the system be further setback from ridgelines or roof edges in certain situations.

u. is a new exemption for Landmarks, modeled after a previous exemption applied in Historic Districts.

- t. Solar energy systems when the following are met:
- (1) When the solar energy system is on a flat roof, mansard roof, or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface the following must be met:
 - The solar energy system must be mounted flush or on racks with the system or rack extending no more than 5 feet above the top of the highest point of the roof;
 - If on a mansard roof the solar energy system must be mounted on the horizontal portion of the roof; and
 - The solar energy systems must be screened from the street by:
 - An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
 - Setting the solar energy system back from the roof edges facing the street 4 feet for each foot of solar energy system height.
 - (2) When the solar energy system is on a pitched roof the following must be met:
 - The roof surface must be clad in asphalt composite shingles or metal;
 - The roof must face a rear lot line or face within 45 degrees of the rear lot line. See Figure 445-1;
 - The system must be mounted flush with the plane of the system parallel to the roof surface; and
 - The system must not be more than 8 inches from the surface of the roof and must be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.
- u. Skylights or roof hatches when the following are met:
- (1) The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
 - (2) The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 45 degrees of the rear lot line, see Figure 445-1;

Commentary

33.445.100.D.2 Exempt from historic resource review (cont.)

v. is a new exemption that allows for certain non-historic windows on non-street-facing facades to be replaced with windows that are generally or more compatible with the design, materials, and workmanship of the historic resource. The exemption only applies to resources built before 1940 (due to the overwhelming prevalence of wood windows prior to WWII) and to those existing windows that are made of vinyl, fiberglass, or aluminum. By allowing those non-historic window types to be replaced with wood or metal-clad wood, property owners can make changes without the potential of damaging significant historic materials.

w. is a new exemption that allows owners to make changes to existing fire escapes for life and structural safety. This exemption only applies to those structural changes directly related to improvement of a fire escape. Other applicable regulations pertaining to alteration of fire escapes may preclude alteration in certain situations.

x. is an existing exemption with a change to reduce the side street setback from 25 to 20 feet.

y. is a new exemption that clarifies that alterations to trees that have been designated as Historic Landmarks are subject to Title 11, and not subject to historic resource review.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

- v. Replacement of vinyl, fiberglass, or aluminum windows with wood or metal-clad wood windows when the following are met:
 - (1) The structure was built before 1940;
 - (2) The windows are on a non-street-facing facade;
 - (3) The replacement windows are installed exactly within the existing window openings; and
 - (4) The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
- w. Removal of ladders between fire escapes, the closure of fire escape ladder openings with materials that match the adjacent fire escape surface, and structural changes to fire escapes using materials that match the adjacent fire escape;
- x. Construction of a detached accessory structure when the following are met:
 - (1) The structure is not more than 200 square feet in total floor area; and
 - (2) The structure is at least 40 feet from a front property line and, if on a corner lot, at least 20 feet from a side street lot line;
- y. Historic Landmark trees subject to Section 11.20.060 of Title 11, Heritage Trees.

Commentary

33.445.100.D.2 Exempt from historic resource review (cont.)

Changes to the figures accommodate changes to exemption text.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

Figure 445-1
Solar Energy System, Skylight and Roof Hatch Location on a Landmark Rooftop

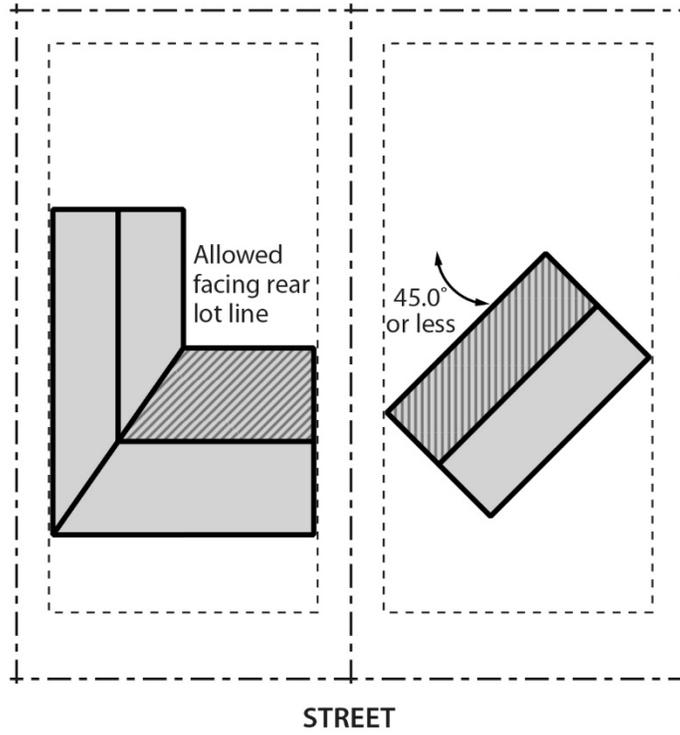
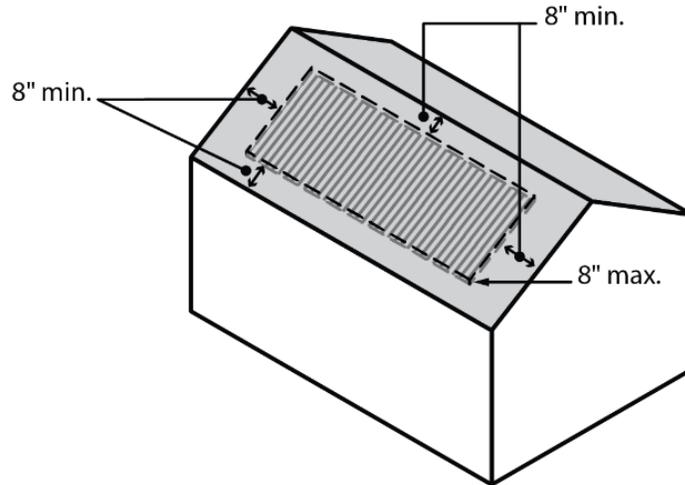


Figure 445-2
Solar Energy Systems on a Pitched Roof



Commentary

33.445.100.E Demolition of a Historic Landmark

Amendments to the demolition section retain existing demolition review for National Register-listed Historic Landmarks and increase demolition protections for City-designated Historic Landmarks from 120-day demolition delay to demolition review. The change brings City-designated Historic Landmarks to the same level of demolition protection as is provided to National Register-listed Historic Landmarks. Applying demolition review to all Historic Landmarks provides for consistent regulations among Historic Landmarks and is integral to achieving the restructured hierarchy of historic resource types described in 33.445.040.

For local designation to be a viable alternative to National Register listing, City Historic Landmark listing must come with similar demolition protections to what is afforded to National Register listing. Currently, City-designated Historic Landmarks can be demolished after a 120-day delay, the same protection that previously applied to Conservation Landmarks and ranked structures on the Historic Resource Inventory (renamed "Significant Resources").

The amendments introduce a chapter-specific definitions of demolition. Existing regulations do not provide a historic resource-specific definition of demolition, instead relying on the definitions of this title, Title 24, and State Administrative Rule. Adding a threshold definition of demolition within the context of this chapter is necessary for the City's historic resource regulations to implement State Administrative Rule ([OAR 660-023-0200](#)) which provides the following: "Demolition' means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost." The OAR definition applies directly to local land use decisions regarding a National Register Resource. And, the OAR definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition."

Because the vast majority of the Historic Landmarks and Historic Districts in Portland are also listed in the National Register, a single definition of demolition is provided for all historic resource types addressed by the chapter. The definition (E.1 a.-e.) captures a variety of circumstances in which a historic resource could be "lost," including major alterations that would destroy the public-facing elevations of a building or other structure. These thresholds definitions apply to buildings, bridges, statues, and other structures. No thresholds are provided for atypical resources that are not structures, such as archaeological sites or landscapes—in those unique instances, the OAR definition would apply. Although the OAR "definition" provides a discretionary definition of demolition, application of the regulations of this chapter necessitate thresholds to assign an appropriate review (i.e. historic resource review or demolition review) for different development activities. Exemptions in Paragraph E.2. allow for major rehabilitation projects that otherwise qualify as demolition to be considered against historic resource review approval criteria as an alternative to demolition review and the associated demolition review approval criteria which relate to the *loss* of a resource.

Procedure type thresholds and approval criteria for demolition review can be found in 33.846.080.

- E. Demolition of a Historic Landmark.** Demolition of a Historic Landmark requires demolition review to ensure the landmark's historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a Historic Landmark and demolition of a contributing resource is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure;
and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;

Commentary

E.2. Exempt from demolition review

A new exemption (subsection E.2.c) from demolition review addresses Historic Landmark trees. Several trees were designated as Historic Landmarks prior to the establishment of the Heritage Tree program. This exemption allows a Historic Landmark tree to be removed without demolition review, provided the tree is subject to the Heritage Tree provisions of Title 11.

An additional new exemption (subsection E.2.d) relates to the definition of demolition provided in Paragraph E.1. This exemption allows certain major addition or alteration proposals that preserve a resource, but which may require removal of walls, to be reviewed through historic resource review instead of demolition review. This exemption is intended to allow for major projects that do not result in the loss of the resource to be reviewed by a more appropriate review body using more appropriate approval criteria than would be required through demolition review. Proposals for total demolition would not be eligible to bypass demolition review.

Changes to the subsection pertaining to permit issuance (subsection E.3) provide clarity and ensure a demolition permit isn't issued until appeals, if any, have been resolved. This is an especially important requirement as demolition review decisions can be appealed to the Historic Landmarks Commission, City Council, and the Land Use Board of Appeals depending on the review procedure specified in 33.846.080. Ensuring a historic resource is not demolished until appeals have been resolved ensures that a unique resource is not lost during an appeal process that may result in a reversal of the first decision in demolition review. An addition change to subsection E.3 allows for a demolition permit to be issued when the demolition review decision does not require a new building. For example, if demolition of a landmark is approved to provide public open space there would not be a requirement for a new building on the site. Conversely, if demolition of a landmark is approved to provide housing on the site, the demolition permit should not be issued until the replacement building is approved. When approval of demolition review is predicated on replacement development, the demolition review decision should include a condition of approval related to the new development so that the historic resource isn't lost unless or until the new development is permitted.

2. Exempt from demolition review. The following are exempt from demolition review:
 - a. Demolition of noncontributing resources;
 - b. Demolition of Historic Landmarks, and demolition of contributing resources, when demolition is required because:
 - (1) The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
 - c. Historic Landmark trees subject to Section 11.20.060 of Title 11, Heritage Trees;
 - d. Alterations to Historic Landmarks or contributing resources that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations are approved through historic resource review; and
 - (2) The historic resource review decision is final, and all appeals have been resolved.
3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

33.445.110.A Designation of a Conservation Landmark

Changes to "Designation of a Conservation Landmark" provide clarity and consistency with other sections. Additionally, changes to the section accommodate proposals to expand the boundary of an existing Conservation Landmark and proposals to reclassify a noncontributing resource as contributing within the boundary of an existing Conservation Landmark.

Changes to Paragraphs A.1. and A.2. clarify that Conservation Landmarks can be designated legislatively or quasi-judicially using the approval criteria of 33.846.030.

Under Oregon law, owner consent is required for designating a property as a Conservation Landmark. Obtaining owner consent is a requirement of 33.846.030—historic designation review—and would be necessary for legislative or quasi-judicial designation of a Conservation Landmark. State-required owner consent would be obtained during the designation process.

33.445.110.B Removal of a Conservation Landmark Designation

Changes to this section provide clarity and consistency with other sections.

Paragraph B.1. provides for the removal of Conservation Landmark designation, including reduction of boundaries and reclassification of contributing resources. Removal is allowed through either a quasi-judicial or legislative procedure.

33.445.110 Conservation Landmark

- A. Designation of a Conservation Landmark.** A Conservation Landmark may be designated through a legislative or quasi-judicial procedure. Designating a Conservation Landmark includes establishing a new Conservation Landmark, expanding the boundaries of an existing Conservation Landmark, and reclassifying a noncontributing resource as contributing within the boundaries of an existing Conservation Landmark.
1. Legislative designation. Conservation Landmark designation may be established through a legislative procedure using the approval criteria of Section 33.846.030.D; or
 2. Quasi-judicial designation. Conservation Landmark designation may be established through a quasi-judicial procedure; historic designation review is required.
- B. Removal of a Conservation Landmark designation**
1. Removal of a resource's City designation as a Conservation Landmark requires historic designation removal review or a legislative procedure using the approval criteria of Section 33.846.040.C except when the resource is destroyed or demolished as specified in Paragraphs B.2. and B.3. Removing a resource's City designation includes removing an existing Conservation Landmark designation, reducing the boundary of an existing Conservation Landmark, and reclassifying a contributing resource as noncontributing within the boundaries of an existing Conservation Landmark.
 2. If the resource is destroyed by causes beyond the control of the owner, its Conservation Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
 3. If the resource is demolished, after approval of demolition through demolition review, its Conservation Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

Commentary

33.445.110.C Relocation of a Conservation Landmark

Changes to this section align with the changes to the corresponding section for Historic Landmarks, while also allowing for some Conservation Landmark relocation proposals to proceed without historic resource review. Because Conservation Landmarks can meet the clear and objective Community Design Standards as an alternative to historic resource review, additional clarity is intended to ensure modest relocation proposals, relocation of noncontributing resources, and relocation of detached accessory structures do not trigger a required historic resource review. When historic resource review is required, new procedure thresholds and approval criteria are provided. See code and commentary in 33.846.060 for additional information about those thresholds and criteria. The changes to this section also allow a Conservation Landmark to be moved and retain its designation without having to be designated again on the receiving site.

The phrase "any direction" means up, down, sideways or any combination thereof.

33.445.110.D Development within a Conservation Landmark boundary

Revisions to the section applying to when historic resource review is required have been made. Clarification that new construction and alterations within the boundary of the Conservation Landmark are subject to historic resource review are provided, consistent with current practice, so that development activities within a Conservation Landmark boundary are subject to review. Existing language addressing paint is removed (unlike Historic Landmarks, where modified language relating to painting an unpainted surface is included). Language pertaining to the 'A' overlay, which was redundant to the requirements of this chapter, is removed.

The clear and objective Community Design Standards alternative to historic resource review is retained, allowing Conservation Landmark proposals subject to historic resource review to meet applicable design standards instead.

- C. Relocation of a Conservation Landmark.** Relocating a Conservation Landmark requires historic resource review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation.
1. When historic resource review is required. Unless exempted by Paragraph C.2., relocating a Conservation Landmark, including relocating a contributing resource, is subject to historic resource review.
 2. Exempt from historic resource review. The following are exempt from historic resource review:
 - a. Relocating a noncontributing resource;
 - b. Relocating a Conservation Landmark, including relocating contributing resources, 10 feet or less in any direction within the boundary of the Conservation Landmark; and
 - c. Relocating a detached accessory structure, including those that are identified as a contributing resource.
 3. When a Conservation Landmark or contributing resource is relocated, the designation is automatically removed from the sending site and is automatically added to the receiving site. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- D. Development within a Conservation Landmark boundary.** Certain development within the boundary of a Conservation Landmark requires historic resource review to ensure the landmark’s historic value is considered prior to or during the development process. When historic resource review is required, the Community Design Standards may be used as an alternative for some proposals. See Section 33.445.500.
1. When historic resource review is required. Unless exempted by Paragraph D.2., the following proposals within the boundaries of a Conservation Landmark are subject to historic resource review:
 - a. Exterior alterations;
 - b. Building a new structure within the boundary of a Conservation Landmark;
 - c. Installation or alteration of exterior signs; and
 - d. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review.

Commentary

33.445.110.D.2 Exempt from historic resource review

The exemptions provided in this section are activities that may otherwise be subject to historic resource review, but which are exempt because of their minimal impact on a historic resource's historic significance, integrity, materials, or features. The exemptions for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts have been reorganized for ease of implementation and amended and expanded to increase the list of activities that are not subject to historic resource review. In general, there are fewer exemptions for Historic and Conservation Landmarks than there are for Historic and Conservation Districts. The shorter list of exemptions for landmarks recognizes that the integrity of individual historic resources may be less forgiving to even minor alterations than larger collections of resources that make up districts. The expanded list of exemptions—especially for Historic and Conservation Districts—are intended to more readily allow tenants and property owners to execute routine improvements, accessibility alterations, seismic upgrades, solar installations, and backyard ADUs without irreparable harm to historic features or materials. For activities that do not qualify as exempt, the activities must be reviewed through historic resource review or meet applicable Community Design Standards.

a. is an existing exemption with changes for technical accuracy.

b. is an existing exemption.

c. is an existing exemption.

d. is an existing exemption with change for technical accuracy and consistency with an exemption in the Design Overlay Zone.

e. is a new exemption that would allow for roof and parapet improvements when those improvements do not extend above the roof or parapet and are not visible on exterior walls. This exemption is intended to allow for bracing and structural improvements when obscured by the existing parapet or roof.

f. is an existing exemption.

g. is an existing exemption with changes for technical accuracy.

h. is an existing exemption.

i. is a new exemption that applies to new and existing paved and unpaved paths.

j. is a new exemption that allows for certain signs and sign structures to be exempt from historic resource review. The sign and sign structure must extend perpendicularly from an existing structure, encompass an area no more than 3 square feet in size, have a width of no more than 2 inches (both the sign and sign structure), and lack any lighting or other electrical components on the sign or sign structure. The sign and sign structure could not affect brick or stone but may be installed into the mortar joints between brick and/or stone.

2. Exempt from historic resource review.
 - a. Alterations that do not require a building, site, zoning, or sign permit from the City, and will not alter the exterior features of a resource having such features specifically listed in the Conservation Landmark documentation or National Register nomination as attributes that contribute to the resource's historic significance;
 - b. Repair;
 - c. Maintenance;
 - d. Alterations to a structure to meet the Americans With Disabilities Act's requirements or as specified in Section 1113 of the Oregon Structural Specialty Code when such alterations can be installed and removed without destroying existing materials;
 - e. Seismic improvements to the roof or parapet of existing structures when:
 - (1) The roof is flat or surrounded by a parapet; and
 - (2) The seismic improvements do not extend above the roof or parapet, whichever is higher; and
 - (3) The seismic improvements do not penetrate through the exterior walls;
 - f. Public Art as defined in Chapter 5.74;
 - g. Landscaping unless the landscaping is identified in the Conservation Landmark documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - h. Parking lot landscaping that meets the standards of this Title and does not include a wall or a fence;
 - i. New or existing paths unless the path is specifically identified in the Conservation Landmark documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - j. New signs and alterations to existing signs when the following are met:
 - (1) The sign projects perpendicularly from the façade of a structure;
 - (2) The sign and sign structure are no more than 3 square feet in area;
 - (3) The sign and sign structure are no more than 2 inches in depth;
 - (4) The sign and sign structure have no electrical components; and
 - (5) The sign and sign structure are not mounted to brick or stone, unless the sign or sign structure is mounted through mortar joints on a masonry wall;

Commentary

33.445.110.D.2 Exempt from historic resource review (cont.)

k. is a new exemption that addresses changes to the fabric on existing fabric awnings. This exemption does not apply to new fabric awnings and does not apply to new or changed fabric awning signs. This exemption allows for the exact repair and replacement of fabric, including the exact replacement of signs on existing fabric awnings.

l. is a new exemption that allows for plaques, mailboxes, emergency key boxes, bird and bat houses, and other similar objects to be attached to or removed from the exterior of buildings. The attachments may not exceed 18 inches in length, width, or depth, may not contain electrical components (except for battery-operated components), and must be attached to exterior finish material. The attachments may not be attached to brick, stone, or architectural features.

m. is a new exemption that allows for installation of air conditioners, heaters, pumps, electrical storage and other mechanical equipment that rests on the ground.

n. is an existing exemption that is being amended to delete the limitation on the number of mechanical units allowed to be exempt.

o. is a new exemption that allows for new and altered hoses, conduits, tubes, and pipes near the grade of buildings. The exemption is intended to allow for routine changes to accommodate installation, alteration, and removal of garden, HVAC, electrical, and other ducting.

p. is a new exemption that allows for outlets and meters. Specifically, this exemption allows for EV charging outlets.

q. is an existing exemption.

r. is an existing exemption.

s. is an existing exemption amended to allow vents on rear and side-facing roof slopes.

- k. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
- l. Plaques, boxes, and other objects that are no more than 18 inches in any dimension, contain no electrical components, and are attached to exterior finish material or mounted through mortar joints when on a masonry wall;
- m. Ground mounted mechanical equipment that is no more than 5 feet in width, length, or height, and is not located closer to a street than any street-facing façade;
- n. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, on the roof of an existing building when the following are met:
 - (1) The area where the equipment will be installed has a pitch of 1/12 or less;
 - (2) The proposed mechanical equipment is set back at least 4 feet from the edge of the roof for every 1 foot of equipment height above the roof surface or top of parapet; and
 - (3) The proposed equipment has a matte finish or is painted to match the roof;
- o. Hoses, conduits, tubes, or pipes when the following are met:
 - (1) The hose, conduit, tube, or pipe is not located on a street-facing facade;
 - (2) The hose, conduit, tube, or pipe is no more than 6 inches in diameter; and
 - (3) The hose, conduit, tube, or pipe is located no more than 5 feet above the adjacent grade;
- p. Electrical, gas, or water meters or outlets, including electric vehicle charging outlets, that are not located on a street-facing façade;
- q. Installation or removal of storm windows and doors and screen windows and doors;
- r. Light wells when fully surrounded by the existing walls of the building;
- s. Rooftop vents on roofs if the vent and associated elements such as pipes, conduits and covers, when the following are met:
 - (1) The area where the proposed vent and associated elements will be installed has a pitch of 1/12 or less or faces within 90 degrees of the rear lot line;
 - (2) The proposed vent and associated elements is not more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
 - (3) The proposed vent and associated elements are set back at least 4 feet from the edge of the rooftop for every 1 foot of vent height above the roof surface or top of parapet; and
 - (4) The proposed vent and associated elements has a matte finish or is painted to match the roof.

Commentary

33.445.110.D.2 Exempt from historic resource review (cont.)

t. is a new exemption for Landmarks, modeled after a previous exemption applied in Historic Districts. The exemption allows for installation of solar energy systems on certain roof slopes, including pitched roofs that face within 45-degrees of a rear lot line. On pitched roofs, the top of the system may not project more than 8 inches from the surface of the roof. Other applicable regulations pertaining to solar energy systems may require the system be further setback from ridgelines or roof edges in certain situations.

u. is a new exemption for Landmarks, modeled after a previous exemption applied in Historic Districts.

- t. Solar energy systems when the following are met:
- (1) When the solar energy system is on a flat roof, mansard roof, or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface the following must be met:
 - The solar energy system must be mounted flush or on racks with the system or rack extending no more than 5 feet above the top of the highest point of the roof;
 - If on a mansard roof the solar energy system must be mounted on the horizontal portion of the roof; and
 - The solar energy systems must be screened from the street by:
 - An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
 - Setting the solar energy system back from the roof edges facing the street 4 feet for each foot of solar energy system height.
 - (2) When the solar energy system is on a pitched roof the following must be met:
 - The roof surface must be clad in asphalt composite shingles or metal;
 - The roof must face a rear lot line or face within 45 degrees of the rear lot line. See Figure 445-1;
 - The system must be mounted flush with the plane of the system parallel to the roof surface; and
 - The system must not be more than 8 inches from the surface of the roof and must be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.
- u. Skylights or roof hatches when the following are met:
- (1) The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
 - (2) The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 45 degrees of the rear lot line, see Figure 445-1.

Commentary

33.445.110.D.2 Exempt from historic resource review (cont.)

v. is a new exemption that allows for certain non-historic windows on non-street-facing facades to be replaced with windows that are generally or more compatible with the design, materials, and workmanship of the historic resource. The exemption only applies to resources built before 1940 (due to the overwhelming prevalence of wood windows prior to WWII) and to those existing windows that are made of vinyl, fiberglass, or aluminum. By allowing those non-historic window types to be replaced with wood or metal-clad wood, property owners can make changes without the potential of damaging significant historic materials.

w. is a new exemption that allows owners to make changes to existing fire escapes for life and structural safety. This exemption only applies to those structural changes directly related to improvement of a fire escape. Other applicable regulations pertaining to alteration of fire escapes may preclude alteration in certain situations.

x. is an existing exemption with a change to reduce the side street setback from 25 to 20 feet.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

- v. Replacement of vinyl, fiberglass, or aluminum windows with wood or metal-clad wood windows when the following are met:
 - (1) The structure was built before 1940;
 - (2) The windows are on a non-street-facing facade;
 - (3) The replacement windows are installed exactly within the existing window openings; and
 - (4) The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
- w. Removal of ladders between fire escapes, the closure of fire escape ladder openings with materials that match the adjacent fire escape surface, and structural changes to fire escapes using materials that match the adjacent fire escape; and
- x. Construction of a detached accessory structure when the following are met:
 - (1) The structure is not more than 200 square feet in total floor area; and
 - (2) The structure is at least 40 feet from a front property line and, if on a corner lot, at least 20 feet from a side street lot line.

Commentary

33.445.110.E Demolition of a Conservation Landmark

Changes to this section increase demolition protections for City-designated Conservation Landmarks from 120-day demolition delay to demolition review. This change brings City-designated Conservation Landmarks to an equivalent level of demolition protection as is required for National Register-listed properties. Applying demolition review to all Conservation Landmarks is integral to the restructured hierarchy of historic resource designation and protection contemplated by these code amendments.

See commentary for 33.445.100.E for explanation of the demolition definition thresholds included throughout this chapter.

Exemptions to demolition review are consistent with those provided for Historic Landmarks. See commentary for 33.445.100.E for more explanation of exemptions to demolition review.

The review procedure thresholds and approval criteria for demolition review can be found in 33.846.080.

- E. Demolition of a Conservation Landmark.** Demolition of a Conservation Landmark requires demolition review to ensure the landmark's historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a Conservation Landmark and demolition of a contributing resource is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure; and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;
 2. Exempt from demolition review. The following are exempt from demolition review.
 - a. Demolition of noncontributing resources;
 - b. Demolition of Conservation Landmarks, and demolition of contributing resources, when demolition is required because:
 - (1) The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
 - c. Alterations to Conservation Landmarks or contributing resources that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations are approved through historic resource review;
 - (2) The historic resource review decision is final, and all appeals have been resolved.

Commentary

33.445.110.E Demolition of a Conservation Landmark (cont.)

Changes to the subsection pertaining to permit issuance provide clarity and ensure a demolition permit isn't issued until appeals, if any, have been resolved. See commentary for 33.445.100.E for additional discussion.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

33.445.120.A Listing of a National Register Landmark

This new section applies to individually-listed National Register resources that have not been designated or identified by the City as a Historic Landmark or Conservation Landmark. Individually-listed National Register resources include structures, objects, and sites that are not districts. National Register Districts are addressed by 33.445.220.

Prior to January 27, 2017, all resources listed in the National Register of Historic Places were automatically identified on the Official Zoning Maps as Historic Landmarks or Historic Districts and subject to the regulations applicable to those designations. These code amendments end the practice of new National Register listings automatically becoming Historic Landmarks or Historic Districts (effective retroactively to January 27, 2017 when new State Administrative Rule [[OAR 660-023-0200](#)] became effective). These code amendments comport with State Administrative Rule, providing minimum State-required protections for National Register resources without automatically identifying—and regulating—future listings as Historic Landmarks and Historic Districts.

Listing a National Register Landmark (including boundary expansions and reclassifying noncontributing resources as contributing) is the result of decisions made by the federal Keeper of the National Register of Historic Places. Changes to a National Register resource are automatic upon change by the federal Keeper of the National Register of Historic Places.

Historic and Conservation Landmarks that have also been listed on the National Register of Historic Places are subject to the applicable Historic or Conservation Landmark regulations. If the City designation is removed for a Historic or Conservation Landmark that has also been listed on the National Register, the resource becomes a National Register Landmark.

