

Volume 2 – Zoning Code Amendments



Residential Infill Project – Part 2

Complying with State Mandates to Expand Housing Choices

March 2022 – Recommended Draft



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

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How to Testify

The Residential Infill Project – Part 2 recommendations will be considered by the Portland City Council. The public is invited to submit formal comments (called public testimony) to the City Council in writing, or during a public hearing. Testimony on the **Recommended Draft** is directed to the City Council, which may approve, reject or amend the recommendations.

Testify at the City Council public hearing	Testify in writing between now and Thursday, April 21, 2022
<p>Thursday, April 21 at 2:00 p.m.</p> <p>The hearing may be held virtually. You can use a computer, mobile device or telephone to testify during the hearing. To register to testify verbally during the hearing, please visit the Portland City Council Agenda website: https://www.portland.gov/council/agenda. The deadline to sign up for the April 21 hearing is Wednesday, April 20 at 4:00 p.m. Individuals have two minutes to testify, unless stated otherwise at the hearing.</p> <p>City Council meetings can be viewed on the City of Portland website: www.portlandoregon.gov/video</p>	<p>Map App: portlandmaps.com/bps/residential-infill-2</p> <p>Click on the "Testify" button. You can testify about a specific location or on the proposals in general. Testifying in the Map App is as easy as sending an email. Once your testimony is submitted, you can read it in real time.</p> <p>U.S. Mail: You must provide your full name and mailing address. Testimony must be received prior to the end of the hearing on April 21st.</p> <p>Council Clerk RIP2 Testimony 1221 SW 4th Ave, Room 130 Portland, OR 97204</p>

For more information:

Visit the web: www.portlandoregon.gov/bps/rip2

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Next Steps:

Following the public hearing at City Council, Council will discuss issues raised and potential changes, called “amendments”, to the Planning and Sustainability Commission’s recommendation. If changes are approved by council, staff will incorporate the changes in the amended *Recommended Draft*, before a final vote is taken on the package as a whole.

A final decision must be adopted before the state compliance deadline of June 30, 2022

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Proposal	Summary of change	Code reference
Not all code changes are summarized in this table		
R10 and R20 zone changes		
Add building size limits	Add floor area ratio limits for smaller lots	33.110.210
Allow duplexes	Amend Residential Infill Options	33.110.265
Allow detached unit duplexes	Amend Residential Infill Options	33.110.265
Allow triplexes and fourplexes	Amend allowed housing type table Amend applicable zones, Residential Infill Options	Table 110-2 33.110.265.D
Allow attached houses	Amend Residential Infill Options Change attached house lot dimensions and densities Allow low density attached houses in 'z' overlay	33.110.265.C 33.110.610 33.418.050
Allow cottage clusters	Amend allowed housing type table Add new standards to Residential Infill Options Create new housing type definition	Table 110-2 33.110.265.F 33.910
Allow deep affordability bonus	Amend bonus in Residential Infill Options	33.110.265.E
Apply the 'z' overlay zone	Amend applicable zones and list of applicable constraints in overlay chapter Amend zoning map	33.418.030 See Map
Create an expedited land division procedure	Create new expedited land division review criteria Create new expedited land division process	33.643 33.671
R2.5, R5, and R7 zone changes		
Allow detached unit duplexes	Amend Residential Infill Options	33.110.265
Allow attached houses	Amend Residential Infill Options Change attached house lot dimensions and densities Allow low density attached houses in 'z' overlay	33.110.265.C 33.110.610 33.418.050
Allow cottage clusters	Amend allowed housing type table Add new standards to Residential Infill Options Create new housing type definition	Table 110-2 33.110.265.F 33.910
Modify the 'z' overlay zone	Amend applicable constraints in overlay chapter Amend zoning map	33.418.030 See Map
Creating an expedited land division procedure	Create new expedited land division review criteria Create new expedited land division process	33.643 33.671
RM1 zone changes		
Allow attached houses	Change attached house lot dimension standards	Table 612-1
Allow cottage clusters	Amend allowed housing type table for RM1 zone Add standards in Alternative Development Options	Table 120-2 33.120.270.G
Plan District changes		
Albina Community	Reference Residential Infill Options	33.505.230
East Corridor	Remove conflicting housing type limits	33.521.120
Glendoveer	Remove conflicting density limits	33.530.030
North Interstate	Remove invalid compatibility standards	33.561.310
NW Hills, Linnton Subarea	Allow development on platted substandard lots Remove duplex housing type limit	33.563.220 33.563.225
Pleasant Valley	Remove housing type limitations	33.564.050

Zoning Code Amendments

This section presents recommended zoning code amendments. 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.

The amendments are organized by code chapter.

Only those sections of the code that recommended for amendment are included in the document.

Commentary

Title 33, Planning and Zoning

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205 Accessory Dwelling Units
207 Accessory Short-Term Rentals
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218 Community Design Standards
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251 Manufactured Housing and Manufactured Dwelling Parks
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610 Lots in RF through R5 Zones
611 Lots in the R2.5 Zone
612 Lots in Multi-Dwelling Zones

613 Lots in Commercial/Mixed Use Zones
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615 Lots in Industrial Zones
630 Tree Preservation
631 Sites in Special Flood Hazard Areas
632 Sites in Potential Landslide Hazard Areas
633 Phased Plans and Staged Final Plats
634 Required Recreation Area
635 Clearing and Grading and Land Suitability
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663 Final Plats
664 Review on Large Sites in I Zones
668 Review of Changes to an Approved Planned Unit Development
669 Review of Changes to an Approved Industrial Park
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671 Review of Middle Housing Land Divisions
675 Replat
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667 Property Line Adjustments

[No other changes to this chapter]

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[No other changes to this chapter]

Commentary

33.110 Single-Dwelling Zones

The majority of changes required by the passage of House Bill 2001 (2019 Regular Session) affect the single dwelling base zone chapter. These changes include:

- Treating duplexes the same as single detached dwellings in all single dwelling zones, including the R10 and R20 zones, for the purposes of applying lot size requirements and building development standards
- Creating a "detached unit duplex" option (two separate detached units that comprise a "duplex" in conformance with definitions in the state administrative rule) for sites with an existing house in the R2.5 through R20 zones
- Allowing triplexes and fourplexes in more areas by including the R10 and R20 single dwelling zones and reducing minimum lot size standards for these housing types
- Reducing minimum lot size thresholds for triplexes, fourplexes and extra ADU options in the R2.5 through R7 zones.
- Creating new cottage cluster standards for multiple detached dwelling units in the R2.5 through R10 zones

Where necessary, development standards have been revised or deleted to comply with the parameters set by the State's rulemaking process (OAR 660-046).

With the introduction of Residential Infill Options in the R10 and R20 zones, other related standards for these housing types were also extended as appropriate to these zones, including floor area limits for smaller sized lots and allowances for additional accessory dwelling units (see chapter 33.205). Many areas of the R10 and R20 zones will also receive the Constrained Sites--'z'--overlay zone due to the presence of natural resource and land hazard constraints. Refer to the zoning map changes in Volume 1.

Other changes in this chapter address consistency or clarification issues.