33.445.120.B Removal of a National Register Landmark listing

The section "Removal of a National Register Landmark Designation" provides clarity and consistency with other sections. The section provides for the removal of National Register Landmark designation, including reduction of boundaries and reclassification of contributing resources, when changes are made by the Keeper of the National Register of Historic Places.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

33.445.120 National Register Landmark

- A. Listing of a National Register Landmark.** Structures, objects, and sites listed by the federal Keeper of the National Register of Historic Places after January 27, 2017 are automatically identified on the Official Zoning Maps as National Register Landmarks. Listing by the federal Keeper of the National Register of Historic Places also includes expanding the boundaries of the listed resource. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- B. Removal of a National Register Landmark listing.** A National Register Landmark that is removed by the federal Keeper of the National Register of Historic Places is automatically removed from the Official Zoning Maps. Removal by the federal Keeper of the National Register of Historic Places also includes reducing the boundaries of the listed resource. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

Commentary

33.445.120.C Relocation of a National Register Landmark

This new section aligns with the changes to the corresponding sections for Historic and Conservation Landmarks, while also allowing for some relocation proposals to proceed without review. Because National Register Landmarks are generally not subject to historic resource review, this section ensures modest relocation proposals, relocation of noncontributing resources, and relocation of detached accessory structures does not trigger historic resource review. State Administrative Rule ([OAR 660-023-0200](#)) requires a public hearing and decision before a National Register resource can be relocated, thereby requiring a review for relocation proposals even though alteration and addition proposals affecting a National Register resource are generally not subject to review. See code and commentary in 33.846.060 for additional information about the procedure thresholds and approval criteria that are provided for relocation proposals. This section also allows a National Register Landmark to be moved and retain its status on the receiving site.

The phrase "any direction" means up, down, sideways or any combination thereof.

- C. Relocation of a National Register Landmark.** Relocating a National Register Landmark requires historic resource review to ensure the landmark’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation.
1. When historic resource review is required. Unless exempted by Paragraph C.2., relocating a National Register Landmark, including relocating a contributing resource, is subject to historic resource review.
 2. Exempt from historic resource review. The following are exempt from historic resource review:
 - a. Relocating a noncontributing resource;
 - b. Relocating a National Register Landmark, including relocating contributing resources, 10 feet or less in any direction within the boundary of the National Register Landmark; and
 - c. Relocating a detached accessory structure including those that are identified as a contributing resource.
 3. When a National Register Landmark or contributing resource is relocated, the designation is automatically removed from the sending site and is automatically added to the receiving site. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

Commentary

33.445.120.D Development within a National Register Landmark boundary

This new section exempts National Register Landmarks from historic resource review, except in situations where an applicant elects Historic Resource Review (such as in lieu of demolition review when the proposed work is not total demolition).

33.445.120.E Demolition of a National Register Landmark

Demolition review is applied to National Register Landmarks, consistent with the provisions for Historic Landmarks and Conservation Landmarks. State Administrative Rule ([OAR 660-023-0200](#)) requires local governments review demolition of resources listed in the National Register of Historic Places. This demolition protection "floor" serves as the basis of the re-structured hierarchy of historic resource types and protections included in these code amendments. See commentary for 33.445.100.E for more description of the demolition definition, exemptions, and permit issuance requirements.

The review procedure thresholds and approval criteria for demolition review can be found in 33.846.080

- D. Development within a National Register Landmark boundary.** Historic resource review is not required for development within the boundary of a National Register Landmark. However, an applicant may voluntarily apply for historic resource review to be exempt from demolition review. See Section 33.445.120.E.2.d.
- E. Demolition of a National Register Landmark.** Demolition of a National Register Landmark requires demolition review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a National Register Landmark and demolition of a contributing resource is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure;
and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;

Commentary

33.445.120.E Demolition of a National Register Landmark (cont.)

Exemptions to demolition review are consistent with those provided for Historic Landmarks. See commentary for 33.445.100.E for more explanation of the demolition review exemptions and permit issuance process.

The review procedure thresholds and approval criteria for demolition review can be found in 33.846.080.

2. Exempt from demolition review. The following are exempt from demolition review:
 - a. Demolition of noncontributing resources;
 - b. Demolition of National Register Landmarks, and demolition of contributing resources, when demolition is required because:
 - (1) The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
 - c. Alterations to National Register Landmarks, or contributing resources, that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations were approved through historic resource review; and
 - (2) The historic resource review decision is final, and all appeals have been resolved.
3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

33.445.200.A Designation of a Historic District

Changes to "Designation of a Historic District" provide clarity, consistency with other sections, and capture those Historic Districts that were automatically mapped as such upon their listing in the National Register of Historic Places. Additionally, the section has been amended to accommodate proposals to expand the boundary of an existing Historic District and/or reclassify a noncontributing resource as contributing within the boundary of an existing Historic District.

Paragraph A.1. states that when the federal Keeper of the National Register amends the nomination form for resources that were automatically identified as Historic Districts, the changes to the federal listing are automatically mirrored locally in the Historic District designation. Paragraph A.1. also provides clarity that resources listed in the National Register subsequent to January 2017 are no longer automatically identified as Historic Districts, and are no longer subject to the regulations that apply to Historic Districts (see 33.445.220 for descriptions and regulations pertaining to National Register Districts that have no Historic or Conservation District designation).

Paragraph A.2. states that Historic Districts that have already been designated by the City legislatively or quasi-judicially can have their boundaries expanded and non-contributing resources reclassified as contributing through a legislative or quasi-judicial procedure. Paragraph A.2. also provides that new Historic Districts may only be designated legislatively. Information on the legislative procedure can be found in the code and commentary pertaining to legislative land use reviews, 33.720.030.

Under Oregon law, majority owner consent is required for designating a district as a historic resource. Obtaining satisfactory owner consent would be necessary for legislative designation of a Historic District. State-required owner consent would be obtained during the legislative process.

Districts

33.445.200 Historic District

A. Designation of a Historic District

1. National Register listing. Districts listed by the federal Keeper of the National Register of Historic Places or before January 27, 2017 are automatically identified as Historic Districts on the Official Zoning Maps. For Historic Districts that were listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 but have not been independently designated by the City as the result of a legislative or quasi-judicial procedure, any expansion of the boundary by the federal Keeper of the National Register of Historic Places is also automatically identified on the Official Zoning Maps. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
2. City designation. City designation of a Historic District may be established through a legislative or quasi-judicial procedure. City designation of Historic Districts includes establishing new Historic Districts, expanding the boundaries of existing Historic Districts, and reclassifying noncontributing resources as contributing resources within the boundary of existing Historic Districts.
 - a. Legislative designation. New Historic Districts must be established through a legislative procedure. Expanding the boundaries of an existing Historic District and reclassifying a noncontributing resource as contributing may be done through a legislative procedure. When designation is done legislatively, the approval criteria of Section 33.846.030.D apply.
 - b. Quasi-judicial designation. Expanding the boundaries of an existing Historic District and reclassifying a noncontributing resource as contributing may be done quasi-judicially. Historic designation review is required. Establishing a new Historic District quasi-judicially is prohibited.

Commentary

33.445.200.B Removal of a Historic District Designation

Changes to "Removal of a Historic District Designation" are provided for clarity, consistency with other sections, and to capture those Historic Districts that were automatically mapped as such upon their listing in the National Register of Historic Places.

Changes to Paragraph B.1. provide for the removal of Historic District designation and change of Historic District designation to Conservation District designation through a legislative procedure. For code and commentary related to legislative procedures, see 33.720.030.

Changes to Paragraph B.2. provide for the reduction of boundaries and reclassification of contributing resources through a quasi-judicial land use procedure.

Paragraph B.3. provides clarity that when the federal Keeper of the National Register amends the nomination form for resources that were automatically identified as Historic Districts, the changes to the federal listing are automatically mirrored locally in the Historic District designation. Paragraph B.3. also provides clarity that resources listed in the National Register subsequent to January 2017 are no longer automatically identified as Historic Districts, and are no longer subject to the regulations that apply to Historic Districts (see 33.445.220 for descriptions and regulations pertaining to National Register Districts that have no Historic or Conservation District designation). Finally, Paragraph B.3. allows for removal of Historic District status from resources that are listed in the National Register and changing the designation to Conservation District or National Register District.

B. Removal of a Historic District designation

1. Removal of a resource's City designation as a Historic District or changing the City designation from Historic District to Conservation District requires a legislative procedure using the approval criteria of Section 33.846.040.C.
2. For Historic Districts that have not been listed by the federal Keeper of the National Register of Historic Places, reclassifying a contributing resource to noncontributing or reducing the boundary requires historic designation removal review.
3. For Historic Districts that have been listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 but have not been independently designated by the City as the result of a legislative or quasi-judicial procedure, removal by the federal Keeper of the National Register of Historic Places automatically removes the Historic District designation. Removal by the federal Keeper of the National Register of Historic Places also includes reducing the boundaries of the listed resource. See Section 33.855.075, Automatic Map Amendments for Historic Resources. Removing a resource's designation as Historic District or changing the designation from Historic District to Conservation District requires a legislative procedure using the approval criteria of Section 33.846.040.C.

Commentary

33.445.200.C Relocation of a contributing resource in a Historic District

A new section clarifies the process for relocating a contributing resource in a Historic District ensuring historic resource review must be met for such proposals. See code and commentary in 33.846.060 for additional information about the procedure thresholds and approval criteria that apply to proposals to relocate a contributing resource in a Historic District.

33.445.200.D Development in a Historic District

Changes have been provided to the section applying to when historic resource review is required. Clarification that new construction and alterations within the boundary of the Historic District are subject to historic resource review have been provided, consistent with current practice, so that development activities on all sites within a Historic District boundary are subject to review. Language pertaining to the 'A' overlay, which was redundant to the requirements of this chapter, have been removed. New language related to paint has been provided to require historic resource review of proposals to paint previously unpainted surfaces, such as unpainted brick or stone which may be irreparably harmed by painting.

- C. Relocation of a contributing resource in a Historic District.** Relocating a contributing resource in a Historic District requires historic resource review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation.
- D. Development in a Historic District.** Certain development within a Historic District requires historic resource review to ensure the resource’s historic value is considered prior to or during the development process.
 - 1. When historic resource review is required. Unless exempted by Paragraph D.2, the following proposals in a Historic District are subject to historic resource review:
 - a. Exterior alterations;
 - b. Building a new structure;
 - c. Installation or alteration of exterior signs;
 - d. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review; and
 - e. Painting an unpainted exterior surface.

Commentary

33.445.200.D.2 Exempt from historic resource review

The exemptions provided in this section are activities that may otherwise be subject to historic resource review, but which are exempt because of their minimal impact on a historic resource's historic significance, integrity, materials, or features. The exemptions for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts have been reorganized for ease of implementation and amended and expanded to increase the list of activities that are not subject to historic resource review. In general, there are fewer exemptions for Historic and Conservation Landmarks than there are for Historic and Conservation Districts. The shorter list of exemptions for landmarks recognizes that the integrity of individual historic resources may be less forgiving to even minor alterations than larger collections of resources that make up districts. The expanded list of exemptions—especially for Historic and Conservation Districts—are intended to more readily allow tenants and property owners to execute routine improvements, accessibility alterations, seismic upgrades, solar installations, and backyard ADUs without irreparable harm to historic features or materials. For activities that do not qualify as exempt, the activities must be reviewed through historic resource review.

a. is an existing exemption with a change for technical accuracy.

b. and c. are existing.

d. is an existing exemption with a change for technical accuracy and consistency with an exemption in the Design Overlay Zone.

e. is a new exemption that would allow for roof and parapet improvements when those improvements do not extend above the roof or parapet and are not visible on exterior walls. This exemption is intended to allow for bracing and structural improvements when obscured by the existing parapet or roof.

f. is an existing exemption.

g. is a new exemption that exempts changes in landscaping unless landscaping is significant to the resource.

h. is an existing exemption.

i. is a new exemption that applies to new and existing paved and unpaved paths.

j. is a new exemption that allows for certain signs and sign structures to be exempt from historic resource review. The sign and sign structure must extend perpendicularly from an existing structure, encompass an area no more than 3 square feet in size, have a width of no more than 2 inches (both the sign and sign structure), and lack any lighting or other electrical components on the sign or sign structure. The sign and sign structure could not affect brick or stone but may be installed into the mortar joints between brick and/or stone.

2. Exempt from historic resource review.
 - a. Alterations that do not require a building, site, zoning, or sign permit from the City, and will not alter the exterior features of a resource having such features specifically listed in the Historic District documentation or National Register nomination as attributes that contribute to the resource's historic significance;
 - b. Repair;
 - c. Maintenance;
 - d. Alterations to a structure to meet the Americans With Disabilities Act's requirements or as specified in Section 1113 of the Oregon Structural Specialty Code when such alterations can be installed and removed without destroying existing materials;
 - e. Seismic improvements to the roof or parapet of existing structures when:
 - (1) The roof is flat or surrounded by a parapet; and
 - (2) The seismic improvements do not extend above the roof or parapet, whichever is higher; and
 - (3) The seismic improvements do not penetrate through the exterior walls;
 - f. Public Art as defined in Chapter 5.74;
 - g. Landscaping unless the landscaping is identified in the Historic District documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - h. Parking lot landscaping that meets the standards of this Title and does not include a wall or a fence;
 - i. New or existing paths unless the path is specifically identified in the Historic District documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - j. New signs and alterations to existing signs when the following are met:
 - (1) The sign projects perpendicularly from the façade of a structure;
 - (2) The sign and sign structure are no more than 3 square feet in area;
 - (3) The sign and sign structure are no more than 2 inches in depth;
 - (4) The sign and sign structure have no electrical components; and
 - (5) The sign and sign structure are not mounted to brick or stone unless the sign or sign structure is mounted through mortar joints on a masonry wall;

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

k. is a new exemption that addresses changes to the fabric on existing fabric awnings. This exemption does not apply to new fabric awnings and does not apply to new or changed fabric awning signs. This exemption allows for the exact repair and replacement of fabric, including the exact replacement of signs on existing fabric awnings.

l. is a new exemption that allows for plaques, mailboxes, emergency key boxes, bird and bat houses, and other similar objects to be attached to or removed from the exterior of buildings. The attachments may not exceed 18 inches in length, width, or depth, may not contain electrical components (except for battery-operated components), and must be attached to exterior finish material. The attachments may not be attached to brick, stone, or architectural features.

m. is a new exemption that allows for installation of air conditioners, heaters, pumps, electrical storage and other mechanical equipment that rests on the ground.

n. is an existing exemption that is being amended to delete the limitation on the number of mechanical units allowed to be exempt.

o. is a new exemption that allows for new and altered hoses, conduits, tubes, and pipes near the grade of buildings. The exemption is intended to allow for routine changes to accommodate installation, alteration, and removal of garden, HVAC, electrical, and other ducting.

p. is a new exemption that allows for outlets and meters. Specifically, this exemption allows for EV charging outlets.

q. is an existing exemption.

r. is an existing exemption.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strikethrough~~ and underline are not used.

- k. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
- l. Plaques, boxes, and other objects that are no more than 18 inches in any dimension, contain no electrical components, and are attached to exterior finish material or mounted through mortar joints when on a masonry wall;
- m. Ground mounted mechanical equipment that is no more than 5 feet in width, length, or height, and is not located closer to a street than any street-facing façade;
- n. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, on the roof of an existing building when the following are met:
 - (1) The area where the equipment will be installed has a pitch of 1/12 or less;
 - (2) The proposed mechanical equipment is set back at least 4 feet from the edge of the roof for every 1 foot of equipment height above the roof surface or top of parapet; and
 - (3) The proposed equipment has a matte finish or is painted to match the roof;
- o. Hoses, conduits, tubes, or pipes when the following are met:
 - (1) The hose, conduit, tube, or pipe is not located on a street-facing facade;
 - (2) The hose, conduit, tube, or pipe is no more than 6 inches in diameter; and
 - (3) The hose, conduit, tube, or pipe is located no more than 5 feet above the adjacent grade;
- p. Electrical, gas, or water meters or outlets, including electric vehicle charging outlets, that are not located on a street-facing facade;
- q. Installation or removal of storm windows and doors and screen windows and doors;
- r. Light wells when fully surrounded by the existing walls of the building;

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

s. is an existing exemption with changes to allow additional wall vents and rooftop vents facing the side and rear lot line.

- s. Vents that meet the following:
- (1) Wall vents. Vents installed on walls must meet the following. The regulations and measurements include elements associated with the vent, such as pipes and covers. The vent must:
 - Be on a non-street facing facade;
 - Project no more than 12 inches from the wall;
 - Be no more than 1 square foot in area., Area is width times height;
 - Be at least 1 foot away from architectural features such as windows, doors, window and door trim, cornices and other ornamental features, except when located at or below finish first floor framing; and
 - Be painted to match the adjacent surface.
 - (2) Rooftop vents. Vents installed on roofs, and associated elements such as pipes, conduit and covers, must meet the following:
 - The area where the proposed vent and associated elements will be installed has a pitch of 1/12 or less or faces within 90 degrees of the rear lot line;
 - The proposed vent and associated elements is not more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
 - The proposed vent and associated elements are set back at least 4 feet from the edge of the rooftop for every 1 foot of height above the roof surface or top of parapet; and
 - The proposed vent and associated elements has a matte finish or is painted to match the roof.

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

t. is an existing exemption that has been expanded to require lower profile solar installations on pitched roofs and also to greatly expand the roof area that exempt solar energy systems can cover. The new exemption allows solar energy installations on most roof slopes and expands the area on flat roofs where mounted solar energy systems can be installed. The exemption applies to both contributing and noncontributing resources, including accessory structures. Other applicable regulations pertaining to solar energy systems may require the system be further setback from ridgelines or roof edges in certain situations.

The expanded exemption is intended to allow for solar energy systems to be installed without review in many more circumstances that the previous exemption allowed. Proposals for installations that do not meet the exemption can be reviewed through historic resource review.

Installation of solar energy systems through this expanded exemption may not meet National Park Service or State Historic Preservation Office standards that may be required if a property is benefitting from a financial incentive program.

u. is an existing exemption, expanded to allow skylights on roof slopes facing within 90 degrees of the rear lot line.

- t. Solar energy systems when the following are met:
- (1) When the solar energy system is on a flat roof, mansard roof, or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface the following must be met:
 - The solar energy system must be mounted flush or on racks with the system or rack extending no more than 5 feet above the top of the highest point of the roof;
 - If on a mansard roof the solar energy system must be mounted on the horizontal portion of the roof; and
 - The solar energy systems must also be screened from the street by:
 - An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
 - Setting the solar energy system back 3 feet from the roof edge.
 - (2) When the solar energy system is on a pitched roof the following must be met:
 - The system must be mounted flush with the plane of the system parallel to the roof surface; and
 - The system must not be more than 8 inches from the surface of the roof and must be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.
- u. Skylights or roof hatches when the following are met:
- (1) The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
 - (2) The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 90 degrees of the rear lot line, see Figure 445-3.

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

v. is a new exemption that allows for certain windows on certain facades to be replaced without historic resource review. The first part of the exemption only applies to resources built before 1940 (due to the overwhelming prevalence of wood windows prior to WWII) and to those existing windows that are made of vinyl, fiberglass, or aluminum. By allowing non-historic windows to be replaced with wood or metal-clad wood windows, property owners and tenants can make changes without damaging significant historic materials. The second part of the exemption allows for additional flexibility to replace windows in single-dwelling zones. This new exemption language differentiates between contributing and non-contributing resources, with specifications for the circumstances in which replacement of windows is allowed without historic resource review.

w. is an expansion of an existing exemption that allows owners to make changes to existing fire escapes for life and structural safety. The exemption language only applies to those structural changes directly related to improvement of a fire escape. Other applicable regulations pertaining to alteration of fire escapes may preclude alteration in certain situations.

- v. Replacement of windows as follows:
- (1) Replacement of vinyl, fiberglass, or aluminum windows is exempt on all resources in all zones when the following are met:
 - The structure was built before 1940;
 - The new windows are wood or metal-clad wood;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
 - (2) Replacement of windows in single-dwelling zones is also exempt when the following are met:
 - On contributing resources:
 - The existing windows face the rear lot line;
 - The new windows are wood, metal-clad wood, or fiberglass;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
 - On noncontributing resources:
 - The building is at least 5 years old;
 - The new windows are wood, metal-clad wood, or fiberglass;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
- w. Changes to exterior fire escapes that meet the following:
- (1) Removal of fire escapes when required by the Fire Marshal; or
 - (2) Removal of ladders between fire escapes, the closure of fire escape ladder openings with materials that match the adjacent fire escape surface, and structural changes to fire escapes using materials that match the adjacent fire escape;

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

x. is an existing exemption that has been expanded. The existing exemption for detached accessory structures less than 200 square feet is retained, but is amended to reduce the minimum side street setback from 25 to 20 feet.

New exemption language allows for the construction of new detached accessory structures in residential zones up to 576 square feet in size without approval through historic resource review. Allowing larger detached accessory structures without review provides new opportunity to add small housing units in residentially-zoned Historic Districts consistent with patterns found in the districts and the use incentives allowed by 33.445.400. To be exempt from review, detached accessory structure walls could not exceed 24 feet in length, 10 feet in height (excluding gable walls), and could be no taller than 15 feet in height. The new structure needs to be clad in materials that 1) visually match the primary materials of any contributing resource on the site or 2) meet minimum standards if there is no contributing resource on the site. Finally, windows and doors in the new structure need to be wood, metal clad wood, or fiberglass and windows must have glass that is recessed by at least 2 inches from the outside edge of the exterior wall.

Alterations to existing detached accessory structures, including contributing resources, remain subject to historic resource review unless the activity is exempted by another exemption.



An illustration of a detached accessory structure that meets the new exemption

- x. Construction of a new detached accessory structure as follows:
- (1) In residential zones, construction of a new detached accessory structure is exempt when the structure is not more than 200 square feet in total floor area and the structure is at least 40 feet from a front lot line, and if on a corner, at least 20 feet from a side street lot line. Construction of a new detached accessory structure that is greater than 200 square feet in total floor area is exempt when the following are met:
 - The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
 - The structure is at least 40 feet from a front lot line, and if on a corner, 20 feet from a side street lot line;
 - The structure is no more than 15 feet high, and the walls of the structure are not more than 10 feet high, excluding the portion of the wall within a gable;
 - Windows and doors are made of wood, metal clad wood, or fiberglass;
 - Window glass is recessed at least 2 inches from the outside edge of the exterior wall;
 - If there is a contributing resource on the site, the exterior finish material matches the primary exterior finish material of the contributing resource in type, thickness, and exposure; and
 - If there is no contributing resource on the site, the exterior finish material is made from wood or composite boards at least ½ inch in thickness and composed in a shingle, horizontal clapboard, or shiplap pattern that is 6 inches or less in exposure;
 - (2) In all other zones, construction of a detached accessory structure is exempt when the following are met:
 - The structure is not more than 200 square feet in total floor area; and
 - The structure is at least 40 feet from a front lot line, and if on a corner, at least 20 feet from a side street lot line;

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

y. is an existing exemption that has been amended to specify window types and apply to all elevations.

z. is an existing exemption.

aa. is a new exemption that allows for removal of the exposed portion of internal chimneys. Many internal chimneys no longer serve a function and are generally secondary to the design of the structure. This exemption allows for removal of chimneys that are only visible above a roof. Removal of a chimney that is exposed on or projecting from the exterior wall of a building is not exempt.

ab. is a new exemption that allows for seismic straps to be installed on the exterior of buildings provided the straps are no more than four feet above the adjacent ground height and are painted to match the foundation wall and/or exterior finish material.

ac. is an existing exemption, with decks removed from the exemption (see .af).

ad. is an existing exemption.

ae. is an existing exemption.

af. is a new exemption that specifically exempts decks that are no taller than 30" from the ground.

ag. is an existing exemption amended to provide clarity.

- y. Alterations to existing basement windows and installation of new basement windows, when the following are met:
 - (1) New windows are wood, metal-clad wood, or fiberglass;
 - (2) The window glass is recessed at least 2 inches from the outside edge of the exterior wall; and
 - (3) At least 50 percent of the area of the new window opening is below grade. See Figure 445-4.
- z. Permitted Original Art Murals as defined in Title 4 if the mural is proposed on a building that is not identified as a contributing resource;
- aa. Removal of the exterior portion of an internal chimney if the only externally visible portion of the chimney is above the roof;
- ab. Installation of seismic straps if the straps are placed no more than 4 feet above the adjacent grade and painted to match the adjacent surface;
- ac. Fences and retaining walls that meet the standards of this Title;
- ad. Radon mitigation systems on non-street facing facades;
- ae. Eco-roofs installed on existing buildings when the roof is flat or surrounded by a parapet that is at least 12 inches higher than the highest part of the eco-roof surface. When eco-roofs are proposed as part of a project that includes elements subject to historic resource review, the eco-roofs are not exempt. Plants must be species that do not characteristically exceed 12 inches in height at mature growth;
- af. Decks that are no more than 2-1/2 feet above the ground; and
- ag. Alterations to noncontributing resources when the following are met:
 - (1) The alterations affect only non-street-facing facades; and
 - (2) The total combined area altered on all facades is not more than 150 square feet.

Commentary

33.445.200.D.2 Exempt from historic resource review (cont.)

Figure 445-3 provides additional clarity for exemption u.

Figure 445-4 is an existing figure.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

Figure 445-3
Skylight and Roof Hatch Location on a District Rooftop

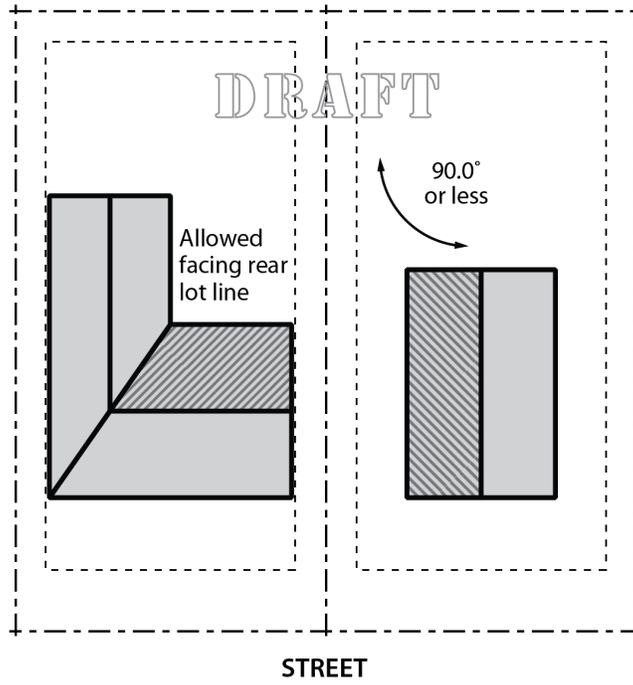
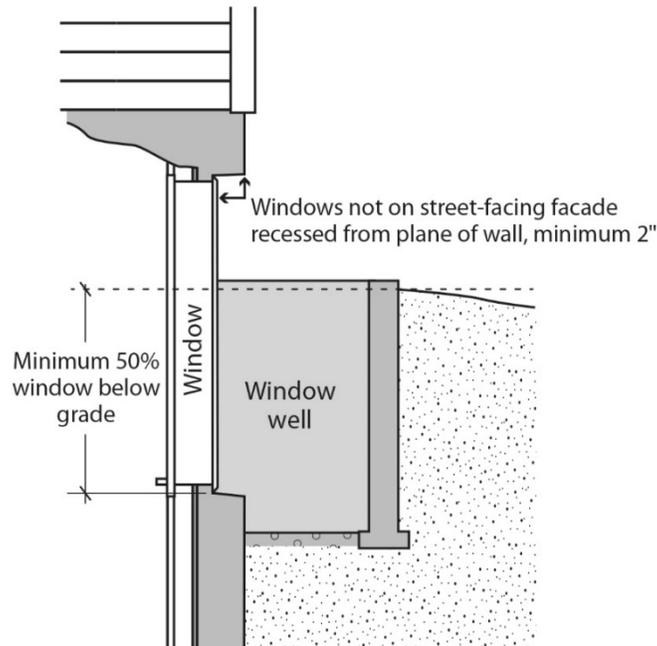


Figure 445-4
Basement Windows



Commentary

33.445.200.E Demolition of resources in a Historic District

Changes provide specificity regarding the applicability of demolition regulations for historic resources in Historic Districts that are also a landmark or Significant Resource. In some Historic Districts, there exists individual landmarks and Significant Resources that are not identified as contributing to the district because they were built outside of the district's historic period of significance. For example, the 1950 St. Phillip Neri Catholic Church in Ladd's Addition Historic District is non-contributing to the Historic District but is on the citywide Historic Resource Inventory as a Significant Resource (Rank I).

Contributing resources in Historic Districts are currently subject to demolition review and remain subject to demolition review under these amendments.

Definitions for demolition are provided, consistent with those added for landmarks. See 33.445.100.E.1 for commentary regarding the definition.

The review procedure thresholds and approval criteria for demolition review can be found in 33.846.080.

- E. Demolition of resources in a Historic District.** Conservation Landmarks in a Historic District that are not identified as contributing to the historic significance of the Historic District are subject to the regulations of Section 33.445.110.E. National Register Landmarks in a Historic District that are not identified as contributing to the historic significance of the Historic District are subject to the regulations of Section 33.445.120.E. Significant Resources in a Historic District that are not identified as contributing to the historic significance of the Historic District are subject to the regulations of Section 33.445.330. Demolition of contributing resources within a Historic District requires demolition review to ensure their historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a contributing resource in a Historic District is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure; and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;

Commentary

33.445.200.E Demolition of resources in a Historic District (cont.)

The demolition review exemption section expands on the exemptions provided for Historic Landmarks (see code and commentary for 33.445.100.E.2). The amendments for Historic Districts include a change from the current requirement for demolition review of all contributing resources, including detached accessory structures, in Historic Districts. The language in Paragraph E.2.c. allows for demolition of contributing covered detached accessory structures in residential and commercial zones that are 800 square feet or less in size without demolition review. Contributing resources, including accessory structures such as reservoir houses and comfort stations in OS zones, that do not meet an exemption are subject to demolition review.

The permit issuance section is consistent with other similar sections (see commentary in 33.445.100.E.3).

2. Exempt from demolition review. The following are exempt from demolition review:
 - a. Demolition of noncontributing resources;
 - b. Demolition of contributing resources in Historic Districts when demolition is required because:
 - (1) The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
 - c. Demolition of covered detached accessory structures in C and R zones that are identified as a contributing resource and are 800 square feet or less in total floor area; and
 - d. Alterations to a contributing resource that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations are approved through historic resource review; and
 - (2) The historic resource review decision is final, and all appeals have been resolved.
3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

33.445.210.A Designation of a Conservation District

Changes to "Designation of a Conservation District" provide clarity and consistency with other sections. Additionally, changes to the section accommodate proposals to expand the boundary of an existing Conservation District or reclassify a noncontributing resource as contributing within the boundary of an existing Conservation District.

Changes to Paragraphs A.1. and A.2. clarify that changes to existing Conservation Districts could occur legislatively or quasi-judicially using the approval criteria of 33.846.030, but new districts could only be designated legislatively. Information on legislative procedure that apply can be found in the code and commentary pertaining to legislative land use reviews, 33.720.030.

Under Oregon law, owner consent is required for designating a district as a resource. Obtaining majority owner consent would be necessary for legislative designation of a Conservation District. State-required owner consent would be obtained during the legislative process.

33.445.210.B Removal of a Conservation District designation

Changes to "Removal of a Conservation District Designation" provide clarity and consistency with other sections. The changes provide for the removal of Conservation District designation, including reduction of boundaries and reclassification of contributing resources as noncontributing.

33.445.210 Conservation District

- A. Designation of a Conservation District.** Conservation Districts may be designated through a legislative or quasi-judicial procedure. Designating City Conservation Districts includes establishing new Conservation Districts, expanding the boundaries of existing Conservation Districts, and reclassifying noncontributing resources as contributing resources within the boundary of existing Conservation Districts.
- 1 Legislative designation. Conservation District designation may be established through a legislative procedure using the approval criteria of Section 33.846.030.D.
 - 2 Quasi-judicial designation. Expanding the boundaries of existing Conservation Districts and reclassifying noncontributing resources as contributing may be done quasi-judicially. Historic designation review is required. Establishing a new Conservation District quasi-judicially is prohibited.
- B. Removal of a Conservation District designation.** Removal of a resource's City designation as a Conservation District requires a legislative procedure using the approval criteria of Section 33.846.040.C. However, reclassifying a contributing resource to noncontributing or reducing the boundary of a Conservation District is allowed quasi-judicially through historic designation removal review.

Commentary

33.445.210.C Relocation of a contributing resource in a Conservation District

This new section aligns with a corresponding section for Historic Districts, while also allowing for some relocation proposals to proceed without historic resource review. Because certain development proposals in Conservation Districts can meet the clear and objective Community Design Standards as an alternative to historic resource review, additional clarity ensures modest relocation proposals, relocation of noncontributing resources, and relocation of detached accessory structures does not trigger a required historic resource review; development associated with such relocation proposals may still require compliance with the Community Design Standards. When historic resource review is required, new procedure thresholds and approval criteria apply. See code and commentary for 33.846.060 for additional information about those thresholds and criteria.

The phrase “any direction” means up, down, sideways or any combination thereof.

- C. Relocation of a contributing resource in a Conservation District.** Relocating a contributing resource in a Conservation District requires historic resource review to ensure the resource's historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation.
1. When historic resource review is required. Unless exempted by Paragraph C.2., relocating a contributing resource in a Conservation District requires historic resource review.
 2. Exempt from historic resource review. The following are exempt from historic resource review:
 - a. Relocating a noncontributing resource;
 - b. Relocating a contributing resource 10 feet or less in any direction; and
 - c. Relocating a detached accessory structure, including those that are identified as a contributing resource.

Commentary

33.445.210.D Development in a Conservation District

Changes refine the section applying to when historic resource review is required in Conservation Districts. Clarification is provided that new construction and alterations within the boundary of a Conservation District are subject to historic resource review, consistent with current practice. Language pertaining to the 'A' overlay and Albina Community plan district, which was redundant to the requirements of this chapter, have been removed.

The clear and objective Community Design Standards alternative to historic resource review is retained for Conservation Districts, allowing development proposals subject to historic resource review to meet applicable design standards instead.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

D. Development in a Conservation District. Certain development within a Conservation District requires historic resource review to ensure the resource's historic value is considered prior to or during the development process. When historic resource review is required, the Community Design Standards may be used as an alternative for some proposals. See Section 33.445.500.

1. When historic resource review is required. Unless exempted by Paragraph D.2., the following proposals in a Conservation District are subject to historic resource review:
 - a. Exterior alterations;
 - b. Building a new structure;
 - c. Installation or alteration of exterior signs; and
 - d. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review.

Commentary

33.445.210.D.2 Exempt from historic resource review

The exemptions provided in this section are activities that may otherwise be subject to historic resource review, but which are exempt because of their minimal impact on a historic resource's historic significance, integrity, materials, or features. The exemptions for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts have been reorganized for ease of implementation and amended and expanded to increase the list of activities that are not subject to historic resource review. In general, there are fewer exemptions for Historic and Conservation Landmarks than there are for Historic and Conservation Districts. The shorter list of exemptions for landmarks recognizes that the integrity of individual historic resources may be less forgiving to even minor alterations than larger collections of resources that make up districts. The expanded list of exemptions—especially for Historic and Conservation Districts—are intended to more readily allow tenants and property owners to execute routine improvements, accessibility alterations, seismic upgrades, solar installations, and backyard ADUs without irreparable harm to historic features or materials. For activities that do not qualify as exempt, the activities must be reviewed through historic resource review or meet applicable Community Design Standards.

a. is an existing exemption with a change for technical accuracy.

b. and c. are existing.

d. is an existing exemption with a change for technical accuracy and consistency with an exemption in the Design Overlay Zone.

e. is a new exemption that would allow for roof and parapet improvements when those improvements do not extend above the roof or parapet and are not visible on exterior walls. This exemption is intended to allow for bracing and structural improvements when obscured by the existing parapet or roof.

f. is an existing exemption.

g. is a new exemption that exempts changes in landscaping unless landscaping is significant to the resource.

h. is an existing exemption.

i. is a new exemption that applies to new and existing paved and unpaved paths.

j. is a new exemption that allows for certain signs and sign structures to be exempt from historic resource review. The sign and sign structure must extend perpendicularly from an existing structure, encompass an area no more than 3 square feet in size, have a width of no more than 2 inches (both the sign and sign structure), and lack any lighting or other electrical components on the sign or sign structure. The sign and sign structure could not affect brick or stone but may be installed into the mortar joints between brick and/or stone.

2. Exempt from historic resource review.
 - a. Alterations that do not require a building, site, zoning, or sign permit from the City, and will not alter the exterior features of a resource having such features specifically listed in the Conservation District documentation or National Register nomination as attributes that contribute to the resource's historic significance;
 - b. Repair;
 - c. Maintenance;
 - d. Alterations to a structure to meet the Americans With Disabilities Act's requirements or as specified in Section 1113 of the Oregon Structural Specialty Code when such alterations can be installed and removed without destroying existing materials;
 - e. Seismic improvements to the roof or parapet of existing structures when:
 - (1) The roof is flat or surrounded by a parapet; and
 - (2) The seismic improvements do not extend above the roof or parapet, whichever is higher; and
 - (3) The seismic improvements do not penetrate through the exterior walls;
 - f. Public Art as defined in Chapter 5.74;
 - g. Landscaping unless the landscaping is identified in the Conservation District documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - h. Parking lot landscaping that meets the standards of this Title and does not include a wall or a fence;
 - i. New or existing paths unless the path is specifically identified in the Conservation District documentation or National Register nomination as an attribute that contributes to the resource's historic significance;
 - j. New signs and alterations to existing signs when the following are met:
 - (1) The sign projects perpendicularly from the façade of a structure;
 - (2) The sign and sign structure are no more than 3 square feet in area;
 - (3) The sign and sign structure are no more than 2 inches in depth;
 - (4) The sign and sign structure have no electrical components; and
 - (5) The sign and sign structure are not mounted to brick or stone unless the sign or sign structure is mounted through mortar joints on a masonry wall;

Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

k. is a new exemption that addresses changes to the fabric on existing fabric awnings. This exemption does not apply to new fabric awnings and does not apply to new or changed fabric awning signs. This exemption allows for the exact repair and replacement of fabric, including the exact replacement of signs on existing fabric awnings.

l. is a new exemption that allows for plaques, mailboxes, emergency key boxes, bird and bat houses, and other similar objects to be attached to or removed from the exterior of buildings. The attachments may not exceed 18 inches in length, width, or depth, may not contain electrical components (except for battery-operated components), and must be attached to exterior finish material. The attachments may not be attached to brick, stone, or architectural features.

m. is a new exemption that allows for installation of air conditioners, heaters, pumps, electrical storage and other mechanical equipment that rests on the ground.

n. is an existing exemption that is being amended to delete the limitation on the number of mechanical units allowed to be exempt.

o. is a new exemption that allows for new and altered hoses, conduits, tubes, and pipes near the grade of buildings. The exemption is intended to allow for routine changes to accommodate installation, alteration, and removal of garden, HVAC, electrical, and other ducting.

p. is a new exemption that allows for outlets and meters. Specifically, this exemption allows for EV charging outlets.

q. is an existing exemption.

r. is an existing exemption.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strikethrough~~ and underline are not used.

- k. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
- l. Plaques, boxes, and other objects that are no more than 18 inches in any dimension, contain no electrical components, and are attached to exterior finish material or mounted through mortar joints when on a masonry wall;
- m. Ground mounted mechanical equipment that is no more than 5 feet in width, length, or height, and is not located closer to a street than any street-facing façade;
- n. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, on the roof of an existing building when the following are met:
 - (1) The area where the equipment will be installed has a pitch of 1/12 or less;
 - (2) The proposed mechanical equipment is set back at least 4 feet from the edge of the roof for every 1 foot of equipment height above the roof surface or top of parapet; and
 - (3) The proposed equipment has a matte finish or is painted to match the roof;
- o. Hoses, conduits, tubes, or pipes when the following are met:
 - (1) The hose, conduit, tube, or pipe is not located on a street-facing facade;
 - (2) The hose, conduit, tube, or pipe is no more than 6 inches in diameter; and
 - (3) The hose, conduit, tube, or pipe is located no more than 5 feet above the adjacent grade;
- p. Electrical, gas, or water meters or outlets, including electric vehicle charging outlets, that are not located on a street-facing facade;
- q. Installation or removal of storm windows and doors and screen windows and doors;
- r. Light wells when fully surrounded by the existing walls of the building;

Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

s. is an existing exemption with changes to allow additional wall vents and rooftop vents facing the side and rear lot line.

- s. Vents that meet the following:
- (1) Wall vents. Vents installed on walls must meet the following. The regulations and measurements include elements associated with the vent, such as pipes and covers. The vent must:
 - Be on a non-street facing facade;
 - Project no more than 12 inches from the wall;
 - Be no more than 1 square foot in area. Area is width times height;
 - Be at least 1 foot away from architectural features such as windows, doors, window and door trim, cornices and other ornamental features, except when located at or below finish first floor framing; and
 - Be painted to match the adjacent surface.
 - (2) Rooftop vents. Vents installed on roofs, and associated elements such as pipes, conduit and covers, must meet the following:
 - The area where the proposed vent and associated elements will be installed has a pitch of 1/12 or less or faces within 90 degrees of the rear lot line;
 - The proposed vent and associated elements is not more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
 - The proposed vent and associated elements are set back at least 4 feet from the edge of the rooftop for every 1 foot of height above the roof surface or top of parapet; and
 - The proposed vent and associated elements has a matte finish or is painted to match the roof.

Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

t. is an existing exemption expanded consistent with the exemption provided for solar energy installations on flat roofs in Historic Districts. See commentary for 33.445.200.D.2.t.

u. is an existing exemption expanded consistent with the amendment for Historic Districts. See commentary for 33.445.200.D.2.u.

- t. Solar energy systems when the following are met:
- (1) When the solar energy system is on a flat roof, mansard roof, or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface the following must be met:
 - The solar energy system must be mounted flush or on racks with the system or rack extending no more than 5 feet above the top of the highest point of the roof;
 - If on a mansard roof the solar energy system must be mounted on the horizontal portion of the roof; and
 - The solar energy systems must also be screened from the street by:
 - An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
 - Setting the solar energy system back 3 feet from the roof edge.
 - (2) When the solar energy system is on a pitched roof, the solar energy system must not increase the footprint of the structure, must not increase the peak height of the roof, and the system must be parallel to the slope of the roof;
 - (3) Photovoltaic roofing shingles or tiles may be directly applied to the roof surface;
 - (4) Photovoltaic glazing may be integrated into windows or skylights.
- u. Skylights or roof hatches when the following are met:
- (1) The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
 - (2) The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 90 degrees of the rear lot line, see Figure 445-3.

Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

v. is a new exemption that allows for certain windows on certain facades to be replaced without historic resource review. The first part of the exemption only applies to resources built before 1940 (due to the overwhelming prevalence of wood windows prior to WWII) and to those existing windows that are made of vinyl, fiberglass, or aluminum. By allowing non-historic windows to be replaced with wood or metal-clad wood windows, property owners and tenants can make changes without damaging significant historic materials. The second part of the exemption allows for additional flexibility to replace windows in single-dwelling zones. This new exemption language differentiates between contributing and non-contributing resources, with specifications for the circumstances in which replacement of windows is allowed without historic resource review.

w. is an expansion of an existing exemption that allows owners to make changes to existing fire escapes for life and structural safety. The exemption language only applies to those structural changes directly related to improvement of a fire escape. Other applicable regulations pertaining to alteration of fire escapes may preclude alteration in certain situations.

- v. Replacement of windows as follows:
- (1) Replacement of vinyl, fiberglass, or aluminum windows is exempt on all resources in all zones when the following are met:
 - The structure was built before 1940;
 - The new windows are wood or metal-clad wood;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
 - (2) Replacement of windows in single-dwelling zones is also exempt when the following are met:
 - On contributing resources:
 - The existing windows face the rear lot line;
 - The new windows are wood, metal-clad wood, or fiberglass;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
 - On noncontributing resources:
 - The building is at least 5 years old;
 - The new windows are wood, metal-clad wood, or fiberglass;
 - The replacement windows are installed exactly within the existing window openings; and
 - The window glass is recessed at least 2 inches from the outside edge of the exterior finish material;
- w. Changes to exterior fire escapes that meet the following:
- (1) Removal of fire escapes when required by the Fire Marshal; or
 - (2) Removal of ladders between fire escapes, the closure of fire escape ladder openings with materials that match the adjacent fire escape surface, and structural changes to fire escapes using materials that match the adjacent fire escape;

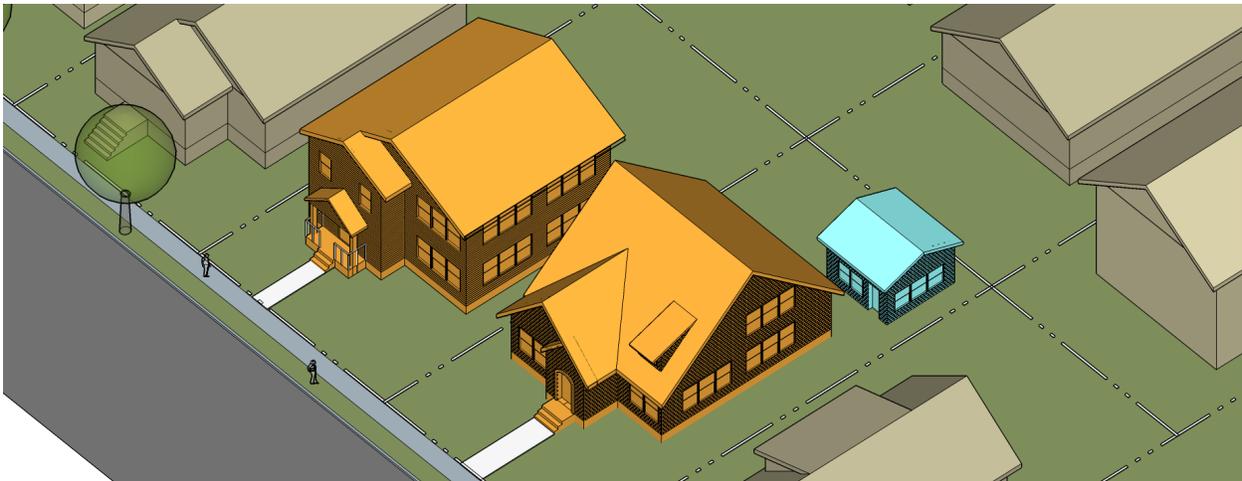
Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

x. is an existing exemption with a change. The existing exemption for detached accessory structures less than 200 square feet is retained, but amended to reduce the minimum side street setback from 25 to 20 feet.

New exemption language allows for the construction of new detached accessory structures in residential zones up to 576 square feet in size without approval through historic resource review. Allowing larger detached accessory structures without review provides new opportunity to add small housing units in residentially-zoned Historic Districts consistent with patterns found in the districts and the use incentives allowed by 33.445.400. To be exempt from review, detached accessory structure walls could not exceed 24 feet in length, 10 feet in height (excluding gable walls), and could be no taller than 15 feet in height. The new structure needs to be clad in materials that 1) visually match the primary materials of any contributing resource on the site or 2) meet minimum standards if there is no contributing resource on the site. Finally, windows and doors in the new structure need to be wood, metal clad wood, or fiberglass and windows must have glass that is recessed by at least 2 inches from the outside edge of the exterior wall.

Alterations to existing detached accessory structures, including contributing resources, remains subject to historic resource review or the applicable design standards unless the activity is exempted by another exemption.



An illustration of a detached accessory structure that meets the exemption

- x. Construction of a new detached accessory structure as follows:
- (1) In residential zones, construction of a new detached accessory structure is exempt when the structure is not more than 200 square feet in total floor area and the structure is at least 40 feet from a front lot line, and if on a corner, at least 20 feet from a side street lot line. Construction of a new detached accessory structure that is greater than 200 square feet in total floor area is exempt when the following are met:
 - The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
 - The structure is at least 40 feet from a front lot line, and if on a corner, 20 feet from a side street lot line;
 - The structure is no more than 15 feet high, and the walls of the structure are not more than 10 feet high, excluding the portion of the wall within a gable;
 - Windows and doors are made of wood, metal clad wood, or fiberglass;
 - Window glass is recessed at least 2 inches from the outside edge of the exterior wall;
 - If there is a contributing resource on the site, the exterior finish material matches the primary exterior finish material of the contributing resource in type, thickness, and exposure; and
 - If there is no contributing resource on the site, the exterior finish material is made from wood or composite boards at least ½ inch in thickness and composed in a shingle, horizontal clapboard, or shiplap pattern that is 6 inches or less in exposure;
 - (2) In all other zones, construction of a detached accessory structure is exempt when the following are met:
 - The structure is not more than 200 square feet in total floor area; and
 - The structure is at least 40 feet from a front lot line, and if on a corner, at least 20 feet from a side street lot line;

Commentary

33.445.210.D.2 Exempt from historic resource review (cont.)

y. is an existing exemption that has been amended to specify window types and apply to all elevations.

z. is an existing exemption.

aa. is a new exemption that allows for removal of the exposed portion of internal chimneys. Many internal chimneys no longer serve a function and are generally secondary to the design of the structure. This exemption allows for removal of chimneys that are only visible above a roof. Removal of a chimney that is exposed on or projecting from the exterior wall of a building is not exempt.

ab. is a new exemption that allows for seismic straps to be installed on the exterior of buildings provided the straps are no more than four feet above the adjacent ground height and are painted to match the foundation wall and/or exterior finish material.

ac. is an existing exemption, with decks removed from the exemption (see .af).

ad. is an existing exemption.

ae. is an existing exemption.

af. is a new exemption that specifically exempts decks that are no taller than 30" from the ground.

ag. is an existing exemption amended to provide clarity.

- y. Alterations to existing basement windows and installation of new basement windows, when the following are met:
 - (1) New windows are wood, metal-clad wood, or fiberglass;
 - (2) The window glass is recessed at least 2 inches from the outside edge of the exterior wall; and
 - (3) At least 50 percent of the area of the new window opening is below grade. See Figure 445-4.
- z. Permitted Original Art Murals as defined in Title 4 if the mural is proposed on a building that is not identified as a contributing resource;
- aa. Removal of the exterior portion of an internal chimney if the only externally visible portion of the chimney is above the roof;
- ab. Installation of seismic straps if the straps are placed no more than 4 feet above the adjacent grade and painted to match the adjacent surface;
- ac. Fences and retaining walls that meet the standards of this Title;
- ad. Radon mitigation systems on non-street facing facades;
- ae. Eco-roofs installed on existing buildings when the roof is flat or surrounded by a parapet that is at least 12 inches higher than the highest part of the eco-roof surface. When eco-roofs are proposed as part of a project that includes elements subject to historic resource review, the eco-roofs are not exempt. Plants must be species that do not characteristically exceed 12 inches in height at mature growth;
- af. Decks that are no more than 2-1/2 feet above the ground; and
- ag. Alterations to noncontributing resources when the following are met:
 - (1) The alterations affect only non-street-facing facades; and
 - (2) The total combined area altered on all facades is not more than 150 square feet.

Commentary

33.445.210.E Demolition of resources in a Conservation District

Clarity is provided regarding the applicability of demolition regulations for historic resources in Conservation Districts that are also a landmark or Significant Resource. In some Conservation Districts, there may exist individual landmarks and Significant Resources that are not identified as contributing to the district because they were built outside of the District's historic period of significance.

The most significant change to this section increases demolition protections for contributing resources in City-designated Conservation Districts from required 120-day demolition delay to required demolition review. As of September 2020, there are 2,208 contributing resources in six Conservation Districts—Eliot, Kenton, Mississippi, Piedmont, Russell, and Woodlawn. The six Conservation Districts were all designated by the Portland City Council in 1993. The amendments to this and other sections anticipate additional Conservation Districts being listed in the future and, potentially, existing Conservation Districts being removed in the future. Applying a demolition review requirement to contributing resources in Conservation Districts better ensures the protection of the districts' significant historic resources, provides a public venue for evaluating demolition proposals, and allows for demolition to result in community benefits that mitigate for the loss when demolition is appropriate. Additionally, applying a demolition review requirement to Conservation Districts unlocks the potential for development bonuses that were recently codified by City Council in single-dwelling, multi-dwelling and commercial/mixed use zones. Without application of demolition review, these development bonuses are not allowed on sites in Conservation Districts where contributing resources have been demolished through demolition delay. The procedure types and approval criteria for Conservation District demolition review can be found in the code and commentary in 33.846.080.

This application of demolition review elevates City-designated Conservation Districts to the same level of demolition protection as is provided to National Register-listed resources. Applying demolition review to contributing resources in Conservation Districts is integral to the restructured hierarchy of historic resource types and protections included in these code amendments. By applying demolition review to Conservation Districts, the Conservation District designation becomes a viable option for 'promotion' of a National Register District or 'demotion' of a Historic District as a result of future legislative action by the Portland City Council.

Definitions for demolition are new, consistent with those added for Landmarks. See 33.445.100.E.1 for commentary regarding the definition.

- E. Demolition of resources in a Conservation District.** Historic Landmarks in a Conservation District are subject to the regulations of Section 33.445.100.E. Conservation Landmarks in a Conservation District that are not identified as contributing to the historic significance of the Conservation District are subject to the regulations of Section 33.445.110.E. National Register Landmarks in a Conservation District that are not identified as contributing to the historic significance of the Conservation District are subject to the regulations of Section 33.445.120.E. Significant Resources in a Conservation District that are not identified as contributing to the historic significance of the Conservation District are subject to the regulations of Section 33.445.330. Demolition of contributing resources in a Conservation District requires demolition review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a contributing resource in a Conservation District is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure; and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;

Commentary

33.445.210.E Demolition of resources in a Conservation District (cont.)

Exemptions to Conservation District demolition review are consistent with those provided for Historic Districts. See commentary in 33.445.200.E.2.

The issuance of a demolition permit section is consistent with other similar sections. See 33.445.100.E.3 for commentary.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

2. Exempt from demolition review. The following are exempt from demolition review:
 - a. Demolition of noncontributing resources;
 - b. Demolition of contributing resources in Historic Districts when demolition is required because:
 - (1) The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
 - c. Demolition of covered detached accessory structures in C and R zones that are identified as a contributing resource and are 800 square feet or less in total floor area; and
 - d. Alterations to a contributing resource that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations are approved through historic resource review; and
 - (2) The historic resource review decision is final, and all appeals have been resolved.
3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

33.445.220.A Listing of a National Register District

This new section applies to National Register Districts. Individually-listed National Register resources (structures, objects, and sites) are addressed by 33.445.120.

Prior to January 27, 2017, all resources listed in the National Register of Historic Places were identified on the Official Zoning Maps as Historic Landmarks or Historic Districts and subject to the regulations applicable to those designations. These code amendments end the practice of new National Register listings automatically becoming Historic Landmarks or Historic Districts (effective retroactively to January 27, 2017 when new State Administrative Rule [[OAR 660-023-0200](#)] became effective). These code amendments comport with the State Administrative Rule, providing minimum State-required protections for National Register resources without automatically identifying them as Historic Districts and subjecting them to Historic District protections.

Listing a National Register District (including boundary expansions and reclassifying noncontributing resources as contributing) is the result of decisions made by the federal Keeper of the National Register of Historic Places. The amendments codify that changes to a National Register resource are automatic upon change by the federal Keeper of the National Register of Historic Places. A National Register District cannot be established by City action, except in situations where City designation of Historic District or Conservation District is removed and the district is also on the National Register.

Historic and Conservation Districts that have also been listed on the National Register of Historic Places are subject to the applicable Historic or Conservation Districts regulations. If the City designation is removed for a Historic or Conservation District that has also been listed on the National Register, the resource would become a National Register District.