33.110 Single-Dwelling Zones

110

Sections:

General

- 33.110.010 Purpose
- 33.110.020 List of the Single-Dwelling Zones
- 33.110.030 Other Zoning Regulations
- 33.110.050 Neighborhood Contact

Use Regulations

- 33.110.100 Primary Uses
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Development Standards

- 33.110.200 Housing Types Allowed
- 33.110.202 When Primary Structures are Allowed
- 33.110.205 Minimum Dwelling Unit Density
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- 33.110.235 Street-Facing Facades
- 33.110.240 Required Outdoor Areas
- 33.110.245 Detached and Connected Accessory Structures
- 33.110.250 Additional Development Standards for Garages
- 33.110.255 Additional Development Standards for Flag Lots
- 33.110.260 Additional Development Standards for Narrow Lots
- 33.110.265 Residential Infill Options
- 33.110.270 Institutional Development Standards
- 33.110.275 Fences
- 33.110.280 Retaining Walls
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- 33.110.290 Nonconforming Situations
- 33.110.292 Parking and Loading
- 33.110.295 Signs
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General

33.110.010 Purpose

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

Commentary

Table 110-2

Table 110-2 is modified to remove the distinctions where duplexes are allowed in the R2.5-R20 zones. Per House Bill 2001 (HB2001), a duplex must be allowed on any lot where development of a single detached house is otherwise allowed, except lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses.

Triplexes, Fourplexes, and multi dwelling residential structure types are changed in the R10 and R20 zones to be allowed when these housing types meet certain qualifications as specified in 33.110.265 Residential Infill Options. Consistent with the other single-dwelling zones, these housing types are also restricted when the lot is in the Constrained Sites Overlay Zone (see chapter 33.418)

Attached houses are already allowed in the R2.5-R20 zones. The lot size, density, and development standards are being modified to comply with HB2001 in different parts of the code (33.110.265 and 33.610).

Cottage clusters are a new residential structure type that HB2001 requires cities to allow in residential areas. See 33.110.265 for related development standards and 33.910 for definition changes. Cottage clusters are not recommended for the R20 zones, where infrastructure issues are most prevalent and large lot sizes should be retained for future orderly urbanization. Other middle housing types will still be permitted in the R20 zone.

HB2001 does not apply to the RF (Farm and Forest agricultural) Zone, so the current limitations on duplexes and other expanded housing types remain.

Development Standards

33.110.200 Housing Types Allowed

- A. Purpose.** Housing types are limited in the single-dwelling zones to maintain the overall image and character of the City's single-dwelling neighborhoods. However, the regulations allow options to increase housing variety and opportunities, and to promote affordable and energy-efficient housing.
- B. Housing types.** The kinds of housing types allowed in the single-dwelling zones are stated in Table 110-2.

Table 110-2 Housing Types Allowed In The Single-Dwelling Zones						
Housing Type	RF	R20	R10	R7	R5	R2.5
House	Yes	Yes	Yes	Yes	Yes	Yes
Attached House (See 33.110.260.C and 33.110.265.C)	No	Yes	Yes	Yes	Yes	Yes
Accessory Dwelling Unit (See Chapter 33.205)	Yes	Yes	Yes	Yes	Yes	Yes
Duplexes: On corners (See 33.110.265.D) Other situations (See 33.110.265.D)	No	Yes No	Yes No	Yes Yes	Yes Yes	Yes Yes
Triplexes (See 33.110.265.E)	No	No <u>Yes</u>	No <u>Yes</u>	Yes	Yes	Yes
Fourplexes (See 33.110.265.E & F)	No	No <u>Yes</u>	No <u>Yes</u>	Yes	Yes	Yes
Multi-dwelling Structure (See 33.110.265.F)	No	No <u>Yes</u>	No <u>Yes</u>	Yes	Yes	Yes
<u>Cottage Cluster</u> (See 33.110.265.G)	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Manufactured Home (See Chapter 33.251)	Yes	Yes	Yes	Yes	Yes	Yes
Manufactured Dwelling Park	No	No	No	No	No	No
Houseboat (See Chapter 33.236)	Yes	Yes	Yes	Yes	Yes	Yes
Congregate Housing Facility (See 33.110.100.B.11)	Yes	Yes	Yes	Yes	Yes	Yes
Attached Duplexes	Only in Planned Developments, See Chapter 33.270.					
Multi-dwelling Development	Only in Planned Developments, See Chapter 33.270.					

Yes = allowed; No = prohibited.

Commentary

33.110.202 When Primary Structures are Allowed

Lots without street frontage pose significant development challenges in terms of access and utility service. The standards for lot confirmations in 33.676 include a requirement that lots have street frontage. This change creates more parity with that standard. It also ensures that when streets are vacated on the basis of access to ownerships, future separation of those ownerships do not lead to development without street frontage.

Lots created via a Middle Housing Land Division are not affected by this limitation because they will meet 33.110.202.C.1.

33.110.202 When Primary Structures are Allowed

- A. Purpose.** The regulations of this section allow for development of primary structures on lots and lots of record that are an adequate size, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations ensure that development on a site will in most cases be able to comply with all site development standards. The regulations also allow development of primary structures on lots that were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.
- B. Adjustments.** Adjustments to this section are prohibited.
- C. Primary structures allowed.** Development of a primary structure is allowed as follows:
1. On a lot created on or after July 26, 1979;
 2. On a lot created through the Planned Development or Planned Unit Development process;
 3. On a lot, lot of record, lot remnant, or combinations thereof that did not abut a lot, lot of record, or lot remnant under the same ownership on July 26, 1979, and has not abutted a lot, lot of record, or lot remnant under the same ownership since July 26, 1979;
 4. On a lot or adjusted lot or combination thereof that either:
 - a. Meets the minimum lot size requirements stated in Table 110-3 and has a front lot line; or
 - b. Does not meet the minimum lot size requirements stated in Table 110-3 but meets all of the following:
 - (1) No portion of the lot, adjusted lot or combination is in an environmental protection, environmental conservation, or river environmental overlay zone;
 - (2) No portion of the lot, adjusted lot or combination is in the special flood hazard area; ~~and~~
 - (3) The lot, adjusted lot or combination has an average slope of less than 25 percent; and
 - (4) The lot, adjusted lot or combination has a front lot line.
 5. On a lot of record or lot remnant or combination thereof that meets the minimum lot size requirements of Table 110-3 and has a front lot line.
- D. Plots.** Primary structures are prohibited on plots that are not lots, adjusted lots, lots of record, or lot remnants-or tracts.

Commentary

Table 110-3

- The minimum lot size for lots in RF-R5 refers to the lot size stated for “all other lots”. In 33.610, new lot size dimensions have been created for lots that are divided for “attached houses” (at the higher density standard established by HB2001), from lots that are divided for all other housing types (which retains the current density standards). The new attached house lots will meet 33.110.202.C.1 and would not be subject to this table.
- The minimum lot area for R2.5 is reduced from 1,600 to 1,500 to align with changes made in 33.611 to address HB2001 attached house requirements. While HB2001 does not require that the lot size for other primary structures be modified, the 100 square foot lot size difference was too insignificant a distinction to be maintained.

33.110.205 Minimum Dwelling Unit Density

This standard was added with Part 1 of the Residential Infill Project to ensure that lots are not underutilized in close-in, well-served neighborhoods. Sites in the R7, R5, and R2.5 zones that are at least twice the base zone average lot size will require two dwelling units.

However, requiring additional housing units is inconsistent with the purpose and intent of the Constrained Sites 'z' Overlay Zone, which includes restrictions on other middle housing types based on the presence of natural land hazards and resources.

This change exempts parcels in the 'z' overlay zone from this standard.

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

Table 110-3 Minimum Lot Size Requirements	
RF through R5 Zones	
Lot	36 feet wide and meets the minimum lot area requirement <u>for all other lots stated in</u> ef Table 610-2. [1, 2, 3, 4, 5]
Adjusted Lot	
Lot Remnants	
Lot of Record	
R2.5 Zone	
Lot	1600 <u>1500</u> sq. ft. [1, 4]
Adjusted Lot	
Lot Remnant	
Lot of Record	

Notes:

[1] A primary structure is allowed on a lot or lot of record that did meet the requirements of Table 110-3 in the past but was reduced below the requirements solely because of condemnation or required dedication by a public agency for right-of-way.

[2] In the R5 zone, the minimum size requirements for adjusted lots and lot remnants approved through a property line adjustment under 33.677.300.A.4. or 33.677.300.C. are 36 ft. wide and 1,600 sq. ft.

[3] In the R20 zone, a primary structure is allowed on a lot, lot of record, adjusted lot, lot remnant, or combination thereof that did meet the requirements of Table 110-3 in the past but no longer meets the requirements solely due to a zone change effective on May 24, 2018.

[4] A primary structure is allowed on a lot, lot of record, adjusted lot, lot remnant, or combination thereof that was separated from abutting lots through a lot confirmation that was finalized before September 11, 2020.

[5] Lot width for a flag lot is measured at the midpoint of the flag portion of the lot.

33.110.205 Minimum Dwelling Unit Density

A. Purpose. This standard promotes additional housing opportunities in areas of the city where services are available and restricts larger sites from being utilized for a single house.

B. When this standard applies. The minimum dwelling unit density standard applies to new development. Sites in the Constrained Sites overlay zone are exempt from this standard:

CB. Minimum dwelling unit density.

1. R7. In the R7 zone, a minimum of two dwelling units are required on sites that are 14,000 square feet or larger in total site area.
2. R5. In the R5 zone, a minimum of two dwelling units are required on sites that are 10,000 square feet or larger in total site area.
3. R2.5. In the R2.5 zone, a minimum of two dwelling units are required on sites that are 5,000 square feet or larger in total site area.

Commentary

Table 110-4

New floor area ratio (FAR) limits are added to the R10 and R20 development standards. The ratios mirror what is allowed in the R7 zone; however, the FAR limits in R10 and R20 zones only apply to lots less than 10,000 square feet to better address scale and building compatibility issues on these relatively smaller sized lots. See 33.110.210.B.

Additional reference to 33.110.260 regarding the maximum height standard is provided to clarify that different height limits may apply when the lot is subject to the additional development standards for narrow lots.

The side building setback for the R2.5 zone is not changing. The 0' setback that is deleted from the table is only applicable to attached houses. Specific setback standards for this housing type are incorporated into 33.110.265.C. Attached Housing (in R20 through R2.5 zones) and are therefore not necessary in this table.

The footnote reference for maximum FAR with 3 or more units is being corrected. This footnote should have been changed to [2] when the Shelter to Housing Continuum project added the footnote [1] about congregate housing facilities.

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

Table 110-4 Summary of Development Standards In Single-Dwelling Zones						
Standard	RF	R20	R10	R7	R5	R2.5
Maximum FAR - 1 total dwelling unit [1] - 2 total dwelling units [2] - 3 or more total dwelling units [1 2] (See 33.110.210 and 33.110.265)	no limit	<u>0.4 to 1</u> <u>0.5 to 1</u> <u>0.6 to 1</u> [3] no limit	<u>0.4 to 1</u> <u>0.5 to 1</u> <u>0.6 to 1</u> [3] no limit	0.4 to 1 0.5 to 1 0.6 to 1 [3]	0.5 to 1 0.6 to 1 0.7 to 1 [3]	0.7 to 1 0.8 to 1 0.9 to 1 [3]
Maximum FAR with Bonus - 1 total dwelling unit - 2 total dwelling units [2] - 3 or more total dwelling units [1 2] (See 33.110.210 and 33.110.265)	NA	<u>0.4 to 1</u> <u>0.6 to 1</u> <u>0.7 to 1</u> NA	<u>0.4 to 1</u> <u>0.6 to 1</u> <u>0.7 to 1</u> NA	0.4 to 1 0.6 to 1 0.7 to 1	0.5 to 1 0.7 to 1 0.8 to 1	0.7 to 1 0.9 to 1 1 to 1
Maximum Height (See 33.110.215 and 33.110.260)	30 ft.	30 ft. [3]	30 ft. [3]	30 ft. [3]	30 ft. [3]	35 ft.
Minimum Setbacks - Front building setback - Side building setback - Rear building setback - Garage entrance setback (See 33.110.220)	20 ft. 10 ft. 10 ft. 18 ft.	20 ft. 10 ft. 10 ft. 18 ft.	20 ft. 10 ft. 10 ft. 18 ft.	15 ft. 5 ft. 5 ft. 18 ft.	10 ft. 5 ft. 5 ft. 18 ft.	10 ft. 0 5 ft. 5 ft. 18 ft.
Maximum Building Coverage (See 33.110.225)	See Table 110-5	See Table 110-5	See Table 110-5	See Table 110-5	See Table 110-5	See Table 110-5
Required Outdoor Area - Minimum area - Minimum dimension (See 33.110.240)	250 sq. ft. 12 ft. x 12 ft.	250 sq. ft. 12 ft. x 12 ft.	250 sq. ft. 12 ft. x 12 ft.	250 sq. ft. 12 ft. x 12 ft.	250 sq. ft. 12 ft. x 12 ft.	200 sq. ft. 10 ft. x 10 ft.

[1] Including any site with a congregate housing facility.

[2] Including accessory dwelling units.

[3] Additional FAR and height may be allowed. See 33.110.265.FE.

Commentary

33.110.210 Floor Area Ratios

The specific reference to R2.5 - R7 zones is deleted, since FAR's will apply more broadly.

B. Maximum FAR

Additional clarification is added that the floor area ratio applies to all buildings on the site, not just primary structures and not just dwelling units. This is the same as how FAR is applied in other zones; however, in the single dwelling zones the FAR varies by the number of proposed dwelling units, which created potential for confusion.

In the R10 and R20 zones, application of a uniform FAR is more difficult than in zones intended for smaller lot sizes. First, there is a wide variety of lot sizes and much variability of existing built FAR in these lower density zones. Secondly, on larger lots, compatibility issues are less noticeable as there is more separation and less allowed building coverage. For example, building coverage on a 10,000 square foot lot is only 30%, whereas it is 45 to 50% on lots less than 5,000 square feet.

While R20 has a minimum lot size for new lots of 12,000 square feet on average, due to the presence of substandard sized platted lots, the FAR standard will apply to lots less than 10,000 square feet in both R10 and R20 zones.

C. Exceptions

This section is amended so that the area for stairwells in the single dwelling zones are only counted on one floor. With the low floor area limits established for single dwelling zones, stairwells may tend to be designed to the minimum space building code standards. Since stairwells do not add "useable" square footage to the home, this exception provides some relief to allow for more generous stair widths and helps simplify FAR measurements.