33.445.220.B Removal of a National Register District Designation

The section on "Removal of a National Register District Designation" is provided for clarity and consistency with other sections. The changes provide for the removal of National Register District designation, including reduction of boundaries and reclassification of contributing resources, when changes are made by the keeper of the National Register of Historic Places. A National Register District cannot be removed by City action.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

33.445.220 National Register District

- A. Listing of a National Register District.** Districts listed by the federal Keeper of the National Register of Historic Places after January 27, 2017 are automatically identified on the Official Zoning Maps as National Register Districts. Listing by the federal Keeper of the National Register of Historic Places also includes expanding of the boundaries of the listed resource. 33.855.075, Automatic Map Amendments for Historic Resources.
- B. Removal of a National Register District listing.** National Register Districts that are removed by the federal Keeper of the National Register of Historic Places are automatically removed from the Official Zoning Maps. Removal by the federal Keeper of the National Register of Historic Places also includes reducing the boundaries of the listed resource. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

Commentary

33.445.220.C Relocation of a contributing resource in a National Register District

This section aligns with the corresponding sections for Historic and Conservation Districts, while also allowing for some relocation proposals to proceed without review. Because National Register Districts are generally not subject to historic resource review, additional clarity is provided in this section to ensure modest relocation proposals, relocation of noncontributing resources, and relocation of detached accessory structures does not trigger a required historic resource review. State Administrative Rule ([OAR 660-023-0200](#)) requires a public hearing and decision before a National Register resource can be relocated, thereby requiring a review for relocation proposals when alteration and addition proposals are generally not subject to a review. See code and commentary for 33.846.060 for additional information about the procedure thresholds and approval criteria that apply to relocation proposals.

The phrase "any direction" means up, down, sideways or any combination thereof.

- C. Relocation of a contributing resource in a National Register District.** Relocating a contributing resource in a National Register District requires historic resource review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to relocation.
1. When historic resource review is required. Unless exempted by Paragraph C.2., relocating a contributing resource in a National Register District requires historic resource review.
 2. Exempt from historic resource review. The following are exempt from historic resource review:
 - a. Relocating a noncontributing resource;
 - b. Relocating a contributing resource 10 feet or less in any direction; and
 - c. Relocating a detached accessory structure, including those that are identified as a contributing resource.

Commentary

33.445.220.D Development in a National Register District

This section addresses historic resource review for National Register Districts. Following the adoption of new State Administrative Rule ([OAR 660-023-0200](#)) in 2017, new listings in the National Register of Historic Places are not automatically subject to design protections. This section clarifies that historic resource review is not required for alteration or new construction proposals within a National Register District boundary. However, historic resource review is required for proposals to relocate contributing resources (see Paragraph C) and is an optional alternative to demolition review for owners proposing significant alterations to a contributing resource that would otherwise qualify as demolition.

33.445.220.E Demolition of resources in a National Register District

Demolition review is required for contributing resources in National Register Districts, consistent with the provisions for Historic Districts and Conservation Districts. State Administrative Rule ([OAR 660-023-0200](#)) requires local governments review demolition of resources listed in the National Register of Historic Places. This demolition protection “floor” serves as the basis of the hierarchy of historic types and protections included in these code amendments. See commentary for 33.445.100.E.1 for a description of the demolition definition thresholds.

The review procedure thresholds and approval criteria for demolition review can be found in 33.846.080.

- D. Development in a National Register District.** Historic resource review is not required for development within the boundary of a National Register District. However, an applicant may voluntarily apply for historic resource review to be exempt from demolition review. See Section 33.445.220.E.2.d.
- E. Demolition of resources in a National Register District.** Historic Landmarks in a National Register District are subject to the regulations of Section 33.445.100.E. Conservation Landmarks in a National Register District are subject to the regulations of Section 33.445.110.E. National Register Landmarks in a National Register District that are not identified as contributing to the historic significance of the National Register District are subject to the regulations of Section 33.445.120.E. Significant Resources in a National Register District that are not identified as contributing to the historic significance of the National Register District are subject to the regulations of Section 33.445.330. Demolition of a contributing resource in a National Register District requires demolition review to ensure the resource’s historic value is considered and that there is an opportunity for the owner and community to consider alternatives to demolition.
1. When demolition review is required. Unless exempted by Paragraph E.2., demolition of a contributing resource in a National Register District is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
 - a. Total demolition;
 - b. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 - c. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 - d. An alteration that results in:
 - (1) The removal of 50 percent or more of the total exterior wall area of a structure; and
 - (2) The removal of 50 percent or more of the total roof area of a structure; or
 - e. For structures that are not buildings, an alteration that results in the removal of 50 percent or more of the structure;

Commentary

33.445.220.E Demolition resources in a National Register District (cont.)

Exemptions to demolition review are consistent with those for Conservation Districts. See 33.445.100.E.2 and 33.445.210.E.2 for commentary.

The permit issuance section is consistent with other similar sections. See 33.445.100.E.3 for commentary.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

2. Exempt from demolition review. The following are exempt from demolition review:
 - a. Demolition of noncontributing resources;
 - b. Demolition of contributing resources in Historic Districts when demolition is required because:
 - (1) The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - (2) The Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
 - c. Demolition of covered detached accessory structures in C and R zones that are identified as a contributing resource and are 800 square feet or less in total floor area; and
 - d. Alterations to a contributing resource that meet the definition of demolition in Paragraph E.1.b.-e. when the following are met:
 - (1) The alterations are approved through historic resource review; and
 - (2) The historic resource review decision is final, and all appeals have been resolved.
3. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
 - a. At least 120 days have passed since the application for demolition review was deemed complete;
 - b. The demolition review decision is final, and all appeals have been resolved; and
 - c. A permit for a new structure, if required as a condition of the demolition review, has been issued. The demolition and building permits may be issued simultaneously.

Commentary

Significant Resources

Changes to this section incorporate the provisions of State Administrative Rule ([OAR 660-023-0200](#)) and advance Comprehensive Plan [policies related to historic resource inventory and historic preservation equity](#). The changes incorporate the renaming of "ranked resources" in the City's Historic Resource Inventory as "Significant Resources" (see commentary for 33.910). Significant Resources are included in the Historic Resource Inventory—but do not constitute the entirety of the inventory—as important historic places determined to be likely eligible for Historic or Conservation Landmark or District designation. Identification of Significant Resources is not a designation—only landmarks and districts are designated. The changes remove reference to "unranked resources" from this chapter.

33.445.300 Identifying a Significant Resource

The provisions of this section specify how documented historic resources are determined to be significant, and identified as Significant Resources, in the future.

A significant change from existing regulations requires that identification of a resource as a Significant Resource be the result of a legislative land use decision made by the City Council. This change is consistent with changes to the Historic District and Conservation District designations in that the Historic Landmarks Commission is not the decision-maker in legislative procedures. Because of the potential number of properties affected and the likelihood that an owner(s) may object, the Portland City Council is the appropriate decision-maker for identification of Significant Resources.

Unlike Historic Landmark, Conservation Landmark, Historic District, and Conservation District designation, State law does not require owner consent for identification as a Significant Resource. Determination of eligibility for a landmark or district designation is not itself a designation. Therefore, the amendments remove the owner consent requirement for determining a resource to be a Significant Resource. Removing the owner consent requirement for Significant Resources supports Policy 4.52 of the Comprehensive Plan: "Historic Resources Inventory. Within statutory limitations, regularly update and maintain Portland's Historic Resources Inventory to inform historic and cultural resource preservation strategies." Owners of potential Significant Resources would be provided notice of the possible identification and invited to participate in the legislative procedure.

33.445.310 Removal of a Significant Resource Identification

A change to existing code provides that a Significant Resource determination can only be removed through demolition or a legislative procedure. Corresponding changes are included in 33.710 and 33.720 to provide for the legislative procedure to identify and remove Significant Resource identification.

Changes provide that, like other types of historic resources, a Significant Resource determination is removed upon destruction or demolition of the resources.

Significant Resources

33.445.300 Identifying a Significant Resource

Identifying a Significant Resource in the Historic Resource Inventory requires a legislative procedure.

33.445.310 Removal of Significant Resource Identification

Removal of a resource's identification as a Significant Resource in the Historic Resource Inventory requires a legislative procedure except as follows:

- A. **Removal after destruction.** If the Significant Resource is destroyed by causes beyond the control of the owner, its identification as a Significant Resource in the Historic Resource Inventory is automatically removed.
- B. **Removal after demolition.** If the Significant Resource is demolished after approval through demolition review or after 120-day delay, its identification as a Significant Resource in the Historic Resource Inventory is automatically removed.

Commentary

33.445.310 Removal of a Significant Resource Identification (cont.)

The amendments allow for removal of a Significant Resource only through demolition or a legislative procedure, eliminating the existing option for owner-initiated removal in circumstances where the owner has no intention to demolish the resource in the immediate future. Owner-initiated removals have weakened the value of the Historic Resource Inventory as a research tool that provides the public with robust and comprehensive information about significant-but-undesigned resources. Additionally, owner-initiated removals do not provide a meaningful and timely delay of demolition, which is the stated purpose of 120-day delay. Eliminating the owner-initiated removal option allows the Significant Resource determination to become a more useful tool for mapping eligible historic resources and engaging the community when they are proposed for demolition. Because 120-day delay is currently required in either situation (following a request for removal or an application for demolition), the change does not increase the cumulative effect of the sole protection that comes with Significant Resource identification: 120-day delay.

The existing code addresses "unranked resources," which are included in the Historic Resource Inventory but were not found to have sufficient historic significance to be eligible for Landmark designation. Therefore, references to unranked resources are removed from the chapter. These documented-but-not-determined-significant resources are still included in the broader Historic Resource Inventory, but are not be subject to the provisions of this chapter (see commentary related to 33.910).

33.445.320 Relocation of a Significant Resource

This new section clarifies that the Significant Resource determination moves from the sending site to the receiving site when a Significant Resource is relocated. Relocating a Significant Resource does not require 120-day delay.

33.445.330 Demolition of a Significant Resource

Changes to this section incorporate the demolition definition found throughout this chapter and the exemptions found throughout this chapter (see commentary in 33.445.100.E.1 and E.2 for more information about the definition of demolition included in this chapter; see commentary in 33.445.200.E.2 for more information about the detached structure exemption). An additional exemption to demolition delay for Significant Resources allows for small significant resources—such as a sidewalk stamps, horse rings, brick streets, and railroad tracks—to be removed as part of right-of-way improvement projects. This exemption is not intended for street clocks, sculptures, light standards, or other types of large resources that provide more visible and meaningful contributions to the built environment.

33.445.320 Relocation of a Significant Resource

When a Significant Resource is relocated, the Historic Resource Inventory is automatically amended to reflect the Significant Resource's new location.

33.445.330 Demolition of a Significant Resource

- A. Demolition of a Significant Resource.** Demolition of a Significant Resource requires 120-day delay. See 33.445.340. For the purposes of this Chapter, demolition is defined as:
1. Total demolition;
 2. An alteration that requires a demolition permit except for a demolition permit to relocate a structure;
 3. An alteration that results in the removal of 50 percent or more of any street-facing wall of a structure;
 4. Alterations that result in:
 - a. The removal of 50 percent or more of the total exterior wall area of a structure; and
 - b. The removal of 50 percent or more of the total roof area of a structure; or
 5. For structures that are not buildings, an alteration that results in removal of 50 percent or more of the structure.
- B. Exempt from 120-day delay.** The following are exempt from 120-day delay:
1. Demolition of noncontributing resources;
 2. Significant Resources that are required to be demolished because:
 - a. The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 - b. The Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
 3. Demolition of covered detached accessory structures in C and R zones that are identified as a contributing resource and are 800 square feet or less in total floor area; and
 4. Significant Resources that are located in the public right-of-way and are less than 2 feet in height.

Commentary

33.445.340 120-Day Delay

Changes to this section incorporate technical clarifications and changes consistent with other sections of this chapter, including changes to the purpose statement. An additional change specifies that only issuance of permits for demolition or exterior alteration are suspended during 120-day delay. This change narrows existing code language that was adopted in 2017 for consistency with other historic resource protections, including historic resource review, that generally regulate physical changes to the exterior of historic resources and do not regulate changes to the interior of historic resources.

33.445.340 120-Day Delay

- A. Purpose.** 120-day delay allows time for consideration of alternatives to demolition, such as rehabilitation, reuse, relocation, or architectural salvage.
- B. Suspension of permit issuance.** During the 120-day delay period, no permit for the demolition or exterior alteration of a Significant Resource may be issued. This suspension of permit issuance does not apply to relocation of a Significant Resource during the 120-day delay period.
- C. Procedure for 120-Day Delay.** 120-day delay is a nondiscretionary administrative process with public notice but no hearing. Decisions are made by the Director of BDS and are final.
 - 1. **Application.** The applicant must submit an application for a demolition or other permit that qualifies as demolition as defined by Subsection 33.445.330.A. Current or historic photographs of the features of the resource that were included when the resource was identified as a Significant Resource must be included with the application for a demolition or other permit that qualifies as demolition as defined by Subsection 33.445.330.A.
 - 2. **Notice of application.**
 - a. **Posting notice on the site.** Within 14 days of applying for a demolition or other alteration that qualifies as demolition as defined by Subsection 33.445.330.A, the applicant must post a notice on the site of the historic resource proposed for demolition. The posting must meet the following requirements:
 - (1) **Number and location of posted notices.** Notice must be placed on each frontage of the site occupied by the Significant Resource. Notices must be posted within 10 feet of the street lot line and must be visible to pedestrians and motorists. Notices may not be posted in a public right-of-way. Notices are not required along street frontages that are not improved and allow no motor vehicle access;

Commentary

33.445.340 120-Day Delay (cont.)

Revisions to the existing posted and mailed notice sections incorporate the elimination of the option to remove a Significant Resource from the HRI without a corresponding demolition application (known as "removal from the HRI"). Changes to this section also remove reference to Historic Advisory Committees, which are no longer recognized by the zoning code.

- (2) Content of the posted notice. The notice must include the following information:
 - The date of the posted notice.
 - The address of the resource proposed for demolition.
 - A statement specifying what action triggered the 120-day delay procedure and this notice.
 - A statement that during the 120-day delay period, no building permit for the demolition or exterior alteration of a Significant Resource requested to be demolished may be issued, other than a permit for relocation of the resource.
 - A statement that the purpose of the 120-day delay is to allow time for notice and consideration of alternatives to demolition, including restoration, relocation, or salvage of materials.
 - A statement that building permits may be issued after the date on which the 120-day delay has ended.
 - The name, address, and telephone number of the owner or the party acting as an agent for the owner.
 - (3) Removal of the posted notice. The posted notice must not be removed until the date on which the permit for demolition is issued. The posted notice must be removed within 30 days of that date.
- b. Mailed notice. Within 14 days of receiving the application for a demolition or other alteration that qualifies as demolition as defined by this Chapter, the Director of BDS will mail a notice of the proposed demolition to all properties within 150 feet of the site of the resource, all recognized organizations within 1,000 feet of the site of the resource, and to the State Historic Preservation Office. The notice will include the same information as in Subsubparagraph C.2.a.(2).
3. Decision. The Director of BDS will issue the permit 120 days after receiving the application if the applicant submits a letter stating that the applicant responded to all offers to relocate the resource, or to salvage elements of the resource during demolition. The letter must also identify those who submitted offers, and the applicant's response to those offers.

Commentary

A section providing for preservation agreements is removed. Preservation agreements have not been a successful option and are removed from the code in favor of the revised landmark, district, and Significant Resource types.

33.445.400 Historic Preservation Incentives

Historic preservation incentive opportunities are expanded and requirements for their use streamlined.

33.445.400.A Purpose

Amendments to the purpose statement clarify that incentives allow for adaptive reuse of resources, consistent with Comprehensive Plan Policy 4.57, Economic Viability, which reads: "Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources." An additional sentence provides for the public benefit of allowing greater access to historic resources.

33.445.400.B Eligibility for historic preservation incentives

This section details which types of historic resources can use different incentives. Historic and Conservation Landmarks have the greatest opportunities to access incentives. Contributing resources in Historic and Conservation Districts have access to some, but fewer, opportunities to use incentives. Noncontributing resources in Historic Districts have access to one opportunity to use incentives. National Register Landmarks, National Register Districts, and Significant Resources do not have access to any incentives because no design protections apply to those resource types and use of incentives may encourage alterations that could destroy historic features.

In addition to expanding the number and eligibility of incentives, these amendments eliminate the requirement for a historic preservation covenant when a property owner uses one of the incentives of this chapter. This change responds to public and staff concern that the covenant requirement has reduced interest in use of the incentives and has actively discouraged creative adaptive reuse projects. Because the covenant was established before demolition review was codified, the covenant is redundant with the regulations that apply to designated landmarks and contributing resources in districts.

Projects that utilize incentives remain subject to the applicable design and demolition regulations that apply to the resource type, as well as other applicable requirements of the Zoning Code and other applicable building code requirements.

Historic Preservation Incentives

33.445.400 Historic Preservation Incentives

- A. Purpose.** Historic preservation incentives increase the potential for historic resources to be preserved, rehabilitated, and reused. Incentives make preservation and rehabilitation more attractive to tenants and owners of historic resources because they provide use flexibility and economic opportunities. Some incentives also allow for broader public access to certain historic resources.
- B. Eligibility for historic preservation incentives.** The following are eligible for historic resource incentives:
1. Historic Landmarks and Conservation Landmarks are eligible to use all of the historic preservation incentives in Subsection C. The incentives only apply within the boundary of the Historic Landmark or Conservation Landmark;
 2. Sites in Historic or Conservation Districts that have at least one contributing resource are eligible to use all of the incentives in Subsection C except for the incentives in Paragraphs C.9 and C.10;
 3. Sites in Historic Districts that have no contributing resources are only eligible to use the incentives in Paragraph C.1 and C.2.

Commentary

33.445.400.C Incentives

The revisions provide that adjustments are prohibited for applications to use an incentive provided in this section. Use of any incentive requires that any applicable off-site impact regulations are met (including 33.262, *Off-Site Impacts*, which are not changed by these code amendments).

Reference to FAR transfers are removed from this section. FAR transfer incentives are provided in applicable base zones and/or plan districts.

Incentive *C.1* is a revised version of a previous incentive. Incentive *C.1* provides greater housing arrangement flexibility in single-dwelling residential and commercial residential zones consistent with the floor area and height limitations established by the Residential Infill Project. Incentive *C.1* applies to sites containing a Historic or Conservation Landmark, sites located in Historic Districts, and sites that contain one or more contributing resources in Conservation Districts. This incentive increases the dwelling unit allowances of the Residential Infill Project to provide owners with even more options for internal conversions and accessory dwellings. The incentive is structured such that it will not increase demolition pressure on landmarks or contributing resources. Finally, incentive *C.1* does not affect the applicability of the affordable housing bonus provisions of the Residential Infill Project as the additional units provided by this incentive are limited to the standard floor area and height bonus limits provided in the base zone.

Incentive *C.2* is new and allows two ADUs on sites in single-dwelling and commercial residential zones containing a landmark, containing a contributing resource in a Conservation District, or located within a Historic District.

- C. Incentives.** The following incentives are allowed. Adjustments to the incentives are prohibited:
1. Residential infill. Except as stated in Subparagraph C.1.c., multi-dwelling structures and multi-dwelling development that meet the following standards are allowed on sites zoned R7, R5, R2.5, or CR within the boundary of a Historic Landmark, Conservation Landmark, or Historic District and are allowed on sites zoned R7, R5, R2.5, or CR within a Conservation District when the site contains at least one contributing resource:
 - a. Density. There is no limit on the number of dwelling units allowed on the site;
 - b. Maximum FAR.
 - (1) R7. Maximum FAR in R7 is 0.7 to 1;
 - (2) R5. Maximum FAR in R5 is 0.8 to 1;
 - (3) R2.5. Maximum FAR in R2.5 is 1 to 1;
 - (4) CR. Maximum FAR in CR is 1 to 1;
 - c. Exception. This incentive does not apply to any site where a historic resource was demolished after September 14, 2020 unless the resource demolished was exempt from demolition review or 120-day delay, or the resource demolished was an accessory structure.
 2. Accessory dwelling units. Up to two accessory dwelling units are allowed on a site with a duplex, triplex, fourplex, or multi-dwelling structure in the R7, R5, R2.5, or CR zone.

Commentary

33.445.400.C Incentives (cont.)

Incentives C.3-C.5 are existing.

Incentive C.6 is a new incentive that allows for certain commercial and office uses in residential zones when the site contains a Historic or Conservation Landmark, or in certain areas in residential zones when the site contains a contributing resource in a Historic or Conservation District. Sites containing a Historic or Conservation Landmark could use this incentive and reduce the number of dwelling units by two. Sites in a Historic or Conservation District that contain a contributing resource but no landmark must be located near transit and could not reduce the number of dwelling units on the site. A provision of Incentive 6 requires that people of all ages be allowed to access the uses allowed by this incentive. This means that no use can exclude people of ages under 18, but does not mean that private or ticketed events are prohibited provided that persons under 18 would be legally allowed to attend the event. Uses not open to those under 18, such as adult entertainment or marijuana sales, are not allowed. The only exterior activity allowed is outdoor seating, which cannot operate between 10pm and 8am. Finally, maximum building area limitations apply to Incentive 6 (the building may be larger than this, but the uses allowed by the incentive cannot exceed the building area limitations). The provisions of Chapter 33.262 Off-site Impacts must also be met to ensure noise, vibration, odors, and glare associated with the non-residential uses are addressed.

Incentive C.7 revises and expands an existing incentive available in multi-dwelling zones, eliminating the need for historic preservation incentive review. The incentive can only be used if there was a legally allowed non-residential use in the building in the past and the new use does not reduce the number of dwelling units on the site. The provisions of Chapter 33.262 Off-site Impacts need to be met to ensure noise, vibration, odors, and glare associated with the non-residential uses are controlled.

Incentive C.8 is an amended version of an existing incentive available in the RX zone. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that must be met to access this incentive.

3. Daycare use in residential and IR zones. Daycare is an allowed use in residential and IR zones.
4. Conditional uses in R, C, E, CI and IR zones. In R, C, E, CI and IR zones, applications for conditional uses are processed through a Type II procedure.
5. Exemption from minimum density. Minimum housing density regulations do not apply.
6. Retail Sales And Service and Office uses in residential zones. In residential zones, Retail Sales And Service and Office uses are allowed as follows:
 - a. The site contains a Historic or Conservation Landmark and the following are met:
 - (1) No more than two dwelling units that existed on September 14, 2020 are removed from the site;
 - (2) No more than 5,000 square feet of net building area is occupied by a Retail Sales And Service or Office use;
 - (3) Exterior activities associated with the Retail Sales And Service or Office use are prohibited except for outdoor seating and outdoor seating is prohibited between 10 p.m. and 8 a.m.; and
 - (4) Retail Sales And Service and Office uses are open to people under the age of 18 during all operating hours.
 - b. The site contains a contributing resource in a Historic or Conservation District that had a legally established nonresidential use in the historic resource in the past or the site contains a contributing resource in a Historic or Conservation District and it is located 1500 feet or less from a transit station or 500 feet or less from a transit street with 20-minute peak hour service. In both cases, the following must be met:
 - (1) There is no reduction in the total number of dwelling units on the site that existed on September 14, 2020;
 - (2) No more than 1,000 square feet of net building area is occupied by a Retail Sales And Service or Office use;
 - (3) Exterior activities associated with the Retail Sales And Service or Office use are prohibited except for outdoor seating and outdoor seating is prohibited between 10 p.m. and 8 a.m.; and
 - (4) Retail Sales And Service and Office uses are open to people under the age of 18 during all operating hours.
7. Manufacturing and Production and Industrial Service uses in multi-dwelling zones. In the RM1, RM2, RM3, RM4, and RX zones, if there was a legally established nonresidential use in the historic resource in the past, then Manufacturing and Production and Industrial Service uses are allowed uses when there is no reduction in the total number of dwelling units on the site.
8. Nonresidential uses in the RX zone. In the RX zone Retail Sales And Service, Office, Major Event Entertainment, and Manufacturing and Production uses may be approved through historic preservation incentive review. Sites that front on the Park Block frontages shown on Map 510-14 are not eligible for this incentive.

Commentary

33.445.400.C Incentives (cont.)

Incentive C.9 is a new incentive that allows adaptive reuse of Historic Landmarks and Conservation Landmarks in most zones. Sites in industrial zones are not eligible. All primary use categories, except those identified in a.-e., could be proposed for the adaptive reuse. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that must be met to access this incentive.

Incentive C.10 is a new incentive that allows additional uses of Historic Landmarks and Conservation Landmarks in industrial zones. Sites in the prime industrial overlay are not eligible for incentive C.10. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that must be met to access this incentive.

Chapter 33.445 has been substantially revised.
For ease of reading, ~~strike through~~ and underline are not used.

9. Major adaptive reuse. Except for the following primary uses, primary uses not otherwise allowed by the base zone may be approved through historic preservation review. Sites in industrial zones are not eligible for this incentive:
 - a. Self-Service Storage;
 - b. Bulk Fossil Fuel Terminal;
 - c. Basic Utilities;
 - d. Waste-Related; and
 - e. Detention Facility.

10. Major Event Entertainment and Retail Sales And Service uses in industrial zones. In industrial zones, Major Event Entertainment and Retail Sales And Service uses, excluding lodges, hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days, may be approved through historic preservation incentive review. Sites in the Prime Industrial overlay zone are not eligible for this incentive.

Commentary

33.445.500 Purpose

Changes to that section clarify the intent of allowing an alternative to historic resource review for certain proposals affecting Conservation Landmarks and sites in Conservation Districts. These changes recognize that Conservation Landmarks and Conservation Districts generally have fewer significant historic features, are more localized in their historic significance, and/or are less appropriate for the highest level of protection than Historic Landmarks and Historic Districts.

33.445.510 When Community Design Standards May Be Used

While Conservation Landmarks and Conservation Districts are generally more accommodating of alterations and additions than Historic Landmarks and Historic Districts, these amendments recognize that the historic features of Conservation-level resources could be lost in their entirety by major street-facing alterations. Changes to this section reflect new thresholds for when the Community Design Standards may be used as an alternative to historic resource review.

Much of the Central City Plan District is subject to discretionary design review, therefore allowing a standards path would conflict with what is required by the plan district. This exception exists currently.

Changes to the existing exceptions to use of the Community Design Standards for alterations to Conservation Landmarks and contributing resources in Conservation Districts capture alterations to street-facing facades that may irreparably harm the historic features of the resource. The thresholds still allow for tenants and owners to make modest changes to the exterior Conservation-level buildings by complying with the Community Design Standards, but lessen the likelihood that the standards path would result in the historic features of the resource being lost. When a proposal is subject to historic resource review but the Community Design Standards cannot be used as an alternative, the approval criteria are provided by 33.846.060. New approval criteria are provided in 33.846.060 to further differentiate the approach to protecting Conservation-level and Historic-level resources.

Finally, new exceptions ensure that the Community Design Standards are not used as an alternative to historic resource review or demolition review for proposals to relocate or demolish a Conservation Landmark or contributing resource in a Conservation District. In addition, a new exception ensures that alterations to Conservation Landmarks and contributing resources in Conservation Districts that are not buildings are subject to historic resource review and not the Community Design Standards. The Community Design Standards are a set of clear-and-objective standards that were written primarily for buildings and would not adequately protect the unique attributes of non-building historic resources, such as freestanding neon signs. This change will allow for better resource-specific design protection for non-building resources than could be achieved through the Community Design Standards.

Community Design Standards

33.445.500 Purpose

The Community Design Standards provide a clear and objective alternative to historic resource review for some proposals affecting Conservation Landmarks and Conservation Districts. In this case, the applicant may choose to go through the historic resource review process set out in Chapter 33.846.060, Historic Resource Review, or meet the objective standards of Chapter 33.218, Community Design Standards. The standards for signs are stated in Title 32, Signs and Related Regulations. Proposals that do not meet the Community Design Standards—or where the applicant prefers more flexibility—must go through historic resource review. Allowing some proposals to be approved through the Community Design Standards provides Conservation Landmarks and Conservation Districts more options for physical changes than is generally acceptable for Historic Landmarks and Historic Districts.

33.445.510 When Community Design Standards May Be Used

The Community Design Standards may be used as an alternative to historic resource review for proposals within the boundary of a Conservation Landmark or Conservation District except as follows:

- A. Proposals affecting a Conservation Landmark or Conservation District in the Central City plan district are not eligible to use the Community Design Standards as an alternative to historic resource review;
- B. Alterations affecting more than 50 percent of the area of any street-facing façade of a Conservation Landmark or contributing resource within a Conservation District are not eligible to use the Community Design Standards as an alternative to historic resource review;
- C. Alterations that increase the height of a Conservation Landmark or contributing resource within a Conservation District by 15 feet or more are not eligible to use the Community Design Standards as an alternative to historic resource review;
- D. Proposals that meet the definition of demolition in this chapter are not eligible to use the Community Design Standards as an alternative to historic resource review;
- E. Proposals to relocate a Conservation Landmark or relocate a contributing resource in a Conservation district that is not a detached accessory structure are not eligible to use the Community Design Standards as an alternative to historic resource review;
- F. Alterations to a Conservation Landmark when the Conservation Landmark is not a building or alterations to a contributing resource within a Conservation District when the contributing resource is not a building are not eligible to use the Community Design Standards as an alternative to historic resource review.