D. Maximum FAR with bonus.

This change brings the language into alignment with Portland Housing Bureau's administration of the affordability bonus and clarifies this requirement. The housing bureau sets different median family income (MFI) thresholds for rental units versus ownership units in Title 30. Since the zoning code is generally tenure neutral, this provision specifies the lower rental MFI threshold and then refers to Title 30. This structure is similar to how the Affordable Fourplex and Multi-dwelling Structures requirements in 33.110.265 are codified.

33.110.210 Floor Area Ratios

- A. Purpose.** Floor area ratios (FAR) ~~in the R7, R5 and R2.5 zones~~ work with height, setback, and building coverage requirements to control the overall bulk and placement of buildings. The maximum FAR allowances have been calibrated by zone to:
- Define the character of each zone by establishing greater FAR allowances in the higher intensity zones;
 - Encourage the provision of additional dwelling units within existing neighborhoods by relating the allowed amount of FAR to the total number of units on a site; and
 - Ensure that the bulk of buildings on one lot does not overwhelm development on adjacent lots.
- B. Maximum FAR.** Maximum floor area ratios are stated in Table 110-4. Maximum FAR applies to all buildings on the site, however ~~the~~ the maximum FAR allowed is based on the total number of dwelling units on the site and whether a bonus option is chosen. In the R10 and R20 zones, the maximum FAR only applies to sites that are less than 10,000 square feet in area. The maximum FAR for a site with a congregate housing facility is the same as shown in Table 110-4 for a site with 1 total dwelling unit. The maximum FAR for institutional uses is stated in 33.110.270. Adjustments to the maximum FAR ratios, including bonus ratios, are prohibited.
- C. Exceptions.**
1. Maximum FAR does not apply to one alteration or addition of up to 250 square feet when the alteration or addition is to a primary structure that received final inspection at least 5 years ago. This exception is allowed once every 5 years.
 2. Stairwells are only counted as floor area on one level.
- D. Maximum FAR with bonus.**
- Affordable housing bonus option. ~~In the R7, R5 and R2.5 zones, ~~the~~~~ The maximum FAR for sites that provide at least one dwelling unit that is affordable to those earning no more than ~~80~~60 percent of the area median family income or an affordability level established by Title 30 is stated in Table 110-4. To qualify for this maximum FAR with bonus:
 - The applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability standard stated above. The letter is required to be submitted before a building permit can be issued but is not required in order to apply for a land use review; and
 - The property owner must execute a covenant with the City that complies with the requirements of 33.700.060. The covenant must ensure that the affordable dwelling unit will remain affordable to households meeting the income restriction and any administrative requirements of the Portland Housing Bureau.
 - Preserving existing dwelling units bonus option. ~~In the R7, R5 and R2.5 zones, ~~the~~~~ The maximum FAR for sites that contain a primary residential structure that received final inspection at least 5 years ago is stated in Table 110-4. To qualify for this maximum FAR with bonus, no more than 25 percent of the existing street-facing façade of the primary residential structure may be altered to add additional floor area.

Commentary

33.110.230 Main Entrances

B.1. Where these Standards Apply

This sentence is being revised to clarify that the standards apply to all residential structure types in the R10 through R2.5 zones, but not to ADUs. It could be erroneously construed to apply to all residential structure types in all zones, just not to ADUs in R10 through R2.5, which was not the intent.

33.110.230 Main Entrances

A. Purpose. These standards:

- Work with the street-facing facade and garage standards to ensure that there is a physical and visual connection between the living area of the residence and the street;
- Enhance public safety for residents and visitors and provide opportunities for community interaction;
- Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and
- Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.

B. Where these standards apply.

1. The standards of this section apply to all residential structure types in the R10 through R2.5 zones except accessory dwelling units ~~in the R10 through R2.5 zones~~;
- 2-6. [No change]

C-D. [No change]

Commentary

33.110.235 Street-Facing Facades

B.1. Where these Standards Apply

This sentence is being revised to clarify that the standards apply to all residential structure types in the R10 through R2.5 zones, but not to ADUs. It could be erroneously construed to apply to all residential structure types in all zones, just not to ADUs in R10through R2.5, which was not the intent.

33.110.235 Street-Facing Facades

A. Purpose. The standards:

- Work with the main entrance and garage standards to ensure that there is a visual connection between the living area of the residence and the street;
- Enhance public safety by allowing people to survey their neighborhood from inside their residences; and
- Provide a pleasant pedestrian environment along the street by preventing large expanses of blank facades and façade-obscuring staircases from interrupting the connection between the residence and the public realm.

B. Where the standards apply.

1. The street-facing façade standards apply to all residential structure types in the R10 through R2.5 zones except accessory dwelling units ~~in the R10 through R2.5 zones~~;
2. Where a proposal is for an alteration or addition to existing development, the applicant may choose to apply the standard either to the portion being altered or added, or to the entire street-facing facade;
3. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from this standard; and
4. Subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from these standards.

C.-D.[No change]

Commentary

33.110.245.C.2. Setbacks

Reduced setbacks are permissible for detached and connected accessory structures when they meet certain size and height limitations. When the setbacks are reduced, the structure must be screened. However, the L3 standard specifies continuous 6 foot tall shrubs and trees planted between 15 and 30 feet. The L3 option is being removed because the reduced setback makes planting of screening infeasible.

33.110.245.C.3 Building Coverage

The lot coverage for detached accessory structures currently maxes out at 15% combined for all accessory structures on the site. With RIP1, the ability to create two detached ADUs was introduced. On a typical sized 5,000 sq ft lot, this means the coverage allowed for both detached ADUs is a total of 750 sq ft. Practically, this means that ADUs must be stacked on top of each other or be very small.

The first change increases the combined accessory structure coverage from 15% to 20%, which provides more flexibility for accessory structures in general, but helps in the siting of two ADUs. Overall building coverage limits for all the structures (accessory plus primary) on the lot is unchanged.

The second change increases the allowable footprint for accessory structures to ensure that in the case where the primary structure footprint is small (less than 900 sq ft), at least a 900 sq ft footprint would be allowed for the accessory structure (subject to meeting other building coverage requirements).

33.110.245 Detached and Connected Accessory Structures

A.-B. [No change]

C. **Detached and connected covered accessory structures.** The following standards apply to all detached covered accessory structures and connected covered accessory structures. Detached covered accessory structures are items such as garages, carports, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, and covered decks or patios that are not connected to the primary structure. Connected covered accessory structures include accessory structures that are connected to a primary structure via a roofed structure such as a breezeway. The standards of this subsection do not apply to the portion of the structure that connects the accessory structure to the primary structure. Garages are also subject to the standards of 33.110.250.

1. [No change]

2. Setbacks. Except as follows, detached covered accessory structures and connected covered accessory structures are subject to required building setbacks. See the additional regulations for garages in 33.110.250.

a. Water collection cisterns that are 6 feet or less in height are allowed in required side and rear setbacks.

b. In the R7, R5 and R2.5 zones, detached covered accessory structures other than water collection cisterns, are allowed in required side and rear building setbacks if all of the following are met:

(1)-(4) [No change]

(5) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the ~~L3 or~~ F2 standards of Chapter 33.248, Landscaping and Screening;

(6)-(8) [No change]

3. Building coverage. The following additional building coverage standards apply to detached covered accessory structures and connected covered accessory structures:

a. The combined building coverage of all detached and connected covered accessory structures may not exceed ~~15~~20 percent of the total area of the site; and

b. The building coverage of ~~each~~ each detached covered accessory structure and each connected covered accessory structure may not be greater than the building coverage of the smallest primary structure, or 900 square feet, whichever is greater, ~~and the building coverage of a connected covered accessory structure may not be greater than the building coverage of the primary structure.~~

Commentary

33.110.245.C.4 Additional Development Standards

The reference to “the” primary structure is being changed to “a” primary structure to reflect situations where more than one primary structure may be allowed (e.g. cottage cluster or detached unit duplex).

4. Additional development standards. The following additional standards apply to detached covered accessory structures and connected covered accessory structures that are more than 15 feet high. Additions to existing structures that do not meet a standard are exempt from that standard.
- a. Exterior finish materials. The exterior finish materials must meet one of the following:
 - (1) The exterior finish material must be the same in type, size and placement as the exterior finish material of ~~the~~a primary structure; or
 - (2) Siding must be made from wood, composite boards, vinyl or aluminum products, and the siding must be composed in a shingle pattern, or in a horizontal clapboard or shiplap pattern. The boards in the pattern must be 6 inches or less in width.
 - b. Roof Pitch. The pitch of the roof with the highest ridgeline-must meet one of the following:
 - (1) The pitch of the roof with the highest ridgeline must be the same as the pitch of the roof with the highest ridgeline of ~~the~~a primary structure; or
 - (2) The pitch of the roof with the highest ridgeline must be at least 6/12.
 - c. Trim. The trim must meet one of the following:
 - (1) The trim must be the same in type, size, and location as the trim used on ~~the~~a primary structure; or
 - (2) The trim around all windows and doors must be at least 3 ½ inches wide.
 - d. Windows. The windows on all street facing facades must meet one of the following:
 - (1) The windows must match those on the street facing façade of ~~the~~a primary structure in orientation (horizontal or vertical); or
 - (2) Each window must be square or vertical – at least as tall as it is wide.
 - e. Eaves. The eaves must meet one of the following:
 - (1) The eaves must project from the building walls the same distance as the eaves on ~~the~~a primary structure;
 - (2) The eaves must project from the building walls at least 1 foot on all elevations; or
 - (3) If the primary structure has no eaves, no eaves are required.

Commentary

33.110.260 Additional Development Standards for Narrow Lots

B. Where these regulations apply.

This amendment clarifies where the regulations apply. The intent has always been for the regulations to also apply to adjusted lots and lot remnants, which are, according to the definitions in 33.910, types of lots, but this amendment makes that clear without having to review the definitions of adjusted lot and lot remnant.

33.110.260 Additional Development Standards for Narrow Lots

- A. Purpose.** These standards increase the compatibility of residential structures on narrow lots by:
- Ensuring a reasonably proportional relationship between the width and height of structures on narrow lots;
 - Promoting wider front facades by requiring two attached houses on very narrow lots;
 - Promoting open landscaped front yards.
- B. Where these regulations apply.** The following additional development standards apply to lots, adjusted lots, lot remnants, lots of record, and combinations of lots, adjusted lots, lot remnants, or lots of record that are less than 32 feet wide in the R20 through R2.5 zones. Lots in planned unit developments are exempt from the additional standards.

Commentary

33.110.260 Additional Development Standards for Narrow Lots C. Standards.

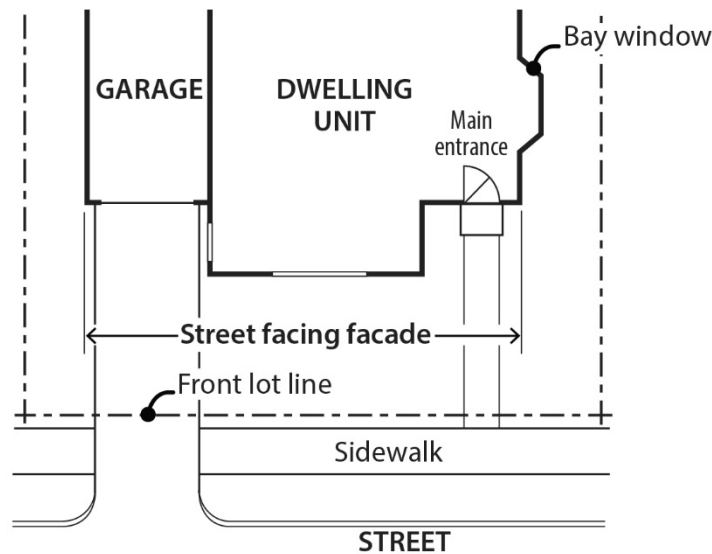
With the changes proposed with RIP2 that apply FAR to attached house lots based on the total number of attached house units in the project, the FAR "bump" specific for R5 narrow lots is no longer necessary and creates potential conflict with the standards in 33.110.265.C. Consequently, this standard is deleted.

The amendment to the height standard clarifies that while attached houses are exempt from the additional height standard, they continue to be subject to the normal base zone height standard contained in Table 110-4

C. Standards.

1. Required housing type. Attached houses are required on lots and lots of record that are less than 26 feet wide. Attached houses are not required on sites that contain a combination of lots or lots of record when the combination is at least 26 feet wide. Attached houses are also not required when there are primary structures on all of the adjacent sites that share a side lot line with the development site. See 33.110.265.C. for development standards that apply to attached houses.
- ~~2. Floor Area Ratio. The maximum floor area ratio for attached houses in the R5 zone on lots less than 3,200 square feet is 0.6 to 1.~~
32. Maximum height. The maximum height allowed for all primary structures is 1.5 times the width of the structure, up to the maximum height limit listed in Table 110-4. Attached houses are exempt from this standard but are still subject to the maximum height limit listed in Table 110-4. For the purposes of this Paragraph, width is the length of the street-facing façade of the structure. See Figure 110-13.

Figure 110-13
Width of Street-Facing Facade



43. Landscaping.
 - a. All street-facing facades must have landscaping along the foundation. There must be at least one three-gallon shrub for every 3 lineal feet of foundation; and
 - b. Sixty percent of the area between the front lot line and the front building line must be landscaped. At a minimum, the required landscaped area must be planted with ground cover. Up to one-third of the required landscaped area may be for recreational use or for use by pedestrians. Examples include walkways, play areas, and patios.

Commentary

33.110.265 Residential infill options

B. General requirements for all residential infill options.

A sentence has been added to clarify that unless superseded by development standards in this section, the remaining applicable development standards of the chapter continue to apply.

C. Attached Houses

Attached houses are synonymous with the term "Townhouses" as defined in the State Model Code and are a key part of the City's compliance obligations under House Bill 2001. While attached houses have long been allowed in the R2.5-R20 zones as a type of construction, the Oregon Administrative Rules (OAR) that implement HB2001 provide further guidance on density, lot size and other relevant rules that require additional changes to the Residential Infill Options section as well as changes in the land division code (33.610 and 33.611) to meet the state requirements. This higher density version of attached houses must be allowed throughout residential areas, with some exceptions based on the presence of natural resources or land hazards.

Portland Zoning Code 33.910 Residential Structure Types

"Attached House." A dwelling unit, located on its own lot, that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. The shared or abutting walls may be any wall of the buildings, including the walls of attached garages. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse or a common-wall house.