Commentary

33.510.119.B Historic Resources

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Landmarks and Districts listed after January 27, 2017 have fewer protections applied to them than Historic and Conservation Landmarks and Districts. All National Register resources listed before January 27, 2017 are either a Historic Landmark or Historic District unless or until their Historic Landmark or District designation is changed or removed. The change establishes that only those historic resources subject to historic resource review design protections—Historic and Conservation Landmarks and Districts—are eligible for the special uses.

33.510 Central City Plan District

510

33.510.119 Retail Sales And Service and Office Uses in the IG1 Zone

A. [No change]

B. Historic Resources

1. The regulations of this subsection apply in the IG1 Zone to ~~historic resources that are listed on the National Register of Historic Places~~ Historic Landmarks, Conservation Landmarks, or are identified as contributing to the historic significance of a and contributing resources within Historic Districts ~~or~~ and Conservation Districts.
2. Allowed uses.
 - a. Retail Sales And Service and Traditional Office. Up to 12,000 square feet on a site may be in Retail Sales And Service or Traditional Office use. The total amount of square footage includes net building area, exterior display, and exterior storage area of all Retail Sales And Service and Traditional Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
 - b. Industrial Office. Up to 100 percent of the gross building area on a site may be in an Industrial Office use including gross building area added inside of the building as it existed on July 9, 2018. In addition, up to 5,000 square feet of floor area added to the roof of the building as it existed on July 9, 2018 can be in Industrial Office use. Industrial Office use in more than 5,000 square feet of floor area added to the roof of the building is prohibited.
3. Conditional uses. More than 12,000 square feet on a site may be in Traditional Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Traditional Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

C. [No change]

Commentary

33.510.120.A Where these regulations apply

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Landmarks and Districts listed after January 27, 2017 have fewer protections applied to them than Historic and Conservation Landmarks and Districts. All National Register resources listed before January 27, 2017 are either a Historic Landmark or Historic District unless or until their Historic Landmark or District designation is changed or removed. The change establishes that only those historic resources subject to historic resource review design protections—Historic and Conservation Landmarks and Districts—are eligible for the special uses.

33.510.120 Retail Sales And Service and Office Uses in Specified Historic Resources in the IH Zones

- A. Where these regulations apply.** The regulations of this subsection apply in the IH Zone to ~~historic resources that are listed on the National Register of Historic Places~~ Historic Landmarks, Conservation Landmarks, or are identified as contributing to the historic significance of a ~~and~~ contributing resources within Historic Districts ~~or~~ and Conservation Districts.
- B. Allowed uses.** Up to 12,000 square feet on a site may be in Retail Sales And Service or Office use. The total amount of square footage includes net building area, exterior display, and storage area of all Retail Sales And Service and Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
- C. Conditional uses.** More than 12,000 square feet on a site may be in Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

Commentary

33.510.205.D Floor area transfer options

A change to this section provides clarity and consistency with other sections related to historic resource types.

33.510.205 Floor Area Bonus and Transfer Options

A.-C. [No change]

D. Floor area transfer options. Transferring floor area from one site to another is allowed as follows. The transferred floor area is in addition to the maximum floor area ratio shown on Map 510-2. There is no limit to the amount of floor area that can be transferred to a site. Transferring floor area is only allowed in situations where stated. Adjustments to the floor area transfer requirements are prohibited. When FAR is transferred from one site to another, the sending site must retain an amount equal to the minimum FAR required by 33.510.200.C., or an amount equal to the total surface parking area on the site multiplied by the maximum floor area ratio allowed shown on Map 510-2, whichever is more.

1. Transfer of floor area from a Historic Resource. The following regulations apply to transferring floor area from a Historic Resource:
 - a. Purpose. This transfer option improves public safety by encouraging seismic upgrades of historic resources, and encourages the preservation of historic resources by reducing redevelopment pressure.
 - b. Sites eligible to send floor area. In order to send floor area the site must meet the following requirements. Sites that are eligible to send floor area are allowed to transfer unused FAR up to the maximum FAR allowed on the site plus an additional 3 to 1:
 - (1) Be in a RH, RX, CX, EX, or OS zones, and
 - (2) Contain a Historic Landmark, ~~or~~ Conservation Landmark, or a contributing resource in a Historic District or Conservation ~~d~~District for which the Bureau of Development Services verifies the following:
 - If the building is classified as Risk category I or II, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the American Society of Civil Engineers (ASCE) 41- BPOE improvement standard as defined in City of Portland Title 24.85;
 - If the building is classified as Risk category III or IV, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the ASCE41- BPON improvement standard as defined in City of Portland Title 24.85; or
 - The owner of the landmark or contributing resource has entered into a phased seismic agreement with the City of Portland as described in Section 24.85.
 - c. Sites eligible to receive floor area:
 - (1) Must be zoned RH, RX, CX or EX; and
 - (2) Must be within the Central City plan district outside of the South Waterfront subdistrict.

Commentary

33.510.205.D Floor area transfer options (cont.)

Changes to this section delete the historic resource demolition review covenant requirements for transfer of FAR., consistent with changes to other sections.

- d. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City. The covenant must meet the requirements of 33.700.060, and must be attached to and recorded with the deed. The covenants may not be revoked or rescinded. ~~The covenants must include the following:~~
 - ~~(1) The covenant for each site must reflect the existing floor area on each site and the respective increase and decrease of potential floor area; and,~~
 - ~~(2) The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.~~
 - e. Exceptions.
 - (1) Sites with eligible historic resources in a RH, RX, CX or EX zone may elect to transfer floor area to a receiving site outside of the Central City plan district if they meet the standards of 33.120.205.G, 33.130.205.C or 33.140.205.D.
 - (2) Sites with eligible historic resources in the R1, R2 and R3 zones may transfer density if they meet the standards of 33.120.205.G.
2. Transfer of floor area within a floor area transfer sector. In the RX, CX, EX, and OS zones, floor area, including bonus floor area and bonus floor area earned through a bonus that no longer exists in the zoning code, may be transferred between sites. The sites are not required to be abutting, however both the sending site and the receiving site must be located within the same floor area transfer sector shown on Map 510-23. In addition, floor area transfers are subject to the following requirements:
- a. The sending site must not be a Historic or Conservation landmark or a contributing resource in a historic or a conservation district;
 - b. If bonus floor area is included in the transfer, the public benefit to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit on the receiving site taking advantage of the bonus floor area; and
 - c. The property owner(s) must execute a covenant for both sites. The covenants must comply with the regulations of 33.700.060, must be recorded with the deeds for each site, and must reflect the existing floor area on each site and the respective increase and decrease of potential floor area.

Commentary

33.710.060.B Membership

Changes to this section amend the required membership of the Historic Landmarks Commission. Broadening the categories of Commission membership was requested by the Bureau of Development Services to allow for more flexibility in the recruitment of prospective commissioners given the similarities between the previous membership categories. The changes do not amend the size of the Commission or change the number of at-large Commission members but provide a larger applicant pool from which most prospective commissioners could be recruited. The change requires a minimum of two of the seven members on the Historic Landmarks Commission to have professional background in historic preservation, local history, architectural history, or architecture.

The City of Portland has been a Certified Local Government (CLG) since 1996, a National Park Service designation which 50 other cities in Oregon share for their commitment to managing historic resources. CLGs must have a historic landmarks commission. Oregon's CLG performance standards provide the following regarding the make-up of commissions: "The CLG must seek the expertise necessary to make informed decisions about historic and prehistoric cultural resources. This is normally provided by a landmarks commission composed of professional and lay members; however, qualified staff members and/or consultants may be relied upon as needed. At a minimum, the CLG must make a reasonable effort to seat commissioners with a demonstrated positive interest in historic preservation, the majority of whom should meet the federal historic preservation professional standards."

33.710 Review Bodies

710

33.710.060 Historic Landmarks Commission

- A. Purpose.** The Historic Landmarks Commission provides leadership and expertise on maintaining and enhancing Portland's historic and architectural heritage. The Commission identifies and protects buildings and other properties that have historic or cultural significance or special architectural merit. The Commission provides advice on historic preservation matters, and coordinates historic preservation programs in the City. The Commission is also actively involved in the development of design guidelines for historic districts.
- B. Membership.** The Historic Landmarks Commission consists of seven members, none of whom may hold public elective office. ~~The Commission must include a historian with knowledge of local history; an architectural historian; an architect; two members from the following: landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, or related disciplines; and two members at-large.~~ All members must have demonstrated interest, competence, or knowledge of historic preservation. At least two members must have professional experience in historic preservation, local history, architectural history, or architecture. At least three of the additional members must have professional experience or working knowledge of historic preservation, local history, architectural history, architecture, landscape architecture, real estate, economics, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, cultural resources management, or related disciplines. The Commission may have up to two members at-large. No more than two members of the Commission may be in the business of buying, selling, leasing, or developing real estate for profit, or be officers of such a business. The members are appointed by the Mayor and confirmed by the City Council.
- C. Meetings, officers, and subcommittees.**
1. The Historic Landmarks Commission meets at least once a month and as necessary to act on reviews assigned to them by this Title. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.
 2. The Historic Landmarks Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

Commentary

33.710.060.D Powers and duties

Changes to this section amend the responsibilities of the Historic Landmarks Commission to align with changes in chapters 33.445 and 33.846 related to both legislative and quasi-judicial land use reviews.

Changes to D.1 provide clarity that designations may be more than just buildings or sites (such as structures or portions of structures) and that the details of an existing designation (such as a boundary or the contributing status of a resource) can be amended in a quasi-judicial review. This change does not allow the Commission to establish or remove an entire Historic or Conservation District designation.

Changes to D.2 allow the Commission to recommend establishment, amendment, or removal of Historic Landmark designation, Conservation Landmark designation, and Significant Resource identification directly to the City Council in legislative actions.

Changes to D.3 clarify that Historic and Conservation Districts can be created, amended, and removed by City Council in legislative actions, with the Planning and Sustainability Commission serving as the recommending body to the City Council. The Historic Landmarks Commission provides advice on the merits of establishing or removing Historic or Conservation District designation, including participation in a joint hearing with the Planning and Sustainability Commission prior to the Planning and Sustainability Commission making their formal recommendation to City Council (see 33.740.030). Entire Historic and Conservation Districts can only be established or removed by the City Council through a legislative action.

Changes to D.4 add clarity that design guidelines require adoption through a legislative procedure.

Changes to D.5 provide clarity and consistency regarding the types of proposals subject to quasi-judicial historic resource review.

Changes to D.6 facilitate the application of quasi-judicial demolition review for Historic Landmarks, Conservation Landmarks, and contributing resources in Conservation Districts.

Changes to D.8 provide grammatical edits and clarifies that the Historic Landmarks Commission, as part of Portland's obligations as a Certified Government, makes recommendations on National Register nominations to the State Advisory Committee on Historic Preservation and National Park Service's Keeper of the National Register.

33.710.060.E Annual report

A change amends when the Historic Landmarks Commission publishes their annual report. The change was requested by the Bureau of Development Services to align with the calendar year so that land use reviews and Commission accomplishments can be tracked by calendar year—not fiscal year—for easier reporting. The change also allows the Historic Landmarks Commission to make requests of City Council during the annual budgeting process.

- D. Powers and duties.** The Historic Landmarks Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:
1. Establishing, ~~amending,~~ or removing Historic Landmark and Conservation Landmark designations and amending Historic District and Conservation District designations for specific buildings or sites in quasi-judicial reviews;
 2. Recommending the establishment, amendment, or removal of Historic Landmark and Conservation Landmark designations and Significant Resource identification to the City Council in legislative actions;
 3. ~~Recommending~~ Providing advice on the establishment, amendment, or removal of Historic Districts and Conservation Districts to the Planning and Sustainability Commission ~~and the City Council~~ in legislative actions;
 4. ~~Recommending and developing~~ design guidelines for Historic Districts and Conservation Districts to the City Council in legislative actions;
 5. Reviewing development proposals for Historic Landmarks and Conservation Landmarks and in Historic Districts and Conservation Districts in quasi-judicial reviews;
 6. Reviewing demolition and relocation requests for certain Historic ~~Landmarks,~~ Conservation Landmarks, and ~~buildings,~~ resources in Historic Districts and Conservation Districts in quasi-judicial reviews;
 7. Providing advice on historic preservation matters to the Hearings Officer, Design Commission, Planning and Sustainability Commission, Portland Development Commission, other City commissions and committees, and City Council; and
 8. Initiating and coordinating historic preservation and public outreach programs in the City, including ~~reviewing~~ making recommendations on ~~for a~~ National Register status of Historic Places nominations and making recommendations to other governmental agencies regarding historic preservation programs and issues.
- E. Annual report.** The Commission must make an annual report of its actions and accomplishments for each ~~fiscal~~ calendar year. The report must be filed with the Director of BDS by the first working day of ~~September~~ April. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

Commentary

33.720.020 Quasi-judicial Land Use Reviews

An addition to clarifications related to resource names, this section accommodates National Register Landmarks and Districts and provides that the Historic Landmarks Commission is the decision-maker for certain demolition review applications. See 33.846.080 for demolition review procedures. Additionally, a change assigns the Historic Landmarks Commission to serve as the review body for appeals of adjustments associated with designated historic resources.

33.720.030 Legislative Land Use Reviews

An addition to this section allows the Historic Landmarks Commission to recommend the determination of Significant Resources directly to the City Council in legislative actions.

33.720 Assignment of Review Bodies

720

33.720.020 Quasi-Judicial Land Use Reviews

Quasi-judicial land use reviews are assigned to the review bodies stated below.

A.-C. [No change]

D. Historic Landmarks Commission. Generally, the Historic Landmarks Commission will consider matters related to historic resources. However, because they primarily involve use issues, historic preservation incentive reviews, when subject to a Type III procedure or when they are appeals of a Type II procedure, are assigned to the Hearings Officer. The following land use reviews, when subject to a Type III procedure or when they are appeals of a Type II procedure, are assigned to the Historic Landmarks Commission.

1. Landmark designations, and the removal of landmark designations; ~~and~~
2. Historic resource review of ~~Historic and Conservation, and National Register Landmarks and structures~~ resources in Historic or, Conservation, and National Register Districts;
3. Demolition review of Historic, Conservation, and National Register Landmarks and contributing resources in Historic, Conservation, and National Register Districts; and
4. Adjustments associated with Historic, Conservation, and National Register Landmarks and Historic, Conservation, and National Register Districts.

E.-G. [No change]

33.720.030 Legislative Land Use Reviews

- A.** Legislative land use reviews, unless stated otherwise in Subsections B ~~or C~~ through D, below, are assigned to the Planning and Sustainability Commission, who will make a recommendation to City Council.
- B.** ~~Design Guidelines for Historic Districts and Conservation Districts are assigned to the Historic Landmarks Commission, who will make a recommendation to City Council~~ require a recommendation from the Historic Landmarks Commission before being submitted to the City Council for adoption.
- C.** Design guidelines for the Design overlay zone are assigned to the Design Commission, who will make a recommendation to City Council ~~require a recommendation from the Design Commission before being submitted to the City Council for adoption.~~ In some cases, a joint hearing with the Design and Planning and Sustainability commissions is required. See 33.740.020.
- D.** Historic Landmark and Conservation Landmark designation and removal and Significant Resource identification and removal are assigned to the Historic Landmarks Commission, who will make a recommendation to City Council.
- ~~D~~E.** Final action on all legislative land use reviews is by the City Council.

Commentary

33.730.030.A Pre-application conference

This change corresponds with changes in 33.846.030 and 33.846.040. The change eliminates the requirement for a pre-application conference for Type III historic designation review and Type III historic designation removal review. This change is intended to eliminate an unnecessary requirement for applicants and reduce the staff time necessary to review historic resource designation or historic resource removal proposals.

33.730 Quasi-Judicial Procedures

730

33.730.030 Type III Procedure

A Type III procedure requires a public hearing before an assigned review body. Subsections A through D apply to all sites. If the site is within the City of Portland, Subsections E through H also apply. If the site is in the portion of unincorporated Multnomah County that is subject to City zoning, Subsection I also applies.

- A. Pre-application conference.** A pre-application conference is required for all requests processed through a Type III procedure, except applications for historic designation review and historic designation removal review. See 33.730.050, Pre-Application Conference.
- B.-J.** [No change]

Commentary

33.740.030 Commission Review

This change requires a joint hearing of the Planning and Sustainability Commission and Historic Landmarks Commission whenever an entire Historic or Conservation District is proposed for establishment or removal through a legislative procedure. The joint hearing ensures that both commissions have the opportunity to hear from the interested public in advance of the Planning and Sustainability Commission making a formal recommendation to the City Council. The Historic Landmarks Commission provides advice to the Planning and Sustainability Commission but does not make the formal recommendation to City Council.

33.740 Legislative Procedure

740

33.740.030 Commission Review

1. A Commission must hold at least one public hearing before recommending action on a legislative matter.
2. When a legislative matter includes the establishment or amendment of any design standards in 33.420 or the establishment or amendment of any design guidelines for design review, at least one joint public hearing with the Planning and Sustainability Commission and the Design Commission is required before each commission recommends action on the subject matter assigned to them.
3. When a legislative matter includes the designation of a Historic District or Conservation District or the removal of a Historic District or Conservation District, at least one joint public hearing with the Planning and Sustainability Commission and the Historic Landmarks Commission is required before the Planning and Sustainability Commission recommends action on the designation or removal.

Commentary

33.805.040 Approval Criteria

A change to this section clarifies the types of historic resources applicable to criterion D.

33.805 Adjustments

805

33.805.040 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
- B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and
- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
- D. City-designated scenic resources and historic resources in Historic, Conservation and National Register Districts and within the boundaries of Historic, Conservation and National Register Landmarks are preserved; and
- E. Any impacts resulting from the adjustment are mitigated to the extent practical; and
- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; or
- G. Application of the regulation in question would preclude all reasonable economic use of the site; and
- H. Granting the adjustment is the minimum necessary to allow the use of the site; and
- I. Any impacts resulting from the adjustment are mitigated to the extent practical.

Commentary

33.815.125 Specified Uses in Industrial Zones

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Landmarks and Districts listed after January 27, 2017 have fewer protections applied to them than Historic and Conservation Landmarks and Districts. All National Register resources listed before January 27, 2017 are either a Historic Landmark or Historic District unless or until their Historic Landmark or District designation is changed or removed. The change clarifies that only those historic resources subject to historic resource review protections—Historic and Conservation Landmarks and Districts—are eligible for the special uses.

33.815 Conditional Uses

815

33.815.125 Specified Uses in Industrial Zones

These approval criteria apply for uses in the following categories in the industrial zones: Retail Sales And Service, Office, Commercial Outdoor Recreation, Commercial Parking Facilities, Community Service, and Daycare uses. Office uses in the IG1 zone in the Lower Albina Subdistrict of the Central City Plan District may use the approval criteria listed in 33.815.126: Office Uses in the IG1 Zone in the Lower Albina Subdistrict, if they contain characteristics of manufacturing businesses. Office uses in ~~individually listed structures on the National Register of Historic Places~~Historic Landmarks, Conservation Landmarks, and ~~structures identified as contributing resources in to the historic significance of a Historic District or a Conservation District in the I zones in the Central City Plan District~~ may use the criteria listed in 33.815.129, Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District. These approval criteria promote preservation of land for industry while allowing other uses when they are supportive of the industrial area or not detrimental to the character of the industrial area. The approval criteria are:

A.-E. [No change]

Commentary

33.815.126 Office Uses in the IG1 Zone in the Lower Albina Subdistrict

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Landmarks and Districts listed after January 27, 2017 have fewer protections applied to them than Historic and Conservation Landmarks and Districts. All National Register resources listed before January 27, 2017 are either a Historic Landmark or Historic District unless or until their Historic Landmark or District designation is changed or removed. The change clarifies that only those historic resources subject to historic resource review protections—Historic and Conservation Landmarks and Districts—are eligible for the special uses.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

33.815.126 Office Uses in the IG1 Zone in the Lower Albina Subdistrict

These approval criteria promote preservation of land for industry while providing opportunity for businesses that contain both an office and a manufacturing or production component. Office uses that do not meet the criteria below may apply for conditional use status through the criteria listed in 33.815.125, Specified Uses in the Industrial Zones. Office uses in ~~individually listed structures on the National Register of Historic Places~~Historic Landmarks, Conservation Landmarks, and structures identified as contributing to the historic significance of resources in a Historic District or a Conservation District in the IG1 zone in the Central City Plan District may use the criteria listed in 33.815.129, Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District. The approval criteria are:

A.-E. [No change]

Commentary

33.815.126 Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Landmarks and Districts listed after January 27, 2017 have fewer protections applied to them than Historic and Conservation Landmarks and Districts. All National Register resources listed before January 27, 2017 are either a Historic Landmark or Historic District unless or until their Historic Landmark or District designation is changed or removed. The change clarifies that only those historic resources subject to historic resource review protections—Historic and Conservation Landmarks and Districts—are eligible for the special uses.

33.815.129 Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District

These approval criteria promote the preservation of historic resources that are listed on the National Register of Historic Places, Historic Landmarks, Conservation Landmarks, or are identified as contributing to the historic significance resources in ~~of~~ a Historic District or a Conservation District. They provide for increased allowances for office uses in the industrial zones, while limiting negative impacts on the transportation system and nearby industrial uses. The increased allowances for office uses recognize that some historic industrial buildings cannot economically accommodate modern industrial activities due to design inefficiencies or structural deficiencies. The office allowances facilitate preservation and reuse of these structures and are not intended as a means of converting viable industrial uses to office uses. The approval criteria are:

- A.** The proposed use will not have significant adverse effects on nearby industrial uses and truck and freight movement;
- B.** Transportation system:
 - 1. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
 - 2. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.
 - 3. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.
- C.** The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion of industrial and non-industrial uses and the effects of incremental changes; and.
- ~~**D.** The owner must execute a covenant with the City, as described in Subsection 33.445.610.D.~~

Commentary

33.825.025 Review Procedures

Changes to this section match changes made to 33.846. These changes provide specificity for the procedure types available when minor changes to approved land use reviews are proposed.

33.825 Design Review

825

33.825.025 Review Procedures

This section lists procedures for design review for proposals in Design overlay zones. These procedures also apply where design review is required by the regulations of a plan district or overlay zone, or as a condition of approval of a quasi-judicial decision.

The procedures stated in this section supersede procedural and threshold statements in the City's adopted design guidelines documents. Procedures for design review vary with the type of proposal being reviewed and the geographic area in which the site is located. Some proposals in the Central City plan district must provide a model of the approved proposal, as set out in Subsection D.

- A. [No change]
- ~~B.~~ Minor changes to an approved design review prior to issuance of final permit approval. Minor changes to an approved design review that was originally processed through a Type III procedure are reviewed through a Type II procedure when all of the following are met. Alterations to a structure after the final building permit approval are exempt from this regulation:
 - ~~1.~~ The original design review has not expired;
 - ~~2.~~ The building permit for the project has not received final approval;
 - ~~3.~~ The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
 - ~~4.~~ The change alters no more than 30 percent of any façade and does not increase the approved floor area.
- ~~C.~~ [No change]
- ~~D.~~ [No change]

Commentary

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

Table 825-1 Procedure Type for Design Review Proposals				
Geographic Area	Proposal	Threshold	Procedure	
Central City Plan District	New development or new building(s) on a site with existing development	1) New floor area is > 25,000 s.f. or 2) New building height is > 45 ft. [1]	Type III [2]	
		All other new development or new buildings	Type II	
	Exterior alteration to existing development	Addition to an existing building > 45 ft height [1], and adds > 25,000 s.f. of floor area	Type III [2]	
		Exterior alteration affecting 500 s.f. or less of façade or roof area	Type I	
		All other exterior alterations	Type II	
	<u>Changes to an approved design review [3]</u>	<u>Rooftop mechanical equipment</u>	<u>Type I</u>	
		<u>Alteration to ground floor façade</u>	<u>Type I</u>	
		<u>All other changes [4]</u>	<u>Type II</u>	
	All Other Areas Subject to Design Review	New development or new building(s) on a site with existing development	1) New floor area is > 80,000 s.f. or 2) New building height is > 65 ft. [1]	Type III [2]
			All other new development or new buildings	Type II
Exterior alteration to existing development		Addition to an existing building > 65 ft height [1], and adds > 50,000 s.f. of floor area	Type III [2]	
		Exterior alteration affecting 500 s.f. or less of façade or roof area	Type I	
		All other exterior alteration	Type II	
<u>Changes to an approved design review [3]</u>		<u>Rooftop mechanical equipment</u>	<u>Type I</u>	
		<u>Alteration to ground floor façade</u>	<u>Type I</u>	
		<u>All other changes [4]</u>	<u>Type II</u>	
Exterior development not listed above			Type II	

Commentary

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

- [1] The height threshold does not include additional height allowed through a height exception in the bases zone.
- [2] An affordable housing project may choose a Type II review procedure if at least 50 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. If a Type II review procedure is chosen, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau, and a design advice request is required. See 33.730.050.B. The application for design review may not be submitted before the required design advice request is held.
- [3] Changes to an approved design review are reviewed as stated in this table when all of the following are met. Changes to an approved review that do not meet these thresholds are processed through the same procedure as the original review:
1. The original design review has not expired;
 2. The building permit for the project has not received final approval;
 3. The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
 4. The change alters no more than 30 percent of any façade and does not increase the approved floor area.
- [4] If the original design review was processed through a Type I procedure, then review of a change is processed through the same procedure as the original review.

Commentary

33.846.010 Purpose

Several changes are made to the purpose statement for the chapter. The changes incorporate clarity, consistency with chapter 445, and reference the two elements that, together, make a historic resource eligible for designation—historic significance and physical integrity. The changes also broaden the purpose of incentives, referencing the increased adaptive reuse opportunities that are allowed by new incentives in 33.445.400. Finally, the changes specifically address the importance of community involvement in the different historic resource reviews.

33.846 Historic Resource Reviews

846

Sections:

General

- 33.846.010 Purpose
- 33.846.020 Review Procedures
- 33.846.025 Additional Notification Required
- 33.846.030 Historic Designation Review
- 33.846.040 Historic Designation Removal Review
- 33.846.050 Historic Preservation Incentive Review
- 33.846.060 Historic Resource Review
- 33.846.070 Modifications Considered During Historic Resource Review
- 33.846.080 Demolition Review

General

33.846.010 Purpose

This chapter provides procedures and establishes the approval criteria for all historic resource reviews. The approval criteria protect the region's significant historic resources and preserve ~~significant~~important parts of the region's heritage. The reviews recognize and protect the region's archaeological, cultural, historic, and architectural resources, ~~ensuring~~ensure that changes to a designated historic resources preserve ~~historic, and architectural~~physical integrity and historic significance, values and provide incentives for historic preservation and adaptive reuse. The reviews also allow for community involvement and the potential for denial when demolition, relocation, new development, or alteration is proposed for certain historic resources.

33.846.020 Review Procedures

The review procedures in this chapter supersede procedural and threshold statements in the City's adopted design guidelines documents for Hhistoric and Conservation Districts.

33.846.025 Additional Notification Required

In addition to the notifications provided for by Chapter 33.730, Quasi-Judicial Procedures, when a Conservation District or Historic District has a Historic District Advisory Committee that is recognized by a Neighborhood Association, notice of all historic resource reviews will also be sent to the District's advisory committee.

Commentary

33.846.030.A Purpose

Amendments to this section provide clarity and establish that historic designation review can allow for changes to the boundaries of designated historic resources and changes to the contributing status of resources within designated historic resource boundaries. The changes also more clearly delineate the types of historic resources that may be considered for designation. The purpose statement also establishes the importance of designating underrepresented historic resources and applying an appropriate level of protection (i.e. Historic or Conservation) at the time of designation.

33.846.030.B Review procedure

Changes to this section allow for different procedure types proportional to the impact of different designation decisions.

The Type III procedure remains for proposals to designate Historic Landmarks and Conservation Landmarks that have not been previously listed in the National Register of Historic Places. The requirement for a pre-application conference is struck to eliminate unnecessary staff and applicant time and complexity for such individual designations. See commentary for 33.730.030.