State Model Code Chapter 1.B.3. and 1.B.21

"Townhouse" means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a "rowhouse," "attached house," or "common-wall house."

"Common wall" means a wall or set of walls in a single structure shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwelling units. The common wall may be any wall of the building, including the walls of attached garages.

C.1.d. Development standards

These development standards were largely to address incompatible building additions to convert existing houses into attached houses and are being deleted because they are inconsistent with HB2001 and OAR. The OAR establishes limits on what cities can regulate pertaining to middle housing. For the purposes of development standards, cities may apply "the same clear and objective design standards that the [City] applies to detached single-family structures in the same zone." Cities may also apply standards identified in the State's "Model Code". Cities may not apply design standards to middle housing created through a conversion of an existing house.

33.110.265 Residential infill options

- A. Purpose.** The residential infill options allow for a variety of residential housing types in a manner that maintains the overall character of single-dwelling neighborhoods. These options have several public benefits:
- They promote housing types that accommodate households of varying sizes and income levels;
 - They promote energy-efficient development;
 - They provide for a more efficient use of residential land; and
 - They promote better site layout and opportunities for private recreational areas.
- B. General requirements for all residential infill options.** The residential infill options listed in this section are allowed by right unless specifically stated otherwise. The project must comply with the applicable development standards of this section. The project must also conform with all other development standards of the base zone unless those standards are superseded by the standards in this section.
- C. Attached housing.** Attached housing allows for more efficient use of land and for energy-conserving housing. Attached houses are allowed in the R20 through R2.5 zones as follows:
1. ~~R20 through R5 zones. Attached houses are allowed as follows:~~
 - a. ~~Lot dimensions.~~
 - (1) ~~Interior (noncorner) lots. Each attached house must be on a lot that complies with Section 33.110.202, When Primary Structures are Allowed.~~
 - (2) ~~Corner lots. The original lot must comply with Section 33.110.202, Development on Lots and Lots of Record, and the new lots for attached houses must either meet the minimum lot dimension standard stated in Chapter 33.611, Lots in the R2.5 Zone, or must have been created through a Property Line Adjustment. Adjustments are prohibited.~~
 - b. ~~Number of attached houses. Two attached houses may have a common wall. Structures made up of three or more attached houses are prohibited unless approved as a Planned Development.~~
 - c. ~~Building setbacks. The required building setback on the side containing the common wall is reduced to zero. The reduced setback applies to all buildings on the lot and extends along the full length of the lot line that contains the common or abutting wall.~~
 - d. ~~Development standards. Both attached houses must meet the following standards to ensure that the two units have compatible elements:~~
 - (1) ~~Height. The height of the two units must be within four feet of each other; and~~
 - (2) ~~On both units:~~
 - ~~Exterior finish materials. The exterior finish material must be the same in type, size and placement.~~
 - ~~Roof pitch. The roof pitch must be the same.~~

Commentary

C. Attached Houses (cont'd)

In the single dwelling zones, density is determined by the number of allowed lots (not units). Certain qualifications then determine the type of housing and number of units that are permissible on those lots. One challenge posed by HB2001 was conflating a housing type (attached houses) with a required density level (smaller lots).

With the required increase in lot density for attached houses, new density and lot size standards have been incorporated into the single dwelling land division regulations and removed from this section. These standards merely reflect on what size lots attached houses are allowed.

The number of houses allowed to be attached in a row is increased in the R20 - R5 zones from two to four to better align with the ability to create fourplexes on these lots. Up to 8 are already allowed in R2.5.

C.5 Floor Area

Clarification is added on how FAR is calculated for an attached housing project. Because the FAR increases with the second or third unit on a lot (e.g. duplex or triplex), an equivalent amount of FAR is available for an attached house project that includes 2 or 3 or more units. Because the lot sizes in an attached house project may vary to account for side yard setbacks on the ends versus the middle units of the attached houses, the FAR per lot can vary by .05. For example, in an R5 zone, if three attached houses are proposed, the FAR for the project would be 0.7. This provision allows the middle smaller lot to have up to 0.75 FAR, provided the total floor area allowed on the site is not exceeded.

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

- ~~• Eaves. Roof eaves must project the same distance from the building wall.~~
- ~~• Trim. Trim must be the same in type, size and location.~~
- ~~• Windows. Windows must match in proportion and orientation.~~

~~2. R2.5 zone. Attached houses are allowed as follows:~~

- ~~a1. Density and Lot dimensions. Attached houses are allowed on lots that comply with 33.110.202, When Primary Structures are Allowed. Each attached house must be on a lot that meets the density and minimum lot dimensions stated in Chapter 33.611, Lots in the R2.5 Zone.~~
- ~~b2. Number of attached houses.~~
 - a. In the R20 through R5 zones up to four attached houses may have a common wall. Structures made up of five or more attached houses are prohibited unless approved as a Planned Development.
 - b. In the R2.5 zones, up to eight attached houses may have common walls. Structures made up of nine or more attached houses are prohibited.
- ~~c3. Building setbacks. The required building setback on the side containing the common wall is reduced to zero. The reduced setback applies to all buildings on the lot and extends along the full length of the lot line that contains the common or abutting wall.~~
- ~~d4. Building coverage. The maximum building coverage of the base zone applies to the entire attached housing project, however the building coverage per lot may not exceed 5 percent more than the base zone maximum.~~
- ~~e5. Floor area. The maximum floor area ratio allowed is based on the number of attached houses in the entire attached house project. The maximum floor area ratio may be applied to the entire attached housing project, however the floor area ratio per lot may not exceed .05 more than the base zone maximum floor area ratio allowed for the site per lot.~~

Commentary

33.110.265.D. Duplexes

This section is being amended to address two issues. The first is to remove the special regulations that apply to duplexes consisting of two units in one building. Per HB2001, this development type is regulated in the same manner as detached single dwellings.

The second is to provide parameters for an alternative configuration for a duplex, where both units are detached from each other. This duplex configuration is consistent with definitions in OAR 660-046-0020. The two primary detached units are eligible for a middle housing land division through SB458, whereas a house and detached ADU are not. To leverage this more flexible arrangement, additional standards are included to encourage retention of the existing home as well as to reduce the impact of incompatible development in the back yard through a lower maximum height of 25 feet.

33.110.265.E. Triplexes and Fourplexes

Triplexes and fourplexes must be allowed throughout residential areas, with some exceptions based on the presence of natural resources or land hazards. This means expanding these allowances to the R10 and R20 zones unless the Constrained Sites overlay (z overlay) applies.

Clarification is added that if a site has frontage on at least one City-maintained street, a triplex or fourplex is not prohibited. As written, a site with two street frontages, only one of which abuts a street that is maintained by the City, would still be prohibited from having a triplex or fourplex and that was not the original intent of the regulation. Also, when self-contained pedestrian connections are created as "streets" as part of a land division and they connect to a maintained street, lots that front on that pedestrian connection would be eligible for middle housing. Being "self-contained" differentiates these from pedestrian connections that are sidewalks that are part of a street that also provides vehicle access.

A restriction is being deleted that prohibited the development of a triplex or fourplex when the site had a historic resource that had been demolished within the previous 10 years without obtaining demolition review approval from the city. This primarily affected conservation resources which are subject only to a 120-day demolition delay, not demolition review. The restriction is being deleted for two reasons. First, changes within the Historic Resources Code Project are adding demolition review to conservation resources. This will help ensure alternatives to demolition are carefully considered, and incentives made available to better enable the resource to be converted to middle housing or some other use. Second, HB2001 limits cities' ability to impose additional restrictions on the development of middle housing based on historic resource protections, and cities are not able to impose restrictions on middle housing that add unreasonable additional cost or delay to a project.

D. Duplexes.

1. Duplexes consisting of two primary dwelling units in one structure are allowed on corner lots in the R20 and R10 zones, and on interior and corner lots in the R7 through R2.5 zones, as follows:
2. Duplexes consisting of two detached primary dwelling units are allowed on lots in the R20 through R2.5 zones, and must meet the following standards. Adjustments are prohibited:
 - a. Existing dwelling unit. The lot must contain a primary dwelling unit that received final inspection at least 5 years ago.
 - b. Maximum height. The maximum height allowed for the dwelling unit that is not the existing primary dwelling unit is 25 feet.
1. ~~Density. One extra dwelling unit is allowed up to a maximum of two units.~~
2. ~~Minimum lot area. Lots for duplexes must meet the minimum lot area standard shown in Table 110-6. Adjustments are prohibited~~

Zone	Minimum Lot Area
R20	12,000 sq. ft.
R10	6,000 sq. ft.
R7	4,200 sq. ft.
R5	3,000 sq. ft.
R2.5	1,600 sq. ft.

3. ~~Compatibility standards. Both units of the duplex must meet the following standards to ensure that the two units have compatible elements. The standards are:~~
 - a. ~~Exterior finish materials. The exterior finish material must be the same in type, size and placement.~~
 - b. ~~Roof pitch. The roof pitch must be the same.~~
 - c. ~~Eaves. Roof eaves must project the same distance from the building wall.~~
 - d. ~~Trim. Trim must be the same in type, size and location.~~
 - e. ~~Windows. Windows must match in proportion and orientation.~~
- E. Triplexes and fourplexes.** Triplexes and fourplexes that meet the following standards are allowed ~~on interior and corner lots in the R7~~R20 through R2.5 zones. Triplexes and fourplexes are prohibited on lots that ~~abut do not have frontage on a maintained street, except lots that has not been accepted for maintenance by the City of Portland, or the State of Oregon in the case of state highways, and are prohibited on lots that abut~~ have frontage on a private street that connects to a maintained street, and lots that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street, or highway that has not been accepted for maintenance by the City or State. See Title 17.42, Property Owner Responsibility for Streets. Payment in lieu of street improvements does not satisfy this requirement. Triplexes and fourplexes are also prohibited on lots where a Historic or Conservation Landmark or a contributing structure in a Historic or Conservation District was demolished within the past ten years unless the landmark or contributing structure was destroyed by fire or other causes beyond the control of the owner, the only structure that was demolished was an accessory structure, or the demolition was approved through demolition review.

Commentary

Table 110-7

Since triplexes and fourplexes are newly allowed in the R10 and R20 zones, lot size thresholds are added to this table.

HB2001 allows cities to set minimum lot size standards for these housing types, as follows:

For triplexes, in zones where the minimum lot size for a house is greater than 5,000 sq ft, the minimum lot size may not be larger than what is required for a detached house.

Otherwise, the minimum lot size may not be larger than 5,000 sq ft

For fourplexes, in zones where the minimum lot size for a detached house is greater than 7,000 sq ft, the minimum lot size may not be greater than 7,000 sq ft. Otherwise, the minimum lot size may not be larger than 7,000 sq ft

In the R10 zone, the minimum lot size for a detached house is 6,000 sq ft. Rather than have two similar lot size standards, for greater consistency and simplicity, the lot size for both triplexes and fourplexes is 6,000 sq ft. Reducing the R10 lot size threshold from 7,000 sq ft to 6,000 sq ft affects roughly 100 lots.

In the R20 zone, the minimum lot size for a house is 12,000 sq ft. Therefore, the lot sizes for triplexes and fourplexes is similarly 12,000 sq ft.

Lot sizes in the higher density R2.5, R5 and R7 zones are reduced to correspond to minimum lot sizes required for new lots in the applicable base zone (i.e. 33.610 and 33.611). Building coverage, setbacks, floor area and height limits all serve to control the bulk and size of buildings allowed on these smaller lots. Reducing the lot size threshold provides more housing type flexibility and increases the pool of lots eligible for middle housing. Applicants who wish to have larger units can opt to propose fewer units, whereas applicants who wish to have more units will necessarily need to propose smaller average sized units.

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

1. Density. Up to a maximum of four dwelling units are allowed.
2. Minimum lot area. Lots for triplexes and fourplexes must meet the minimum lot area requirement shown in Table 110-7. Adjustments are prohibited.

Zone	Minimum Lot Area
R20	<u>12,000</u> sq. ft.
R10	<u>6,000</u> sq. ft.
R7	4,200 <u>5,000</u> sq. ft.
R5	3,000 <u>4,500</u> sq. ft.
R2.5	1,600 <u>3,200</u> sq. ft.

3. Visitability.
 - a. Purpose. Visitability standards ensure that a baseline of accessible features is provided to accommodate people living in or visiting the residence regardless of age or ability. The standards:
 - Promote a diverse supply of more physically accessible housing;
 - Allow people of all ages and abilities to easily enter and visit the residence;
 - Foster community interaction by reducing barriers that can lead to social isolation; and
 - Enhance public safety for all residents and visitors.
 - b. VISIBLE unit standard. Unless exempted by Subparagraph ~~ED~~.3.c., at least one dwelling unit on the lot must meet all of the following visitability standards:
 - (1) VISIBLE entrance. At least one entrance must be accessible via a route that does not have any stairs between it and the street lot line or an on-site parking space. The slope of the route may not exceed 1:8.
 - (2) VISIBLE bathroom. At least one bathroom with a sink and toilet must be designed to accommodate an unobstructed circle that is at least 60-inches in diameter. As an alternative, the bathroom may be designed to accommodate an unobstructed area that is comprised of two rectangles that are at least 36 inches by 60 inches, and oriented at right angles to each other. See Figure 110-14. The visible bathroom must be on the same floor as the visible entrance or be accessible from the visible entrance via a ramp, elevator or lift. Adjustments are prohibited;
 - (3) VISIBLE living area. There must be at least 200 square feet of living area on the same floor as the visible entrance or 200 square feet of living area must be accessible from the visible entrance via a ramp, elevator or lift. Adjustments are prohibited; and
 - (4) VISIBLE doors. All door openings between and including the visible entrance, visible living area, and the visible bathroom must be at least 34 inches wide. Adjustments are prohibited.

Commentary

33.110.265.F Affordable Fourplexes and Multi-dwelling Structures

Affordable fourplexes and multi dwelling structures are being allowed in R10 and R20 zones, similarly as they are allowed in other single dwelling zones.