A new Type II procedure allows for staff-level decisions to change the boundary or contributing status of an already-designated resource. Because the Historic or Conservation Landmark or District has already been designated, changes in the contributing status or boundary of a resource requires less staff evaluation of historic significance than justifies a Type III procedure.

A new Type I procedure allows for individual National Register Landmarks to be City designated as Historic or Conservation Landmarks through a Type I procedure. Because the National Park Service evaluates historic significance and physical integrity at the time of National Register listing, a subsequent local historic designation review requires the least staff intensity to render a decision.

There is no quasi-judicial option for establishing new Historic or Conservation Districts or City-designating a National Register District. Establishment of new City-designated districts can only result from a legislative procedure.

33.846.030 Historic Designation Review

- A. Purpose.** ~~The Historic Designation Review is a process~~ allows for the City of Portland to designate Historic Landmarks, ~~or Conservation Landmarks, Historic Districts, or Conservation Districts,~~ expand the boundaries of Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts, and to designate resources as contributing resources within a Historic Landmark, Conservation Landmark, Historic District, or Conservation District. This review does not affect a ~~landmark or district's~~ resource's listing on the National Register of Historic Places. These provisions promote the protection of historic resources by:
- Enhancing the city's identity through the protection of the region's significant historic resources;
 - Ensuring underrepresented histories are recognized and protected;
 - Fostering preservation and reuse of historic artifacts, structures, sites, objects, places, and districts as important parts of the region's fabric; and
 - Encouraging new development to sensitively incorporate historic ~~structures~~ resources and artifacts.
 - Applying an appropriate level of protection to historic resources at the time of City designation.
- B. Review procedure.** Historic designation reviews are processed ~~as follows:~~ through a Type III procedure.
1. Designating a Historic Landmark or Conservation Landmark when the resource is a structure, site, or object that has been listed on the National Register of Historic Places is processed through a Type I procedure.
 2. Expanding the boundary of a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District is processed through a Type II procedure.
 3. Designating a resource as a contributing resource within a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District is processed through a Type II procedure.
 4. All other historic designation reviews are processed through a Type III procedure. A pre-application conference is not required.

Commentary

33.846.030.C Supplemental application requirements

This new section provides minimum application requirements for historic designation review. The materials required are intended to provide staff and decision-makers with the information necessary to evaluate proposals to establish the historic resource designation on the Official Zoning Maps.

Requirement C.2 requires that the application identify a year or span of years during which the significance of the resource occurred. For example, a construction date or the date(s) of a significant event.

The previous owner consent provisions of this chapter are moved to supplemental application requirement C.6, consistent with the requirements of Oregon's "owner consent" law ([ORS 197.772](#)) and State Administrative Rule ([OAR 660-023-0200](#)).

C. Supplemental application requirements. In addition to the application requirements of Section 33.730.060.D, the following information is required for an application for historic designation review:

1. Two copies of a map and narrative description of the proposed boundary for the designated resource, including identification of which resources within the boundary are contributing resources. At least one copy of the map must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction;
2. Two copies of a narrative description of the resource's significance and integrity, including identification of the year or years proposed as the resource's period of historic significance;
3. Five or more current photos of the resource;
4. One or more historic photos of the resource, if available;
5. For resources listed on the National Register of Historic Places, two copies of the National Register nomination; and
6. Two copies of a signed statement from the property owner providing consent for the designation. For the purposes of this application requirement, property owner is defined as:
 - a. The owner of fee title to the property as shown in the deed records of the county where the property is located;
 - b. The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
 - c. If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Property owner does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests, including leaseholds, of any nature.

Commentary

33.846.030.D Approval criteria

Changes provide that in addition to establishing new landmarks and districts, historic designation review can change the boundary and contributing status of resources within existing City-designated landmarks and districts.

Changes to the section on significance incorporate cultural resources, Comprehensive Plan [historic preservation policies](#), National Park Service [criteria for listing](#) in the National Register of Historic Places, and State Administrative Rule ([OAR 660-023-0200](#)) criteria for designating resources under [statewide land use Goal 5](#). The criteria support the historic resource types defined in 33.910. Proposals to designate an entire Historic or Conservation District must meet two criteria unless the proposal meets criterion f by having a significant association with an underrepresented group. Designation of an entire Historic or Conservation District is not allowed quasi-judicially.

Criteria a-d reflect the designation criteria included in State Administrative Rule ([OAR 660-023-0200](#)).

Criterion e applies to proposals to designate Conservation Landmarks and Conservation Districts. Because Conservation resources may be significant at a more local or community level and/or have a high level of historic integrity but lower historic significance, criterion e provides a path for approval that is not available to proposals to designate Historic Landmarks or Historic Districts. "Neighborhood or community" includes the recognized Neighborhood Association, general geographic area, and thematic association with a population group which may be dispersed over many areas of the city.

Criterion f allows for the designation of resources associated with communities and populations that have been underrepresented in previous historic resource designations. The resource must have a demonstrably significant association with the population with which it is associated. The association may be historical or contemporary.

Applicants for landmark designation would be invited to provide their preference for the type of designation—Historic or Conservation—as owner consent is required for landmark designation.

D.C. Approval criteria. Proposals to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District, or as a contributing resource within a Historic Landmark, Conservation Landmark, Historic District, or Conservation District, or expand the boundary of a Historic Landmark, Conservation Landmark, Historic District, or Conservation District will be approved if the review body finds that all of the following approval criteria are met:

1. ~~Significant value~~Significance. The resource has significant archaeological, cultural, historical, or architectural value, ~~demonstrated by meeting at least three of the following.~~ For proposals to designate a Historic Landmark or Conservation Landmark, designate a resource as a contributing resource in an existing Historic District or Conservation District, or expand the boundary of an existing Historic Landmark, Conservation Landmark, Historic District or Conservation District, at least one of the following must be met. For proposals to designate an entire Historic District or Conservation District, the district must either meet D.1.f or two of D.1.a-e:
 - a. The resource is associated with at least one event that has made a significant contribution to one or more broad patterns of local, regional, state, or national history;
 - b. The resource is associated with the life of at least one person significant to local, regional, state, or national history;
 - c. The resource possesses at least one distinctive characteristic of a type, period, or method of construction, or represents the work of a master, or possesses high artistic value, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - d. There is a high likelihood that, if preserved, the resource would yield information important in local, regional, state, or national history;
 - e. If the proposal is to designate a Conservation Landmark or Conservation District, the resource is associated with at least one event or pattern that is architecturally, culturally, or historically significant to the neighborhood or community with which the resource is associated; or
 - f. The resource has a significant association with at least one underrepresented community, cultural, or ethnic group;

Commentary

33.846.030.D Approval criteria (cont.)

Previous approval criteria are deleted to allow for clarity and consistency with the historic resource types defined in 33.910, State Administrative Rule ([OAR 660-023-0200](#)) criteria, and Comprehensive Plan policies.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

- ~~a. The resource represents a significant example of a development, architectural style, or structural type once common or among the last examples in the region;~~
- ~~b. The resource represents a significant work of a developer, architect, builder, or engineer noted in the history or architecture of the region;~~
- ~~c. The resource represents a particular material, method of construction, quality of composition, or craft work which is either associated with the region's history or which enriches the region's character;~~
- ~~d. The resource is associated with culture, activities, events, persons, groups, organizations, trends, or values that are a significant part of history;~~
- ~~e. The resource is associated with broad patterns of cultural, social, political, economic, or transportation history of the region, state, or nation;~~
- ~~f. The resource significantly contributes to the historic or cultural development of the area or neighborhood;~~
- ~~g. The resource symbolizes a significant idea, institution, political entity, or period;~~
- ~~h. The resource retains sufficient original design characteristics, craft work, or material to serve as an example of a significant architectural period, building type, or style;~~
- ~~i. The resource significantly contributes to the character and identity of the neighborhood district or city;~~
- ~~j. The resource includes significant site development or landscape features that make a contribution to the historic character of a resource, neighborhood, district, or the city as a whole;~~
- ~~k. The resource represents a style or type of development which is, or was, characteristic of an area and which makes a significant contribution to the area's historic value; or~~
- ~~l. The resource contributes to the character of a grouping of resources that together share a significant, distinct, and intact historic identity.~~

Commentary

33.846.030.D Approval criteria (cont.)

A new approval criterion—integrity—allows for the consideration of the physical and spatial characteristics of a resource proposed for designation. Without sufficient integrity from the historic period (the year or years during which the resource’s significance was acquired), an otherwise significant historic resource may not be appropriate for designation and, consequently, historic resource protections. This criterion is directly informed by the National Park Service’s [criteria for listing](#) in the National Register of Historic Places. The Park Service’s recognized aspects of integrity are: location, design, setting, materials, workmanship, feeling, and association. National Park Service guidance on integrity—including National Park Service Bulletins—should be consulted in situations where additional context is needed.

Historic Landmarks and Districts are generally expected to have a high degree of integrity; Conservation Landmarks and Districts may have lower degrees of integrity, unless the Conservation Landmark or District is being considered for designation primarily due to its design or architectural significance.

2. Integrity. The resource has retained physical and associative features from the period of historic significance. For proposals to designate a Conservation Landmark or Conservation District, at least three of the following must be met. For proposals to designate a resource as a contributing resource in a Historic District or Conservation District, at least three of the following must be met. For proposals to designate a Historic Landmark or Historic District, at least four of the following must be met:
- a. The resource remains in the exact location as during the period of historic significance;
 - b. The resource retains sufficient design elements to convey an association with the period of historic significance;
 - c. The overall configuration of the resource and its surroundings is generally unchanged since the period of historic significance;
 - d. The resource's materials are generally unchanged since the period of historic significance or, if changed, have been replaced in kind;
 - e. The resource retains expressions of craft from the period of historic significance;
 - f. Sufficient artistic, spatial, or intangible elements from the period of historic significance remain to convey the significance of the resource; or
 - g. The cumulative features of the resource, as described by D.2.a through f, are together sufficient to convey an association with the resource's significance.

Commentary

33.846.030.D Approval criteria (cont.)

Changes to criterion 3 provide clarity and accommodate review of changes in contributing status of resources in Historic Districts and Conservation Districts. The changes also recognize archaeology and culture as areas of significance. Finally, the change clarifies the factors that are considered when determining an appropriate level of protection for a resource proposed for landmark or district designation.

Criterion 3 is removed and replaced by a new supplemental application requirement.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

- ~~23.~~ Appropriate level of protection. The proposed City designation is appropriate, considering the following historical or architectural value of the resource and other conflicting values. Levels of protection for City designation are Historic Landmark designation, Conservation Landmark designation, Historic District designation, Conservation District designation, contributing resource in a Historic District, contributing resource in a Conservation District, and no City designation;~~;~~ ~~and~~
- a. The significance and integrity of the resource proposed for designation;
 - b. The regulatory effects of the proposed level of protection; and
 - c. Other values, such as relevant goals and policies in the Comprehensive Plan.
- ~~3.~~ ~~Owner consent.~~
- ~~a. For Historic Landmark or Conservation Landmark designation, the property owner must consent, in writing, to the Historic Landmark or Conservation Landmark designation;~~
 - ~~b. For Historic District or Conservation District designation all owners of property in the district must consent, in writing, to the Historic District or Conservation District designation at the time of designation.~~

Commentary

33.846.040.A Purpose

Changes to this section provide clarity and allow for reduction of boundaries and reclassification of contributing resources as noncontributing through historic designation removal review. The amendments also allow for changes in the level of protection for previously designated resources, such as reducing a Historic-level resource to a Conservation-level resource. Changing the level of protection does not require the removal and re-addition of a designation.

33.846.040.B Review procedure

Changes to this section allow for boundary reductions or reclassification of contributing resources as noncontributing to be processed through a Type II procedure, consistent with the Type II procedure provided in 33.846.030 for changing the classification of resources from noncontributing to contributing or expanding a boundary.

The existing Type III procedure for historic designation removal review for Historic and Conservation Landmarks remains, but the unnecessary requirement for a pre-application conference is eliminated.

Entire Historic District and Conservation District designations can only be removed through a legislative procedure.

33.846.040.C Approval criteria

Changes provide clarity and incorporate State Administrative Rule ([OAR 660-023-0200](#)), which provides:

"(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.

(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:

(A) Has retained ownership since the time of the designation, and (B) Can demonstrate that the owner objected to the designation on the public record, or (C) Was not provided an opportunity to object to the designation, and (D) Requests that the local government remove the property from the resource list.

(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist. (A) The resource has lost the qualities for which it was originally recognized; (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition."

A new criterion, C.2., allows changes in the level of protection for resources when a change in protection would equally or better meet the goals and policies of the Comprehensive Plan. Changing the level of protection through C.2. would retain landmark or district status—albeit at a lower level of protection—for the resource. This criterion allows for resources with a local Historic or Conservation designation to be protected as a National Register Landmark or District if the resource in question has been listed in the National Register of Historic Places. C.2 requires the entire resource's level of protection be changed; Therefore, C.2 does not allow for changes to boundaries or status of contributing resources. C.2 does not require a resource to be de-designated and re-designated since it is only the level of protection that is changed.

33.846.040 Historic Designation Removal Review

- A. Purpose.** These provisions allow for the removal of ~~the City's City landmark~~ historic designation when it is no longer appropriate. The provisions also allow for the level of protection to be changed from Historic Landmark to Conservation Landmark, and for the boundaries of a Historic Landmark, Conservation Landmark, Historic District, or Conservation District to be reduced. And these provisions allow for removing the contributing status of resources within a Historic Landmark, Conservation Landmark, Historic District, or Conservation District. This review does not affect a ~~property or district's resource's~~ listing on the National Register of Historic Places.
- B. Review procedure.** Historic designation removal reviews are processed ~~as follows:~~ through a Type III procedure.
1. Historic designation removal review to reduce the boundary of or identify a resource as noncontributing within a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District is processed through a Type II procedure.
 2. All other historic resource designation removal reviews are processed through a Type III procedure. A pre-application conference is not required.
- C. Approval criteria.** Proposals to remove the ~~historic~~ designation from a historic resource or change the level of protection of a historic resource will be approved if the review body finds that ~~all~~ one of the following approval criteria are met:
1. Loss of ~~public benefit~~ historic value. Information shows that the resource does not meet the applicable criteria for historic designation review in Sections 33.846.030.D.1. and D.2; The benefits to the public and the property owner of retaining the historic designation no longer outweigh the benefits of removing the designation; or
 2. Change in level of protection. The goals and polices of the Comprehensive Plan are equally or better met by changing the level of protection of the entire landmark or district from Historic Landmark to Conservation Landmark, from Historic District to Conservation District, or, if the resource is listed in the National Register of Historic Places, by changing the level of protection to National Register Landmark or National Register District; or
 - ~~3.~~ Owner consent.
 - a. For Historic Landmarks or Conservation Landmarks. The property owner at the time of designation must have objected, on the record, to the historic designation and must have retained ownership since the time of designation.
 - b. For ~~individual sites not designated as Historic Landmarks or Conservation Landmarks in Historic Districts or Conservation Districts.~~ The Fifty percent plus one of the property owners at the time of designation must have objected, on the record, to inclusion in the district.

Commentary

33.846.040.C Approval criteria (cont.)

The definition of owner provided by State Administrative Rule ([OAR 660-023-0200](#)) is incorporated into this section.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

c. For the purposes of this criterion, property owner is defined as the following:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
- (3) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Property owner does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests, including leaseholds, of any nature.

Commentary

33.846.050.A Purpose

Changes to this section make clear that contributing resources in Historic and Conservation Districts are eligible for some incentives. Historic preservation incentive review allows for uses that are not otherwise allowed to occur in certain zones to increase the economic viability of preservation and rehabilitation of historic resources. The list of historic preservation incentives—including those that require historic preservation incentive review—can be found in 33.445.400.

33.846.050.C Approval criteria

Changes to C.2 reflect the elimination of no-net-loss housing criteria elsewhere in the code.

C.3 is a new criterion that allows for consideration of the impacts of adaptive reuse in industrial zones. See 33.445.400.C.10, Major Event Entertainment and Retail Sales And Service uses in industrial zones, for more on historic resource incentives that apply in industrial zones.

33.846.050 Historic Preservation Incentive Review

- A. Purpose.** These provisions increase the potential for Historic Landmarks, ~~and~~ Conservation Landmarks, and contributing structures/resources in Historic Districts and Conservation Districts to be reused, rehabilitated, protected, renovated, and preserved.
- B. Review procedure.** Historic preservation incentive reviews for sites in the RX zone are processed through a Type II procedure. Historic preservation incentive reviews for sites in all other zones are processed through a Type III procedure.
- C. Approval criteria.** The use of a historic preservation incentive ~~in~~ for a Historic Landmark, Conservation Landmark, or ~~a contributing resource identified as contributing to the historic significance of~~ a Historic District or a Conservation District will be approved if the review body finds that all of the following approval criteria are met:
1. Establishment of the use will not conflict with adopted provisions of neighborhood plans for the site and surrounding area;
 2. If the site is in an R zone, ~~a. The approval criteria of Section 33.815.105, Institutional and Other Uses in R Zones, are met; and~~
 - ~~b. Proposals on sites larger than one acre will not reduce the amount of new housing opportunity in the City. These criteria may be met by using the methods to mitigate for housing loss in Comprehensive Plan Map amendments in Subparagraph 33.810.050.A.2.c; and~~
 3. If the site is in an industrial zone, the approval criteria of 33.815.129 A through D are met; and
 - ~~34. The regulations of 33.445.610400, Historic Preservation Incentives are met;~~

Commentary

33.846.060.A Purpose

An additional sentence captures proposals to relocate historic resources, which are better addressed by historic resource review than demolition review.

33.846.060.B Review procedure

An additional sentence addresses National Register Landmarks and contributing resources in National Register Districts that have no other designation. Generally, these National Register resources are not subject to historic resource review, however, the provisions of State Administrative Rule ([OAR 660-023-0200](#)) require proposals to relocate certain National Register resources to be reviewed at a public hearing and approved by a decision-maker. The new approval criteria for relocation can be found in 33.846.060.I. Finally, proposals to alter certain National Register Resources to the extent that the alteration meets the demolition definition thresholds in 33.445 are subject to demolition review unless the applicant voluntarily elects to be reviewed through historic resource review. Under either circumstance, the review procedure is Type III.

Redundant neighborhood contact requirements are eliminated.

33.846.060 Historic Resource Review

- A. Purpose.** Historic resource review ensures the conservation and enhancement of the special characteristics of historic resources. Historic resource review also ensures that proposals to relocate historic resources do not result in the loss of historic significance and integrity.
- B. Review procedure.** ~~Certain proposals specified in B.1 are subject to neighborhood contact requirements. For National Register Landmarks that are not located in a Historic or Conservation District, and for contributing resources in National Register Districts that are not a Historic or Conservation Landmark, the review procedure is Type III. Procedures for all other~~ historic resource reviews are shown in Tables 846-1 through 846-4. When determining procedure type for exterior alterations based on project valuation, the dollar amount refers to the value of the exterior changes and any new floor area only. It does not include interior or subgrade alterations.
- ~~1. Neighborhood Contact. The following proposals are subject to the Neighborhood Contact requirement, as specified in Section 33.700.025, Neighborhood Contact, if they are in the~~
- ~~a. Alternative Design Density Overlay Zone; in the Albina Community Plan area shown on Map 825-2; or in the Outer Southeast Community Plan area shown on Map 825-3:~~
 - ~~a. Proposals that create more than three new dwelling units. Dwelling units are created:~~
 - ~~(1) As part of new development;~~
 - ~~(2) By adding net building area to existing development that increases the number of dwelling units;~~
 - ~~(3) By conversion of existing net building area from nonresidential to residential uses; and~~
 - ~~(4) By increasing the number of units within existing net building area already in residential use, for example, by converting a duplex to a triplex;~~
 - ~~b. Proposals that create more than 10,000 square feet of gross building area for uses in the Commercial or Industrial use categories; or~~
 - ~~c. Proposals in the IR zone where the site is not covered by an Impact Mitigation Plan or Conditional Use Master Plan.~~
21. For Historic Landmarks, including those in Historic Districts or Conservation Districts, when proposals are not exempt from review as specified in Subsection 33.445.140.B100.D.2, the review procedure is determined by Table 846-1, below:

Commentary

33.846.060.B Review procedure (cont.)

Revisions are provided to the Historic Landmark review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

A new threshold distinguishes between proposals to relocate a primary structure and proposals to relocate a contributing accessory structure.

In addition, the procedure type for development of certain affordable housing projects affecting a Historic Landmark has been revised. The amendment allows certain affordable housing proposals to be processed through a Type II review, with a required design advice request meeting, in lieu of a Type III procedure. This amendment also allows a narrower subset of affordable housing proposals to be processed through a Type Ix review, with a required design advice request meeting. And, the procedure type for minor changes to an approved historic resource review has been reduced. This change allows for refinements to an approved land use review through a lower procedure level. For consistency between similar sections of the code, these amendments affect the procedure tables in both Chapters 33.846 and 33.825.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

Table 846-1 Procedure Types for proposals affecting Historic Landmarks			
Proposal	Zone	Threshold	Procedure
<u>Relocation</u>	<u>All</u>	<u>Historic Landmark</u>	<u>Type III</u>
		<u>Contributing accessory structure</u>	<u>Type II</u>
<u>New structure</u>	<u>All</u>	<u>Floor area > 5,000 sq. ft.</u>	<u>Type III [1]</u>
		<u>Floor area > 800 sq. ft. and ≤ 5,000 sq. ft.</u>	<u>Type II [1]</u>
		<u>Floor area ≤ 800 sq. ft.</u>	<u>Type Ix</u>
Alterations of a landmark-designated interior public space	All	Project value > \$459,450	Type III
		Project value ≤ \$459,450	Type II
Mechanical equipment	All	Exterior	Type Ix
Awnings	All	<u>New or replacement</u>	Type Ix
Signs	C, E, I, RX, CI <u>All</u>	<u>Sign area < 150 sq. ft.</u>	Type Ix
Alteration to the exterior of a structure	RF-RM4	<u>Affected facade or roof area < 150 sq. ft.</u>	<u>Type I</u>
	C, E, I, RX, CI	<u>Affected facade or roof area ≥ 50 sq. ft. and < 500 sq. ft.</u>	Type Ix
		<u>Affected facade or roof area ≤ 50 sq. ft.</u>	<u>Type I</u>
Historic restoration	RF-RH <u>All</u>		Type I
<u>Alteration to accommodate persons with disabilities, seismic improvements, or solar energy systems.</u>	<u>All</u>		<u>Type I</u>
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area < 800 sq. ft.</u>	<u>Type I</u>
<u>Changes to an approved historic resource review [2]</u>	<u>All</u>	<u>Rooftop mechanical equipment</u>	<u>Type I</u>
		<u>Alteration to ground floor façade</u>	<u>Type I</u>
		<u>All other changes [3]</u>	<u>Type II</u>
Any other non-exempt exterior alteration or historic restoration proposal	All	Project value > \$459,450	Type III <u>[1]</u>
		Project value ≤ \$459,450	Type II <u>[1]</u>

Commentary

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

[1] Affordable housing projects may choose a Type II or Type Ix review procedure. A Type II procedure is allowed if at least 50 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. A Type Ix procedure is allowed if at least 90 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. To qualify for one of these alternate procedure types, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau, and a design advice request is required. See 33.730.050.B. The application for historic resource review may not be submitted before the required design advice request is held.

[2] Changes to an approved historic resource review are reviewed as stated in this table when all of the following are met. Changes to an approved review that do not meet these thresholds are processed through the same procedure as the original review:

1. The original historic resource review has not expired;
2. The building permit for the project has not received final approval;
3. The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
4. The change alters no more than 30 percent of any façade and does not increase the approved floor area.

[3] If the original historic resource review was processed through a Type I or Ix procedure, then review of a change is processed through the same procedure as the original review.

Commentary

33.846.060.B Review procedure (cont.)

Revisions are provided to the Conservation Landmark review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

Refence to Conservation Landmarks in Historic Districts are eliminated because the Historic District table provides the applicable review procedures for those resources.

A new threshold distinguishes between proposals to relocate a primary structure and proposals to relocate a contributing accessory structure.

In addition, the procedure type for development of certain affordable housing projects affecting a Conservation Landmark has been revised. The amendment allows certain affordable housing proposals to be processed through a Type Ix review, with a required design advice request meeting. And, the procedure type for minor changes to an approved historic resource review has been reduced. This change allows for refinements to an approved land use review through a lower procedure level. For consistency between similar sections of the code, these amendments affect the procedure tables in both Chapters 33.846 and 33.825.

*Note: Many proposals affecting Conservation Landmarks that require historic resource review can meet the Community Design Standards as an alternative to discretionary historic resource review.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

32. For Conservation Landmarks, including those in ~~Historic Districts or Conservation Districts~~, when proposals are not exempt from review as specified in Subsection 33.445.230-B110.D.2, the review procedure is determined by Table 846-2, below:

Table 846-2			
Procedure Types for proposals affecting Conservation Landmarks			
Proposal	Zone	Threshold	Procedure
<u>Relocation</u>	<u>All</u>	<u>Conservation Landmark</u>	<u>Type III</u>
		<u>Contributing accessory structure</u>	<u>Type Ix</u>
<u>New structure</u>	<u>All</u>	<u>Floor area > 800 sq. ft.</u>	<u>Type II [1]</u>
		<u>Floor area ≤ 800 sq. ft.</u>	<u>Type Ix</u>
<u>Mechanical equipment</u>	<u>All</u>		<u>Type I</u>
<u>Awnings</u>	<u>All</u>		<u>Type I</u>
Signs	<u>C, E, I, RX, CI</u> <u>All</u>	<u>Sign area < 150 sq. ft.</u>	<u>Type Ix</u>
Alteration to the exterior of a structure	<u>RF-RM4</u>	<u>Affected facade or roof area < 150 sq. ft.</u>	<u>Type I</u>
	<u>C, E, I, RX, CI</u>	<u>Affected facade or roof area > 50 sq. ft. and < 500 sq. ft.</u>	<u>Type Ix</u>
		<u>Affected facade or roof area ≤ 50 sq. ft.</u>	<u>Type I</u>
Historic restoration	RF-RH <u>All</u>		<u>Type I</u>
<u>Alteration to accommodate persons with disabilities, seismic improvements, or solar energy systems.</u>	<u>All</u>		<u>Type I</u>
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area < 800 sq. ft.</u>	<u>Type I</u>
<u>Changes to an approved historic resource review [2]</u>	<u>All</u>	<u>Rooftop mechanical equipment</u>	<u>Type I</u>
		<u>Alteration to ground floor façade</u>	<u>Type I</u>
		<u>All other changes [3]</u>	<u>Type II</u>
<u>Any other non-exempt exterior alteration or historic restoration proposal</u>	<u>All</u>		<u>Type II [1]</u>

Commentary

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

[1] Affordable housing projects may choose a Type Ix review procedure if at least 90 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. To qualify for this alternate procedure type, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau, and a design advice request is required. See 33.730.050.B. The application for historic resource review may not be submitted before the required design advice request is held.

[2] Changes to an approved historic resource review are reviewed as stated in this table when all of the following are met. Changes to an approved review that do not meet these thresholds are processed through the same procedure as the original review:

1. The original historic resource review has not expired;
2. The building permit for the project has not received final approval;
3. The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
4. The change alters no more than 30 percent of any façade and does not increase the approved floor area.

[3] If the original historic resource review was processed through a Type I or Ix procedure, then review of a change is processed through the same procedure as the original review.

Commentary

33.846.060.B Review procedure (cont.)

Revisions are provided to the Historic District review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

Reference to Conservation Landmarks is eliminated as Table 846-3 applies to Conservation Landmarks in Historic Districts.

In addition, the procedure type for development of certain affordable housing projects affecting a Historic District has been revised. The amendment allows certain affordable housing proposals to be processed through a Type II review, with a required design advice request meeting, in lieu of a Type III procedure. This amendment also allows a narrower subset of affordable housing proposals to be processed through a Type Ix review, with a required design advice request meeting. And, the procedure type for minor changes to an approved historic resource review has been reduced. This change allows for refinements to an approved land use review through a lower procedure level. For consistency between similar sections of the code, these amendments affect the procedure tables in both Chapters 33.846 and 33.825.

A new threshold distinguishes between proposals to relocate a contributing primary structure and proposals to relocate a contributing accessory structure.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

43. For Historic Districts, excluding Historic ~~or Conservation~~-Landmarks, when proposals are not exempt from review as specified in Subsection 33.445.320.~~B~~200.D.2, the review procedure is determined by Table 846-3, below:

Table 846-3			
Review procedures for proposals within Historic Districts			
Proposal	Zone	Threshold	Review Type
<u>Relocation</u>	<u>All</u>	<u>Contributing resource</u>	<u>Type III</u>
		<u>Contributing accessory structure</u>	<u>Type II</u>
New structure New accessory structure	All RF-RH	Project value > \$459,450 <u>Floor area > 5,000 sq. ft.</u>	Type III <u>[1]</u>
		Project value ≤ \$459,450 <u>Floor area > 800 sq. ft. and ≤ 5,000 sq. ft.</u>	Type II <u>[1]</u>
		<u>Floor area ≤ 800 sq. ft.</u>	Type I x
<u>Window replacement</u>	<u>RF-R2.5</u>		<u>Type I</u>
<u>Mechanical equipment</u>	<u>All</u>		<u>Type I</u>
<u>Awnings</u>	<u>All</u>		<u>Type I</u>
Signs	<u>C, E, I, RX, CI</u> <u>All</u>	Sign area < <u>150 sq. ft.</u>	Type I x
Alteration to the exterior of a structure Alteration to the exterior of a structure	C, E, I, RX, CI	Affected facade <u>or roof area ≥ 50 sq. ft. and < 500 sq. ft.</u>	Type I x
		<u>Affected facade or roof area ≤ 50 sq. ft.</u>	<u>Type I</u>
	RF-RH <u>M4</u>	Affected facade <u>or roof area < 150 sq. ft.</u>	Type I
Historic restoration	<u>RF-RH</u> <u>All</u>		Type I
<u>Alteration to accommodate persons with disabilities, seismic improvements, or solar energy systems.</u>	<u>All</u>		<u>Type I</u>
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area < 800 sq. ft.</u>	<u>Type I</u>
<u>Changes to an approved historic resource review [2]</u>	<u>All</u>	<u>Rooftop mechanical equipment</u>	<u>Type I</u>
		<u>Alteration to ground floor façade</u>	<u>Type I</u>
		<u>All other changes [3]</u>	<u>Type II</u>
Any other non-exempt exterior alteration or historic restoration proposal	All	Project value > \$459,450	Type III <u>[1]</u>
		Project value ≤ \$459,450	Type II <u>[1]</u>

Commentary

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

[1] Affordable housing projects may choose a Type II or Type Ix review procedure. A Type II procedure is allowed if at least 50 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. A Type Ix procedure is allowed if at least 90 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. To qualify for one of these alternate procedure types, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau, and a design advice request is required. See 33.730.050.B. The application for historic resource review may not be submitted before the required design advice request is held.

[2] Changes to an approved historic resource review are reviewed as stated in this table when all of the following are met. Changes to an approved review that do not meet these thresholds are processed through the same procedure as the original review:

1. The original historic resource review has not expired;
2. The building permit for the project has not received final approval;
3. The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
4. The change alters no more than 30 percent of any façade and does not increase the approved floor area.

[3] If the original historic resource review was processed through a Type I or Ix procedure, then review of a change is processed through the same procedure as the original review.

Commentary

33.846.060.B Review procedure (cont.)

Revisions are provided to the Conservation District review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

A new proposed threshold distinguishes between proposals to relocate a contributing primary structure and proposals to relocate a contributing accessory structure.

In addition, the procedure type for development of certain affordable housing projects affecting a Conservation District has been revised. The amendment allows certain affordable housing proposals to be processed through a Type Ix review, with a required design advice request meeting. And, the procedure type for minor changes to an approved historic resource review has been reduced. This change allows for refinements to an approved land use review through a lower procedure level. For consistency between similar sections of the code, these amendments affect the procedure tables in both Chapters 33.846 and 33.825.

*Note: Many proposals affecting Conservation Districts that require historic resource review can meet the Community Design Standards as an alternative to discretionary historic resource review.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

5. For Conservation Districts, excluding Historic Landmarks or Conservation Landmarks, when proposals are not exempt from review as specified in Subsection 33.445.420.~~B~~210.D.2, the review procedure is determined by Table 846-4, below:

Table 846-4			
Review procedures for proposals within Conservation Districts			
Proposal	Zone	Threshold	Review Type
<u>Relocation</u>	<u>All</u>	<u>Contributing resource</u>	<u>Type III</u>
		<u>Contributing accessory structure</u>	<u>Type Ix</u>
New structure	All	<u>Floor area > 800 sq. ft.</u>	Type II <u>[1]</u>
		<u>Floor area ≤ 800 sq. ft.</u>	Type Ix
New accessory structure	RF-RH		Type I
<u>Window replacement</u>	<u>RF-R2.5</u>		Type I
<u>Mechanical equipment</u>	<u>All</u>		Type I
<u>Awnings</u>	<u>All</u>		Type I
Signs	<u>C, E, I, RX, CI</u> <u>All</u>	<u>Sign area < 150 sq. ft.</u>	Type Ix
Alteration to the exterior of a structure Alteration to the exterior of a structure	C, E, I, RX, CI	<u>Affected facade or roof area >50 sq. ft. and < 500 sq. ft.</u>	Type Ix
		<u>Affected facade or roof area ≤ 50 sq. ft.</u>	Type I
	RF-RH <u>M4</u>	<u>Affected facade or roof area < 150 sq. ft.</u>	Type I
Historic restoration	RF-RH <u>All</u>		Type I
<u>Alteration to accommodate persons with disabilities, seismic improvements, or solar energy systems.</u>	<u>All</u>		Type I
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area < 800 sq. ft.</u>	Type I
<u>Changes to an approved historic resource review [2]</u>	All	<u>Rooftop mechanical equipment</u>	Type I
		<u>Alteration to ground floor façade</u>	Type I
		<u>All other changes [3]</u>	Type II
Any other non-exempt exterior alteration or historic restoration proposal	All		Type II <u>[1]</u>

[1] Affordable housing projects may choose a Type Ix review procedure if at least 90 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. To qualify for this alternate procedure type, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau, and a design advice request is required. See 33.730.050.B. The application for historic resource review may not be submitted before the required design advice request is held.

[2] Changes to an approved historic resource review are reviewed as stated in this table when all of the following are met. Changes to an approved review that do not meet these thresholds are processed through the same procedure as the original review:

1. The original historic resource review has not expired;
2. The building permit for the project has not received final approval;
3. The change will not modify any condition of approval. Changes to an approved exhibit are allowed; and
4. The change alters no more than 30 percent of any façade and does not increase the approved floor area.

[3] If the original historic resource review was processed through a Type I or Ix procedure, then review of a change is processed through the same procedure as the original review.

Commentary

No changes

C. Phased proposals.

1. For phased proposals. Applicants may submit design plans for a phase proposal, provided the application includes adequate information to allow review of all phases of the proposal, including anticipated timelines.
2. Benefits of a phased design plan. Development in conformance with an approved phased design plan does not have to go through a separate historic resource review for each phase.
3. Procedure. A phased design plan application is reviewed using the same procedure and with the same guidelines as a historic resource review for a specific development.

D. Models of proposals in the Central City plan district. For proposals located in the area of the Central City plan district shown on Map 510-1, a three dimensional digital model of a proposal located in a Historic District or Conservation District is required with an application for historic resource review. This requirement applies only to new developments or changes in the bulk of existing buildings. Before a building permit is issued, a three dimensional digital model of the proposal as approved must be submitted to the Bureau of Planning and Sustainability. The model requirements will be waived if the application does not involve a change in the bulk of buildings on a site for which the City possesses an accurate digital model.

Commentary

33.846.060.E Approval criteria for outside the Central City plan district

The amendments throughout sections E and F provide clarity regarding the applicability of historic resource review approval criteria. In general, proposals affecting Historic Landmarks are required to, at minimum, meet the criteria in Subsection G. In general, proposals affecting Conservation Landmarks are required to, at minimum, meet new criteria provided in Subsection H. And, in general, proposals to relocate landmarks and contributing resources are required to, at minimum, meet the approval criteria of Subsection I, a new subsection that responds to requirements provided by State Administrative Rule ([OAR 660-023-0200](#)) for proposals to relocate certain historic resources.

Changes to the paragraphs within subsection E are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

E. Approval criteria for outside the Central City plan district. Outside the Central City plan district, requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met. Conflicts among guidelines and criteria are resolved as specified in Paragraph E.45, ~~below~~. The approval criteria for historic resource review outside the Central City plan district are as follows:

1. Historic Districts. When historic resource review is required for any resource in a Historic District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
 - a. Historic Districts with district-specific guidelines. Historic Districts may have guidelines that are specific to the district, such as the King’s Hill Historic District Guidelines. When historic resource review is required in such districts, the approval criteria are:
 - (1) ~~€~~The guidelines specific to the district; are the approval criteria.
 - (2) If the resource is a Historic Landmark, the criteria in Subsection G;
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
 - b. Historic Districts without district-specific guidelines. Where there are no guidelines that are specific to the Historic District, the ~~criteria in Section 33.846.060.G are the approval criteria;~~ or approval criteria are:
 - (1) The criteria in Subsection G;
 - (2) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (3) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;
 - c. Alphabet Historic District. In the Alphabet Historic District, the approval criteria are:
 - (1) ~~€~~The Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum;
 - (2) If the resource is a Historic Landmark, the criteria in Subsection G;
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.

Commentary

33.846.060.E Approval criteria for outside the Central City plan district (cont.)

Changes to the paragraphs within subsection E are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

2. Conservation Districts. When historic resource review is required for any resource in a Conservation District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
 - a. Conservation Districts with district-specific guidelines. Conservation Districts may have guidelines that are specific to the district. When historic resource review is required in such districts, the approval criteria are:
 - (1) ~~€~~The guidelines specific to the district; are the approval criteria
 - (2) If the resource is a Historic Landmark, the criteria in Subsection G;
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I; or
 - b. Conservation Districts without district-specific guidelines. Where there are no guidelines that are specific to the Conservation District, the approval criteria are:
 - (1) ~~€~~The Community Design Guidelines; are the approval criteria
 - (2) If the resource is a Historic Landmark, the criteria in Subsection G;
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I. ~~must also be met;~~

Commentary

33.846.060.E Approval criteria for outside the Central City plan district (cont.)

Changes to the paragraphs within subsection E are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

The addition of Paragraph E.4 applies to National Register resources that are proposed for relocation or alteration to the extent that the alteration meets the definition of demolition in Chapter 33.445 and the applicant elects historic resource review as an alternative to demolition review. The approval criteria for such situations are the new criteria of Subsection H and the new criteria of Subsection I.

Changes to Paragraph E.5 clarify the resolution of conflicts in a variety of situations.

An additional change addresses the hierarchy of approval criteria in the Alphabet Historic District. The Alphabet Historic District is subject to the *Community Design Guidelines* and the *Historic Alphabet District Addendum to the Community Design Guidelines*. Occasionally conflicts arise between the *Guidelines* and *Addendum*. This change clarifies that when conflicts arise, the guidelines in the *Addendum* supersede the guidelines in the *Community Design Guidelines*.

3. Historic Landmarks and Conservation Landmarks located outside of Historic Districts or Conservation Districts. When historic resource review is required for ~~of a~~ Historic Landmark or Conservation Landmark located outside of a Historic District or Conservation District ~~is required~~, the approval criteria are: ~~in 33.846.060.G are the approval criteria.~~
 - a. If the resource is a Historic Landmark, the criteria in Subsection G;
 - b. If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - c. If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
4. National Register Landmarks located outside of Historic Districts and Conservation Districts and contributing resources in National Register Districts. When historic resource review is required for a National Register Landmark located outside of a Historic District or Conservation District or a contributing resource in a National Register District, the approval criteria are:
 - a. The criteria in Subsection H; and
 - b. If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
5. Conflicts among guidelines and criteria.
 - a. When guidelines and the criteria in Subsection G apply, if ~~When a criterion in Section 33.846.060.Subsection G~~ conflicts with any guideline, the criterion in ~~Section 33.846.060.Subsection G~~ supersedes the guideline.
 - b. When guidelines and the criteria in Subsection H apply, if a criterion in Subsection H conflicts with any guideline, the guideline supersedes the criterion in Subsection H.
 - c. When a guideline that is specific to a Historic District or Conservation District conflicts with one of the Community Design Guidelines or with a subdistrict design guideline, the guideline specific to the historic district supersedes the Community Design Guideline or subdistrict design guideline.
 - d. When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Community Design Guidelines, the Alphabet District Addendum supersedes the Community Design Guidelines.
 - e. When a criterion in Subsection I conflicts with any guideline or criterion, the criterion in Subsection I supersedes the guideline or criterion.

Commentary

33.846.060.F Approval criteria for inside the Central City plan district

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

- F. Approval criteria for inside the Central City plan district.** In the Central City plan district, requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met. Conflicts among guidelines and criteria are resolved as specified in Paragraph F.56, below. The approval criteria for historic resource review in the Central City plan district are as follows:
1. Historic Districts. When historic resource review is required for any resource in a Historic District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
 - a. Historic Districts with district-specific guidelines. Historic Districts may have guidelines that are specific to the district, such as the NW 13th Avenue Historic District Design Guidelines. When historic resource review is required in such districts, the approval criteria are:
 - (1) The Central City Fundamental Design Guidelines and the guidelines specific to the Historic District;
 - (2) If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060-Subsection G; must also be met
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;

Commentary

33.846.060.F Approval criteria for inside the Central City plan district (cont.)

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

- b. Historic Districts without district-specific guidelines.
- (1) Where there are no guidelines that are specific to the Historic District and the site is also in a subdistrict of the Central City plan district that has subdistrict design guidelines, the approval criteria are:
- ~~¶~~The Central City Fundamental Design Guidelines and the subdistrict design guidelines;
 - If the resource is a Historic Landmark ~~or Conservation Landmark~~, the criteria in ~~Section 33.846.060, Subsection G;~~must also be met
 - If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;
- (2) Where there are no guidelines that are specific to the Historic District and the site is in a subdistrict of the Central City plan district that does not have subdistrict design guidelines, the approval criteria are:
- ~~¶~~The Central City Fundamental Design Guidelines and the criteria in ~~Section 33.846.060, Subsection G;~~ and
 - If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;

Commentary

33.846.060.F Approval criteria for inside the Central City plan district (cont.)

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

- c. Alphabet Historic District. In the portion of the Alphabet Historic District within the Central City plan district, when historic resource review is required for any resource, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
 - (1) ~~The Central City Fundamental Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum;~~
 - (2) If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.Subsection G; must also be met
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I; or
 - d. Irvington Historic District. In the portion of the Irvington Historic District within the Central City plan district, when historic resource review is required for any resource, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
 - (1) ~~The Central City Fundamental Design Guidelines;~~
 - (2) ~~The design guidelines for the Lloyd District subdistrict of the Central City plan district; and~~
 - (3) ~~The criteria in Subsection 33.846.060-G; and~~
 - (4) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
2. Russell Street Conservation District. When historic resource review is required for any resource in the Russell Street Conservation District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
- a. ~~The Community Design Guidelines;~~
 - b. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.Subsection G; must also be met
 - c. If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - d. If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.

Commentary

33.846.060.F Approval criteria for inside the Central City plan district (cont.)

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

3. Historic Landmarks and Conservation Landmarks located outside of Historic Districts and Conservation Districts. When historic resource review of a Historic Landmark or Conservation Landmark located outside of Historic Districts and Conservation Districts is required, the approval criteria are:
- a. Subdistricts with design guidelines. If the resource is in a subdistrict of the Central City plan district that has subdistrict design guidelines, the approval criteria are:
 - (1) ~~The Central City Fundamental Design Guidelines;~~
 - (2) ~~The subdistrict design guidelines; and~~
 - (3) If the resource is a Historic Landmark, the criteria in ~~33.846.060-Subsection G;~~
 - (4) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (5) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
 - b. Subdistricts without design guidelines. If the resource is in a subdistrict of the Central City plan district that does not have subdistrict design guidelines, the approval criteria are:
 - (1) ~~The Central City Fundamental Design Guidelines;~~
 - (2) ~~and~~If the resource is a Historic Landmark, the criteria in ~~Section 33.846.060-Subsection G;~~
 - (3) If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - (5) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;

Commentary

33.846.060.F Approval criteria for inside the Central City plan district (cont.)

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

4. National Register Landmarks located outside of Historic Districts and Conservation Districts and contributing resources in National Register Districts. When historic resource review is required for a National Register Landmark located outside of a Historic District or Conservation District or a contributing resource in a National Register District, the approval criteria are:
- a. Subdistricts with design guidelines. If the resource is in a subdistrict of the Central City plan district that has subdistrict design guidelines, the approval criteria are:
 - (1) The Central City Fundamental Design Guidelines;
 - (2) The subdistrict design guidelines; and
 - (3) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I.
 - b. Subdistricts without design guidelines. If the resource is in a subdistrict of the Central City plan district that does not have subdistrict design guidelines, the approval criteria are:
 - (1) The Central City Fundamental Design Guidelines; and
 - (2) If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection; and

Commentary

33.846.060.F Approval criteria for inside the Central City plan district (cont.)

Changes to the paragraphs within subsection F are intended to provide clarity regarding the applicability of relevant approval criteria based upon the resource's type, the applicability of the relocation approval criteria provided by Subsection I, and the presence of adopted design guidelines.

45. Specified sites along N. Broadway. When historic resource review is required for a historic resource on a site in the CXd zone, and the site fronts on and is within 300 feet of N. Broadway between N. Interstate and N. Wheeler streets, the approval criteria are:
- a. ~~¶~~The Central City Fundamental Design Guidelines and the Special Design Guidelines for the Design Zone of the Lloyd District of the Central City Plan District;
 - b. ~~If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.Subsection G;~~must also be met
 - c. If the resource is a Conservation Landmark, the criteria in Subsection H; and
 - d. If the proposal includes relocating a landmark or contributing resource, the criteria of Subsection I;
56. Conflicts among guidelines and criteria. Conflicts among guidelines and criteria are resolved as specified in this paragraph.
- a. ~~When guidelines and the criteria in Subsection G apply, when~~if a criterion in Section 33.846.060.Subsection G conflicts with any other guideline, the criterion in Section 33.846.060.Subsection G supersedes the other guideline.
 - b. ~~When guidelines and the criteria in Subsection H apply, if a criterion in Subsection H conflicts with any other guideline, the guideline supersedes the criterion in Subsection H.~~
 - b~~c~~. ~~When a guideline that is specific to a hHistoric dDistrict, such as one of the NW 13th Avenue Historic District Design Guidelines, conflicts with one of the Central City Fundamental Guidelines or with a subdistrict design guideline, such as one of the River District Design Guidelines, the guideline specific to the hHistoric dDistrict supersedes the Central City Fundamental Guideline and the subdistrict guideline.~~
 - e~~d~~. ~~When a subdistrict design guideline, such as one of the Goose Hollow District Design Guidelines, conflicts with one of the Central City Fundamental Design Guidelines, the subdistrict guideline supersedes the Central City Fundamental Guideline.~~
 - e~~e~~. ~~When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Central City Fundamental Design Guidelines, the Alphabet District Guideline supersedes the Central City Fundamental Guideline.~~When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Community Design Guidelines, the Alphabet District Addendum supersedes the Community Design Guideline.
 - e~~f~~. ~~When a Lloyd District Design Guideline conflicts with a Central City Fundamental Design Guideline, the Lloyd District Guideline supersedes the Central City Fundamental Guideline.~~
 - g. When a criterion in Subsection I conflicts with any guideline or criterion, the criterion in Subsection I supersedes the guideline or criterion.

Commentary

33.846.060.G Other historic approval criteria

To further differentiate the protections applying to Historic-level and Conservation-level resources, an additional set of approval criteria are established for Conservation-level resources that are not subject to district-specific guidelines. The new criteria in subsection H are informed by the criteria in Subsection G, but allow for more extensive changes than is appropriate for historic-level resources.

Changes to 33.846.060.G retain and clarify existing historic resource review approval criteria. These criteria are informed by the [Secretary of the Interior's Standards for the Treatment of Historic Properties](#), a National Park Service best practice guide that is often invoked as a requirement for rehabilitation projects taking advantage of grants and/or tax incentives. The changes to Subsection G intend to maintain general alignment with the Secretary of the Interior's Standards, while also providing additional specificity and flexibility in the approval criteria. Projects taking advantage of grants or tax incentives, and projects subject to State or Federal rules, may need to meet more stringent interpretation of the Secretary of the Interior's Standards for State or Federal approval.

A change to criterion G.1 replaces the word "property" with "landmark or contributing resource" for specificity.

Changes to criteria G.2-G.4 provide additional specificity.

Amendments to criterion G.7 continue to allow the design of additions, alterations, and new construction to be differentiated from the old, but no longer require differentiation in all circumstances. The word "will" is replaced with "may" to allow applicants the option to propose projects that more closely replicate historic designs and styles where appropriate, such as a new dormer or a minor exterior addition to accommodate a bathroom remodel. The change does not limit applicants from proposing projects that differentiate new from old provided that the differentiated approach does not harm aspects of the resource's physical integrity. This change is consistent with interpretation of the existing criterion, but provides specificity to allow applicants a wider range of options when proposing changes to a historic resource subject to this criterion.

G. Other historic approval criteria. ~~Requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria have been met. When required by Paragraphs E. or F., the following approval criteria must be met:~~

1. Historic character. The historic character of the landmark or contributing resource~~property~~ will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the ~~property's~~ historic significance of the landmark or contributing resource will be avoided;
2. Record of its time. The ~~historic resource~~landmark or contributing resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided;
3. Historic changes. Most ~~resources~~properties change over time. Those changes that have acquired historic significance will be preserved;
4. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the ~~old~~historic feature in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
5. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used;
6. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken;
7. Differentiate new from old. New additions, exterior alterations, or ~~related~~ new construction will not destroy historic materials that characterize a landmark or contributing resource~~property~~. New work ~~will~~may be differentiated from the old if the differentiation does not diminish the character, features, materials, form, or integrity of the landmark or contributing resource and, if in a historic district, the district as a whole;

Commentary

33.846.060.G other approval criteria (cont.)

Changes to criterion G.8 provide consistency with other criteria and address seismic improvements which, like accessibility upgrades, require creative solutions to implement in a manner that protects the integrity of historic resources. Seismic and accessibility improvements are encouraged, with the most sensitive and/or compatible design solutions generally being most appropriate for approval under this criterion.

Changes to criterion G.9 provide clarity and consistency with other criteria.

Changes to criterion G.10 provide consistency with other criteria. Additionally, Criterion G.10 provides specificity regarding the hierarchy of compatibility for situations where these criteria apply in a Historic District. By replacing "adjacent properties" with "contributing resources located within 200 feet," the change to the criterion allows applicants greater opportunities to demonstrate consistency with sub-district patterns found in a Historic District. The change also recognizes that "adjacent properties" may or may not be consistent with the patterns and significance of the district and, therefore, serve as inadequate benchmarks for compatibility. The 200 foot distance is intended to capture contributing resources that are within a standard block's distance of a site. The 200 feet is measured from outside edge of the development proposal.

8. Architectural compatibility. New additions, exterior alterations, or ~~related~~ new construction will be compatible with the ~~resource's~~ resource's massing, size, scale, and architectural features of the landmark or contributing resource and, if in a district, the district as a whole. When retrofitting ~~buildings or sites~~ buildings or sites to improve accessibility for persons with disabilities or accommodate seismic improvements, design solutions will not compromise the architectural integrity of the ~~historic resource~~ landmark or contributing resource;
9. Preserve the form and integrity of historic resources. ~~New additions and adjacent or related new construction~~ New additions, exterior alterations, or new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the ~~historic resource and its environment~~ landmark or contributing resource and, if in a district, the district as a whole would be unimpaired; and
10. Hierarchy of compatibility. ~~Exterior alterations and additions~~ New additions, exterior alterations, or new construction will be designed to be compatible primarily with the landmark or contributing resource ~~original resource, secondarily with adjacent properties, and finally, if located within a Historic or Conservation District, secondarily with contributing resources located within 200 feet and, finally, with the rest of the district.~~ Where practical, compatibility in districts will be pursued on all three levels.

Commentary

33.846.060.H Other conservation approval criteria

Subsection H is a new addition that replaces the applicability of Subsection G for Conservation-level resources previously subject to Subsection G. Because Conservation-level resources generally have less historic significance, diminished physical integrity, and/or are less appropriate for the highest level of protections than Historic-level resources, these new criteria provide expanded flexibility for changes to Conservation-level resources. Because the 33.846.060.G approval criteria for Historic Landmarks and Historic Districts is informed by historic preservation best practice and have been successful in protecting the integrity of Historic Landmarks and Districts at the highest level, the more flexible approval criteria provided in subsection H only apply to proposed alterations, additions, and new construction affecting Conservation-level resources that are not subject to other criteria (i.e. Portland's six Conservation Districts would not be subject to these criteria because they would remain subject to the existing applicable design guidelines). Although there exist only 12 Conservation Landmarks that would be subject to these criteria as of June 2021, the restructured hierarchy of historic resource types and protections is intended to make Conservation-level designation an alternative to Historic-level designation. Although these criteria are not intended to protect all aspects of integrity in the same way as Subsection G, they provide owners with flexibility to advance creative and responsive alterations while protecting historic features and materials.

Criterion H.1 is informed by criterion G.4.

Criterion H.2 is informed by criterion G.5.

Criterion H.3 is informed by existing criterion G.6, but with more flexibility for the extent of the differentiation allowed.

Criterion H.4 anticipates changes that are responsive to the massing, materials, and/or features of the existing building, but which may add significant volume to the existing building. Coherency means that there is a relationship between new and old, but, unlike compatibility, does not require the size or scale of the new to be deferential to the old.

Criterion H.5 is informed by criterion G.6

Criterion H.6 recognizes that many future Conservation-level resources may be significant for cultural, social, or ethnic history and, therefore, may be less significant for architecture alone. This criterion provides additional flexibility for applicants to propose changes to culturally significant resources when the features being changed are not directly associated with the significance of the resource. This criterion allows for alterations and additions that accommodate a degree of change not otherwise approvable through historic resource review.

H. Other conservation approval criteria. When required by Paragraphs E. or F., the following approval criteria must be met:

1. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the historic feature in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
2. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used;
3. Differentiate new from old. New additions, exterior alterations, or new construction will not destroy historic materials that characterize a landmark or contributing resource. New work may be differentiated from the old if the differentiation does not diminish the features or materials of the landmark or contributing resource and, if in a district, the district as a whole;
4. Architectural coherency. New additions, exterior alterations, or new construction will relate to the massing, materials, and architectural features of the landmark or contributing resource and, if in a district, the district as a whole even if the new work is differentiated or of a larger scale than the old;
5. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken; and
6. Cultural character. For landmarks or contributing resources in districts primarily significant for an area of history other than architecture or design, new additions, exterior alterations, or new construction will maintain the cultural significance of the resource. New additions, exterior alterations, or new construction may alter, replace, or remove historic features and materials if such features or materials are not integral to the resource's cultural significance.

Commentary

33.846.060.I Other relocation approval criteria

Subsection I is a new addition that provides approval criteria for proposals to relocate certain historic resources. The addition of Subsection I implements State Administrative Rule ([OAR 660-023-0200](#)) requirement that local governments review applications to move resources listed on the National Register of Historic Places. The criteria incorporates the factors identified as required in State Administrative Rule ([OAR 660-023-0200](#)), while providing criteria that allow for a variety of options to approve an application to relocate historic resources subject to these criteria.

I. Other relocation approval criteria. When required by Paragraphs E. or F., one of the following approval criteria must be met:

1. Maintaining the resource in its current location would effectively deprive the owner of all reasonable economic use of the site. The evaluation must consider the historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
2. Relocation of the resource has been evaluated against the goals and policies of the Comprehensive Plan and any relevant area plans and, on balance, relocation has been found to be more supportive of the goals and policies than preservation, rehabilitation, or reuse of the resource on its current site.
 - a. The evaluation must consider the historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
 - b. The evaluation must consider the merits of relocation, the merits of preserving the resource on site, and the economic consequences of relocation.
 - c. The evaluation may consider the following additional factors:
 - (1) The merits of the proposed development on the site after relocation;
 - (2) For contributing resources in a district with district-specific design guidelines, the design guidelines for the district; and
 - (3) Any proposed mitigation for relocation.
3. Relocation of the resource and related alterations will not substantially harm the historic significance and physical integrity of the resource.
 - a. The evaluation must consider the historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
 - b. The evaluation must consider the merits of relocation, the merits of preserving the resource on site, and the economic consequences of relocation.
 - c. The evaluation may consider the following additional factors:
 - (1) The merits of the proposed development on the site after relocation;
 - (2) For contributing resources in a district with district-specific design guidelines, the design guidelines for the district; and
 - (3) Any proposed mitigation for relocation.

Commentary

33.846.070 Modifications Considered During Historic Resource Review

No change.

33.846.070 Modifications Considered During Historic Resource Review

The approval criteria for modifications considered during historic resource review are:

- A. Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
- B. Purpose of the standard.**
 - 1. The resulting development will meet the purpose of the standard being modified; or
 - 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

Commentary

33.846.080.A Purpose

Changes to this section accommodate the expansion of demolition review to City-designated landmarks and contributing resources in City-designated districts, as well as provide for expanded approval criteria that allow, among other outcomes, mitigation of the loss of certain historic resources. The amendments remove reference to preservation agreements, which are removed from the zoning code as a result of these amendments.

The procedure types and approval criteria in this section align with and further reinforce the hierarchy of historic resource types and protections embedded throughout these code amendments.

33.846.080.B Review procedure

This section retains the existing Type IV procedure and adds new Type II and Type III procedures for certain proposals.

The Type IV procedure is retained for the most protected of Portland's historic resources, Historic Landmarks and contributing resources in Historic Districts that are not accessory structures (see new Type II procedure for accessory structures).

The new Type III procedure applies to Conservation Landmarks, National Register Landmarks, contributing resources in Conservation Districts, and contributing resources in National Register Districts. Conservation Landmarks and contributing resources in Conservation Districts are currently subject to demolition delay; National Register Landmarks and contributing resources in National Register Districts are currently subject to Type IV demolition review. The new Type III procedure meets the minimum State Administrative Rule ([OAR 660-023-0200](#)) requirement (a public hearing) for National Register resources, while also responding to the lower level of protections applied to Conservation-level and National Register-level resources as compared to Historic-level resources throughout these amendments. By applying the Type III review to both Conservation-level and National Register-level resources, this approach recognizes that some National Register resources may be City-designated in the future (such as the Peacock Lane National Register District becoming a Conservation District) and some City-designated resources may have their City designation removed in the future (such as Washington Park Reservoirs Historic District becoming a National Register District).

The new Type II procedure applies to accessory structures that are subject to demolition review.

Supplemental application requirements previously contained in 33.445 have been removed as they are no longer applicable to the approval criteria.

33.846.080 Demolition Review

- A. Purpose.** Demolition review protects landmarks and contributing resources in districts ~~resources that have been individually listed in the National Register of Historic Places or identified as contributing to the historic significance of a Historic District.~~ It also protects ~~Historic Landmarks and Conservation Landmarks that have taken advantage of an incentive for historic preservation and historic resources that have a preservation agreement.~~ Demolition review recognizes that historic resources are irreplaceable assets that preserve our significant to the region's architectural, cultural, and historical identity heritage, beautify the city, enhance civic identity, and their preservation promotes economic and community vitality, resilience, and memory. In the event that demolition of a historic resource is approved, demolition review also addresses the potential for mitigation of the loss.
- B. Review procedure.** Demolition reviews are processed as follows: ~~through a Type IV procedure.~~
1. Proposals to demolish an accessory structure are processed through a Type II procedure;
 2. Proposals to demolish a Conservation Landmark, National Register Landmark, contributing resource in a Conservation District, or contributing resource in a National Register District are processed through a Type III procedure;
 3. All other proposals to demolish a historic resource are processed through a Type IV procedure.

Commentary

33.846.080.D Approval criteria

Changes to the approval criteria for demolition review accommodate State Administrative Rule and the hierarchy of protections included throughout these amendments. Most Historic Landmarks and contributing resources in Historic Districts were previously subject to demolition review. For Conservation-level resources, National Register-level resources listed since January 2017 (and those that may have their City designation removed or level of protection changed in the future), and accessory structures, the new approval criteria provide additional options beyond what existed previously for gaining approval to demolish. The criteria generally provide the most options to those resources with the fewest protections, and the fewest options to those resources with the most protections. The factors required by State Administrative Rule ([OAR 660-023-0200](#)) are incorporated in the criteria as factors that must be considered by the decision-maker.

Existing criterion C.1 is removed.

Changes to criterion C.1 (renumbered) provide clarity and consistency with other chapters of the zoning code. The list of factors is amended to incorporate the factors required by OAR to be considered by the decision-maker, as well as additional factors relevant to decision-makers. Problematic language about “desired character” is removed.

Criterion C.2 is a new approval criterion. Because of their singular historic significance (in the case of landmarks) and relative value to the community (in the case of Historic Districts), Historic Landmarks, Conservation Landmarks, National Register Landmarks, and contributing resources in Historic Districts are not eligible to apply under this criterion (individual landmarks and contributing resources in Historic Districts that happen to also be listed in the National Register cannot apply under this criterion). The criterion allows demolition of contributing resources in Conservation Districts and National Register Districts if a mitigation measure is proposed that will, proportional to the significance and integrity value of the resource proposed for demolition, support the significance and integrity of the district. The required mitigation measure could be equal to, but cannot be required to exceed, rough proportionality to the loss of the historic resource. The evaluation will consider the significance and integrity of the resource proposed for demolition to determine the level of mitigation appropriate for the loss. Mitigation measures can be proposed on or off site and may include archaeological, architectural, cultural, or historic mitigation ranging from the design or programming of the proposed replacement project to rehabilitation or cultural investment elsewhere in the district. If the resource proposed for demolition has little significance or integrity, the required mitigation measure may be minimal, such as architectural salvage or documentation of the resource prior to demolition. If the resource proposed for demolition has high significance or integrity, the required mitigation may be more meaningful, such as a replacement project that reuses salvaged architectural elements and/or is required to meet historic resource review approval criteria. Proposed mitigation need not be architectural and could include such outcomes as cultural, economic, or housing opportunities related to the district's history, including providing benefits for individuals or populations historically excluded from or marginalized within the district.

C. Approval criteria. Proposals to demolish a historic resource will be approved if the review body finds that one of the following approval criteria is met:

- ~~1. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site;~~
21. Demolition of the resource has been evaluated against and, on balance, demolition has been found to be equally or more supportive of ~~the~~relevant goals and policies of the Comprehensive Plan, and any relevant area plans, than preservation, rehabilitation, or reuse of the resource. The evaluation ~~may~~must consider ~~factors such as:~~
 - ~~a.~~ The resource's age, condition, historic integrity, historic significance, design or construction rarity, value to the community, and association with historically marginalized individuals or communities;
 - b. The economic consequences for the owner and the community;
 - ~~a~~c. The merits of demolition;
 - ~~b~~d. The merits of development that could replace the demolished resource, either as specifically proposed for the site or as allowed under the existing zoning;
 - ~~e.~~ The effect demolition of the resources would have on the area's desired character;
 - ~~d.~~ The effect that redevelopment on the site would have on the area's desired character;
 - e. The merits of preserving the resource, taking into consideration the purposes described in Subsection A; and
 - f. Any proposed mitigation for the demolition.
2. The proposal is to demolish a contributing resource in a Conservation District or National Register District, and demolition of the resource will be mitigated to enhance, preserve, or restore the archaeological, architectural, cultural, or historic significance or integrity of the district. The mitigation must be responsive to the significance and integrity of the resource proposed for demolition. The evaluation must consider:
 - a. The resource's age, condition, historic integrity, historic significance, design or construction rarity, value to the community, and association with historically marginalized individuals or communities;
 - b. The economic consequences for the owner and the community;
 - c. Relevant goals and policies of the Comprehensive Plan.

Commentary

33.846.080.D Approval criteria (cont.)

Criterion C.3 is a new approval criterion. Because of their singular historic significance (in the case of landmarks) and relative value to the community (in the case of Historic and Conservation Districts), Historic Landmarks, Conservation Landmarks, National Register Landmarks, contributing resources in Historic Districts, contributing resources in Conservation Districts, and contributing resources in National Register Districts not zoned single-dwelling use are not eligible to apply under this criterion (individual landmarks and contributing resources in Historic and Conservation Districts that happen to also be listed in the National Register cannot apply under this criterion). The criterion allows demolition of contributing resources in National Register Districts when the zoning is single dwelling and the resource is not a Historic-level or Conservation-level resource. Contributing resources in National Register Districts where the zoning is not single-dwelling may be approved for demolition review under criterion C.1 or C.2, but not under criterion C.3 due to the greater intensity of development allowed and greater public use generally experienced in the other zones. Criterion C.3 allows demolition of a contributing resource if the decision-maker determines that more affordable housing units available to those earning 60 percent of the area median family income or less will be created by demolishing the resource than could be created by preserving the resource. The evaluation must consider the resource proposed for demolition as well as the proposed use of the replacement building. Approval with conditions is allowed, consistent with the relevant sections related to issuance of permits after demolition review found in 33.445. Factors required by OAR to be considered are included.

Criterion C.4 is a new approval criterion. In some instances—primarily Historic Landmarks and Historic Districts—contributing accessory structures are subject to demolition review. Some of these structures are significant— such as a carriage house or stone landscaping feature— but may lack distinction or important connection with the significance of the resource with which it is associated. This criterion allows a decision-maker to approve demolition of an accessory structure if the resource is not integral to the significance or integrity of an associated historic resource—landmark or district or, if the accessory structure is important, for a mitigation measure to balance the loss of the accessory structure. Mitigation measures may include on- or off-site rehabilitation, requiring the design of the replacement structure to meet historic resource review approval criteria, or requiring cultural preservation in the area or community in which it is located. Mitigation measures may not be required to exceed rough proportionality with the historic value of the resource proposed for demolition.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

3. The proposal is to demolish a contributing resource in a single-dwelling zone in a National Register District, and demolition of the resource will facilitate the creation of more deeply affordable dwelling units than could practicably result from preservation, rehabilitation, or reuse of the resource. In this case, deeply affordable means permanently affordable to those earning no more than 60 percent of the area median family income. The evaluation must consider:
 - a. The resource's age, condition, historic integrity, historic significance, design or construction rarity, value to the community, and association with historically marginalized individuals or communities;
 - b. The economic consequences for the owner and the community;
 - c. Relevant goals and policies of the Comprehensive Plan.
4. The proposal is to demolish an accessory structure, and demolition of the resource will not significantly diminish the architectural, cultural, or historic significance or integrity of the associated landmark or district.

Commentary

33.855.020 Initiating a Zoning Map Amendment

A change clarifies that the Historic Landmarks Commission does not initiate proposals to establish or remove Historic Districts.

33.855 Zoning Map Amendments

855

33.855.020 Initiating a Zoning Map Amendment

- A. Quasi-Judicial.** Requests for a zoning map amendment which are quasi-judicial may be initiated by an individual, a representative of the owner, the Planning and Sustainability Commission, or the City Council. The Historical Landmarks Commission may initiate amendments concerning historic districts, and the Design Commission may initiate amendments concerning design districts. The Director of BDS may request amendments for initiation by the Planning and Sustainability Commission. Initiations by a review body are made without prejudice towards the outcome.
- B. Legislative.** Requests for zoning map amendments which are legislative may be initiated by the Planning and Sustainability Commission or the City Council. ~~The Historical Landmarks Commission may initiate amendments concerning historic districts, and t~~The Design Commission may initiate amendments concerning design districts. Others may request to the Planning and Sustainability Commission to initiate a legislative zoning map amendment. The Planning and Sustainability Commission will review these amendment requests against adopted initiation criteria. Initiations by a review body are made without prejudice towards the outcome.

Commentary

33.855.075 Automatic Map Amendments for Historic Resources

A minor change to the title provides grammatical accuracy

33.855.075.A Resources listed on the National Register of Historic Places

Amendments to this section address the changes in historic resource types included throughout these amendments. Effective January 2017 State Administrative Rule ([OAR 660-023-0200](#)) amended the protections that can—and must—be applied to resources automatically upon their listing in the National Register of Historic Places. Resources listed in the National Register before this date were automatically identified as Historic Landmarks and Historic Districts. Resources listed after this date are automatically identified as National Register Landmarks and National Register Districts in the Zoning Code. Future decisions to add or remove a City designation could alter a designation, either by elevating a resource's type from National Register to Conservation or Historic or lowering a resource's type from Historic or Conservation to National Register (assuming the resource is also listed in the National Register).

Subsection A.1.a maintains the automatic identification of Historic Landmarks and Historic Districts that were listed in the National Register prior to January 2017. A Historic Landmark or Historic District that was automatically identified as such upon a resource's listing in the National Register could have its City Historic designation changed to Conservation or removed altogether through a future legislative or quasi-judicial procedure as described in other sections. Unless or until such City action is taken, these resources remain as Historic Landmarks or Historic Districts.

Subsection A.1.b addresses resources listed in the National Register after January 2017. Resources listed in the National Register in the future are automatically identified as either a National Register Landmark or National Register District, unless the resource already had a City designation or is designated by the City in the future. In cases where a City-designated resource is listed in the National Register, the 'higher' City designation controls (see 33.445.030).

Amendments to Subsection A.2 provide clarity and incorporate the new National Register Landmark and National Register District resource types

Subsection A.3 addresses changes to boundaries of resources listed on the National Register. Changes in such boundaries are automatic.

33.855.075 Automatic Map Amendments ~~F~~for Historic Resources

The Official Zoning Maps will be amended automatically to add or remove historic resources as follows:

A. Resources listed ~~in~~ on the National Register of Historic Places.

1. When a historic resource is listed ~~in~~ on the National Register of Historic Places, it is automatically identified on the Official Zoning Maps as follows: as a Historic Landmark or Historic District on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the listing of the resource in the National Register; and
 - a. Historic resources listed on the National Register of Historic Places on or before January 27, 2017 are automatically identified on the Official Zoning Maps as a Historic Landmark or Historic District on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the listing of the resource on the National Register; and
 - b. Historic resources listed on the National Register of Historic Places after January 27, 2017 are automatically identified on the Official Zoning Maps as a National Register Landmark or National Register District on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the listing of the resource on the National Register.
2. When a historic resource is removed from the National Register of Historic Places and it has ~~not local historic designation~~ also been independently designated by the City as the result of a legislative or quasi-judicial procedure, it is automatically removed from the Official Zoning Maps as a Historic Landmark, Historic District, National Register Landmark, or National Register District ~~Historic Landmark or Historic District~~ on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the removal of the resource from the National Register.
3. When the federal Keeper of the National Register of Historic Places approves a change to the boundary of a historic resource listed on the National Register of Historic Places that has not also been independently designated by the City as the result of a legislative or quasi-judicial procedure, the change is automatically identified on the Official Zoning Map on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the change.

Commentary

33.855.075.B Removal after destruction

Amendments to Subsections B, C, and D accommodate the new National Register Landmark resource type.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

- B. Removal after destruction.** If a Historic Landmark, ~~or~~ Conservation Landmark, or National Register Landmark is destroyed by causes beyond the control of the owner, the Landmark designation for the resource is automatically removed from the Official Zoning Maps.
- C. Removal after demolition.** If a Historic Landmark, ~~or~~ Conservation Landmark, or National Register Landmark is demolished after approval of demolition through demolition review, the Landmark designation for the resource is automatically removed from the Official Zoning Maps.
- D. Removal after relocation.** If a Historic Landmark, ~~or~~ Conservation Landmark, or National Register Landmark is relocated, the Landmark designation for the resource is automatically removed from the sending site on the Official Zoning Maps.

Commentary

33.910.030 Definitions

Revised historic resource definitions provide a single place in the zoning code for information related to the different types of historic resources. Previous descriptions in 33.445 have been removed in favor of expanded definitions here.

Historic Resource

Changes to the definition of "historic resource" reflect broader resource types and areas of significance.

Historic Landmark

Revisions to the existing definition provide clarity on the types of properties and areas of history that may be considered for Historic Landmark status. The definition is informed by the criteria provided in State Administrative Rule ([OAR 660-023-0200](#)) that govern local historic resource designation decisions. The Historic Landmark resource type captures the existing slate of Historic Landmarks that were automatically identified as such upon listing in the National Register of Historic Places prior to changes in State Administrative Rule that took effect in January 2017. The definition also clarifies that that Historic Landmark status can be removed by the City; however removal of City Historic Landmark designation does not remove federal listing if the property is on the National Register. The definition explains that City-designated and National Register-listed Historic Landmarks are supported by documentation that provides details on the significance, integrity, boundary, and contributing status of the constituent parts of the Historic Landmark.

Conservation Landmark

Revisions to the existing definition provide a clearer summary of the types of resources and areas of history that may be considered for Conservation Landmark status.

National Register Landmark

This is a new definition. The new resource type reflects changes in State Administrative Rule ([OAR 660-023-0200](#)) that no longer require or allow for the automatic application of design protections to resources listed in the National Register. Previous to January 2017, all listings in the National Register were automatically identified on the zoning map as a Historic Landmark or Historic District. The 2017 change in State Administrative Rule, which was supported by the City of Portland, allows new National Register listings to be subject to only demolition protection upon federal listing, which provides the opportunity to establish a new resource type specific to landmarks and districts listed in the National Register. The new resource type accommodates both future National Register listings (retroactive to 2017), as well as previous National Register listings that may have their Historic Landmark status removed by future City action. National Register Landmarks that have been designated by the City as a Conservation Landmark or Historic Landmark—either automatically in the past or as the result of City action in the future—are subject to the regulations that apply to the 'higher' City designation.

33.910 Definitions

910

Historic Resource. ~~A place, structure, or object that has historic significance.~~ A building, portion of a building, structure, object, landscape, tree, site, place, or district that has a significant relationship to events or conditions of the human past. Historic Resources may be important for archaeological, architectural, cultural, or historical reasons. Historic Resources include:

- **Historic Landmarks.** ~~A Historic Landmark designation may include buildings, a portion of a building, sites, trees, statues, signs, or other objects or spaces that the City or the Keeper of the National Register of Historic Places has designated or listed for their special historic, cultural, archaeological, or architectural merit.~~ A Historic Landmark is a building, portion of a building, structure, object, landscape, tree, site, or place that has been designated for its special archaeological, architectural, cultural, or historical merit. Historic Landmark includes structures, objects, and sites listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017, that have not had their Historic Landmark designation removed. Information supporting a specific Historic Landmark's significance and integrity is found in its National Register nomination or the documentation done in support of the City designation. Historic Landmarks have boundaries that are described in the nomination or documentation provided in support of the resource's City designation or National Register listing. If no boundary is provided in the designation or listing documentation, the boundary is the site or sites that contain the Historic Landmark's contributing resources;
- **Conservation Landmarks.** ~~A Conservation Landmark may include buildings, a portion of a building, sites, statues, signs, or other objects or spaces that the City has designated for their special historic, cultural, archaeological, or architectural merit. They are primarily of local or neighborhood importance.~~ A Conservation Landmark is a building, portion of a building, structure, object, landscape, tree, site, or place that the City has designated for its special archaeological, architectural, cultural, or historical merit. Information supporting a specific Conservation Landmark's significance and integrity is found in the documentation done in support of the City designation. Conservation Landmarks have boundaries that are described in the documentation provided in support of the resource's City designation. If no boundary is provided in the designation or listing documentation, the boundary is the site or sites that contain the Conservation Landmark's contributing resources;
- **National Register Landmark.** A National Register Landmark is a building, structure, object, or site that has been listed by the federal Keeper of the National Register of Historic Places and has not been designated or identified by the City as a Historic Landmark or Conservation Landmark. National Register Landmark includes resources listed by the federal Keeper of the National Register of Historic Places after January 27, 2017, that have not been designated by the City as a Historic Landmark or Conservation Landmark and resources that were listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 that have had their Historic Landmark or Conservation Landmark designation removed. Information supporting a specific National Register Landmark's significance and integrity is found in its National Register nomination. National Register Landmarks have boundaries that are described in the nomination provided in support of the federal listing;

Commentary

Historic District

Revisions to this existing definition provide a clearer description of the areas of history that may be considered for Historic District status. The definition is informed by the criteria provided in State Administrative Rule ([OAR 660-023-0200](#)) that govern local historic resource designation decisions. The revised Historic District definition captures the existing slate of Historic Districts that were automatically identified as such upon listing in the National Register of Historic Places prior to changes in State Administrative Rule that took effect in January 2017. The definition clarifies that Historic District status can be removed by the City (removal of Historic District designation by the City does not affect a district's listing in the National Register of Historic Places). The definition explains that City-designated and National Register-listed Historic Districts are supported by documentation that provides details on the significance, integrity, boundary, and contributing status of the constituent parts of the Historic District.

Conservation District

This new definition provides clarity on the areas of history that may be considered for Conservation District status.

National Register District

This is a new historic resource definition. The National Register District resource type reflects changes in State Administrative Rule ([OAR 660-023-0200](#)) that no longer require or allow for the automatic application of design protections to resources listed in the National Register of Historic Places. Previous to January 2017, all listings in the National Register were automatically identified on the zoning map as a Historic Landmark or Historic District. The 2017 change in State Administrative Rule, which was supported by the City of Portland, allows new National Register listings to be subject to only demolition protection upon federal listing. The new resource type accommodates both future National Register listings (retroactive to 2017), as well as existing National Register listings that may have their Historic District status removed by future City action. National Register listings that were automatically identified as Historic Districts prior to 2017 or that are designated by the City as a Conservation District or Historic District in the future would be subject to the regulations that apply to the 'higher' City designation (see 33.445.030).

- **Historic Districts**, ~~including those listed in the National Register of Historic Places~~ A Historic District is a geographic area that has been designated for its archaeological, architectural, cultural, or historical merit. Historic District includes districts listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017, that have not had their Historic District designation removed. Information supporting a specific Historic District's significance and integrity is found in its National Register nomination or the documentation done in support of the City designation. Historic Districts have boundaries that are described in the nomination or documentation provided in support of the resource's City designation or National Register listing;
- **Conservation Districts**, ~~A Conservation District is a geographic area that the City has designated for its special archaeological, architectural, cultural, or historical merit. Information supporting a specific Conservation District's significance and integrity is found in the documentation done in support of the City designation. Conservation Districts have boundaries that are described in the documentation provided in support of the resource's City designation;~~
- **National Register District**. A National Register District is a district that has been listed by the federal Keeper of the National Register of Historic and has not been designated or identified by the City as a Historic District or Conservation District. National Register District includes resources listed by the federal Keeper of the National Register of Historic Places after January 27, 2017, that have not been designated by the City as a Historic District or Conservation District and resources that were listed by the federal Keeper of the National Register of Historic Places on or before January 27, 2017 that have had their Historic District or Conservation District designation removed. Information supporting a specific National Register District's significance and integrity is found in its National Register nomination. National Register Districts have boundaries that are described in the nomination provided in support of the federal listing;

Commentary

Significant Resource

The new "Significant Resource" type replaces the previous "Historic Resource Inventory" resource type(s). This new type of resource, formerly referred to as "Rank I, II, and III", has been determined to be significant by the City but has not been designated as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District, or listed as a National Register Landmark or National Register District. The change in naming convention reassigns the term "Historic Resource Inventory" to encompass the broad list of historic resources and more closely aligns with guidance from the Oregon State Historic Preservation Office and 2017 changes in State Administrative Rules ([OAR 660-023-0200](#)). Significant, but undesignated or listed, resources previously addressed by this chapter—Rank I, II, III resources identified in the 1984 Historic Resources Inventory—are included as Significant Resources. Rank I, II, III resources identified in the 1984 Historic Resources Inventory that have been demolished or previously removed from the Inventory are not resurrected as Significant Resources under this change. Unranked resources identified in the 1984 Historic Resources Inventory are removed from the Zoning Code.

Contributing Resources

Changes to the definition for "Contributing Resources" reflect that all historic resource types may include contributing elements. The definition describes that those elements not considered to be "contributing resources" are "noncontributing resources." Contributing resources can be an entire building, portion of a building (such as an arcade or sign), or other feature (such as a fountain or wall). Unless otherwise stated in the documentation, the primary resource(s) associated with a landmark or Significant Resource is a contributing resource even if the words 'contributing resource' are not used in the documentation (such as a building that is itself the landmark or a sign that is itself the Significant Resource).

Historic Resources Inventory

Changes to the definition for "Historic Resources Inventory" allows for the documentation of potential historic resources without necessitating those resources be subject to regulations included in the zoning code. Documented resources are not regulated by the zoning code unless or until they have been determined by the City to be a Significant Resource, designated by the City, or listed by the Keeper of the National Register of Historic Places. The revised definition of Historic Resources Inventory is a roster of all documented, identified, designated, and listed historic resources, not a specific historic resource type.



- **Significant Resource.** A Significant Resource is a building, portion of a building, structure, object, landscape, tree, site, or place that the City has determined to be significant for its archaeological, architectural, cultural, or historical merit but has not been designated by the City as a landmark or district, and has not been listed by the federal Keeper of the National Register of Historic Places. Rank I, II, III resources identified in the 1984 Historic Resource Inventory that have not been demolished or removed are Significant Resources; and
- **Contributing Resources,** ~~including an associated building, site, structure, or object that adds to the historic associations, historic architectural qualities, or archeological values that make a Historic Landmark, Conservation Landmark, Historic District, or Conservation District significant, as identified in the documentation prepared for the listing or designation of the landmark or district; A contributing resource is a building, portion of a building, structure, object, landscape, tree, site, or place that adds to the archeological value, architectural qualities, cultural significance, or historic associations, that make a Historic Landmark, Conservation Landmark, National Register Landmark, Historic District, Conservation District, National Register District, or Significant Resource important, as identified in the documentation prepared for the City designation, National Register listing, or City Significant Resource identification. If a resource is not identified or described in the documentation as contributing to the historic significance of the landmark, district, or Significant Resource, it is a noncontributing resource; and~~
- ~~Structures or objects that are included in the **Historic Resources Inventory**. The Historic Resources Inventory is a documentation and preliminary evaluation of the significance of historic resources. Information for each resource may include a photograph, the year the resource was constructed, the builder or architect, original owner, significant features, architectural style, and in most cases, a ranking of significance.~~

Historic Resources Inventory. Buildings, portions of buildings, structures, objects, landscapes, trees, sites, places, and districts that have been documented as having or potentially having archaeological, architectural, cultural, or historical significance. The Historic Resource Inventory includes all resources defined as Historic Resources. See Historic Resource.

Commentary

32.34.020 Additional Standards in Overlay Zones.

Conforming amendments to Title 32 align with changes to Chapter 33.445.

CHAPTER 32.34 - ADDITIONAL REGULATIONS FOR SPECIFIC USES, OVERLAY ZONES, AND PLAN DISTRICTS

Sections:

- 32.34.010 Additional Standards for Specific Uses.
32.34.020 Additional Standards in the Overlay Zones.
32.34.030 Additional Standards in the Plan Districts.

32.34.010 Additional Standards for Specific Uses.

A.-C. [No change]

32.34.020 Additional Standards in Overlay Zones.

(Amended by Ordinance Nos. 176469, 178172, 179092, 185915, 188959, and 190477, effective August 1, 2021.) Overlay zones are shown on the Official Zoning Maps.

A.-B. [No Change]

C. Historic Resource Overlay Zone

1. Where these regulations apply. The regulations of this subsection apply to signs on sites with the historic resource overlay zone. However, signs are not required to go through historic resource review if they meet one of the following standards:

- a. The sign is a portable sign, lawn sign, or temporary sign; or
- b. The sign is exempt from historic resource review under Sections 33.445.100.D., Development within a Historic Landmark boundary; 33.445.110.D., Development within a Conservation Landmark boundary; 33.445.120.D., Development within a National Register Landmark boundary; 33.445.200.D., Development in a Historic District; 33.445.210.D., Development in a Conservation District; or 33.445.220.D., Development in a National Register District. ~~33.445.140, Alterations to a Historic Landmark; 33.445.230, Alterations to a Conservation Landmark; 33.445.320, Development and Alterations in a Historic District; or 33.445.420, Development and Alterations in a Conservation District.~~

2. [No change]

D. [No change]

32.34.030 Additional Standards in the Plan Districts. [No change]