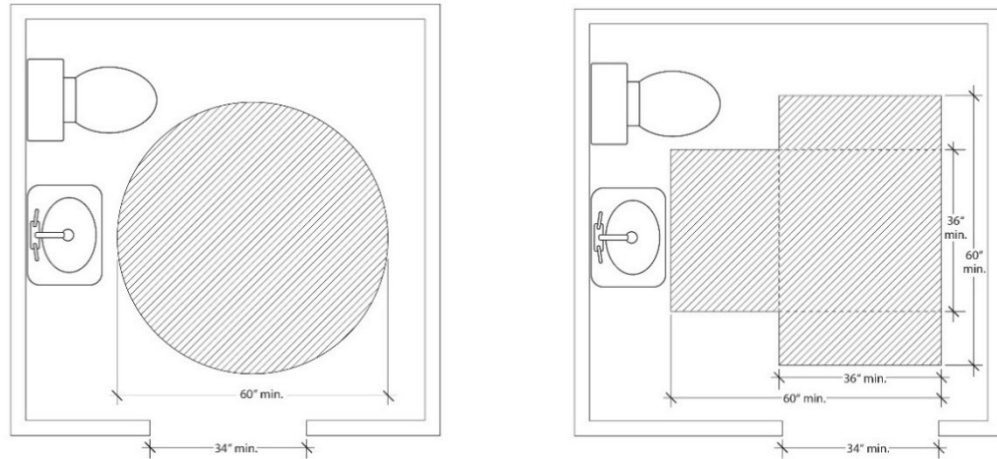
Clarification is added that if a site has frontage on at least one City-maintained street, this infill option is not prohibited. As written, a site with two street frontages, only one of which abuts a street that is maintained by the City, would still be prohibited from having , this infill option and that was not the original intent of the regulation. Also, when self-contained pedestrian connections are created as "streets" as part of a land division and they connect to a maintained street, lots that front on that pedestrian connection would be eligible for middle housing. Being "self-contained" differentiates these from pedestrian connections that are sidewalks that are part of a street that also provides vehicle access.

A restriction is being deleted that prohibited the development of an affordable fourplex or multi dwelling when the site had a historic resource that had been demolished within the previous 10 years without obtaining demolition review approval from the city. This primarily affected conservation resources which are subject only to a 120-day demolition delay, not demolition review. The restriction is being deleted because changes within the Historic Resources Code Project are adding demolition review to conservation resources. This will help ensure alternatives to demolition are carefully considered, and incentives made available to better enable the resource to be converted to allow increased housing.

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

- c. Exemptions. The following are exempt from the standards of this ~~Subsection~~Paragraph:
- (1) Lots with an average slope of 20 percent or greater;
 - (2) Lots where there is more than a 3-foot rise between the highest elevation along the street lot line and the lowest grade measured at the front setback.
 - (3) Conversion of an existing residential structure to a triplex or fourplex.

Figure 110-14
Visitable Bathroom Clearances



- F. Affordable fourplexes and multi-dwelling structures.** Fourplexes and multi-dwelling structures with no more than six dwelling units are allowed ~~on interior and corner lots~~ in the ~~R7R20~~R7R20 through R2.5 zones when the following standards are met. Fourplexes and multi-dwelling structures are prohibited on lots that ~~abut~~do not have frontage on a maintained street, except lots that has not been accepted for maintenance by the City of Portland, or the State of Oregon in the case of state highways, and are prohibited on lots that abut have frontage on a private street that connects to a maintained street, and lots that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. or highway that has not been accepted for maintenance by the or State. See Title 17.42, Property Owner Responsibility for Streets. Payment in lieu of street improvements does not satisfy this requirement. ~~Fourplexes and multi-dwelling structures are also prohibited on lots where a Historic or Conservation Landmark or a contributing structure in a Historic or Conservation District was demolished within the past ten years unless the landmark or contributing structure was destroyed by fire or other causes beyond the control of the owner, the only structure that was demolished was an accessory structure, or the demolition was approved through demolition review.~~

Commentary

33.110.265.F.3. Minimum Lot Area.

This change fixes an omission from RIP part 1 that erroneously left the phrase "affordable fourplexes" out of the regulation.

1. Density. A maximum of six dwelling units are allowed. More than six dwelling units are prohibited.
2. Affordability. 50 percent of the total number of dwelling units on the site must be affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. The applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement of this option and any administrative requirements of the Portland Housing Bureau. The letter must be submitted before a building permit can be issued for the development but is not required in order to apply for a land use review. Adjustments are prohibited.
3. Minimum lot area. Lots for affordable fourplexes and multi-dwelling structures must meet the minimum lot area requirement shown in Table 110-7. Adjustments are prohibited.
4. Maximum FAR. The maximum FAR is 1.2 to 1. Adjustments are prohibited.
5. Maximum Height. The maximum height is 35 feet. Adjustments are prohibited.
6. Visitability.
 - a. Purpose. The visitability standard ensures that a baseline of accessible features is provided to accommodate people living in or visiting the residence regardless of age or ability. The standards:
 - Promote a diverse supply of more physically accessible housing;
 - Allow people of all ages and abilities to easily enter and visit the residence;
 - Foster community interaction by reducing barriers that can lead to social isolation; and
 - Enhance public safety for all residents and visitors.
 - b. VISIBLE unit standard. Unless exempted by Subparagraph E.~~36~~.c., at least two dwelling units on the lot must meet all of the following visitability standards:
 - (1) VISIBLE entrance. At least one entrance must be accessible via a route that does not have any stairs between it and the street lot line or an on-site parking space. The slope of the route may not exceed 1:8.

Commentary

33.110.265.F Cottage Cluster

Multiple detached dwelling units on a single lot are considered "multi-dwelling development". Changes in RIP2 create a new housing type called a cottage cluster that is excluded from the amended definition of multi-dwelling development. This is necessary to create standards that conform to HB2001 and related OARs pertaining to cottage clusters. The OARs set limits on what cities can regulate and to what extent.

Previously, this form of development in the single dwelling zones would require approval through a "Planned Development" or PD. A PD is a discretionary review process that trades the certainty of numerical development standards for the flexibility of discretionary criteria that can consider particular site characteristics and a holistic development plan and apply different rules that still achieve compatible development. Having these criteria is especially critical on very large development sites, and sites with very different building forms or configurations.

HB2001 requires that cities provide a set of "clear and objective" standards so that applicants have an alternative path rather than the discretionary PD review process. It should be noted that proposals that cannot meet the following cottage cluster standards may continue to utilize the PD review process which will ensure continued flexibility for other innovative housing type arrangements and site configurations.

Cottage clusters, like other middle housing types containing 3 or more units, are limited to sites outside the 'z' overlay and must be located on a street that has been accepted for maintenance or a self-contained pedestrian connection. They are not permitted in R20 due to concerns with compounding infrastructure challenges with the great increase in the range of units allowed.

- 1. Minimum site dimensions** HB2001 allows cities to apply up to a 7,000 sq ft minimum lot size for cottage clusters. The minimum 7,000 sq ft requirement applies in R7 and R10 zones. A smaller 5,000 sq ft lot size applies in R2.5 and R5 to better enable small 3 and 4 unit clusters on standard sized lots.
- 2. Maximum area.** A maximum site size of 1 acre is included to prevent cottage clusters (and subsequent expedited land divisions) to replace more orderly platting for larger undeveloped areas. With SB458, the ability to divide the site without meeting goals for orderly urbanization (street connectivity, public access, extension of services and infrastructure investments in centers and corridors) is a concern. It also reinforces that these are intended to be "infill" options and not "greenfield" options.
- 3. Minimum density.** Since HB2001 only specifies a minimum density of at least 4 units per acre, this standard which mirrors the land division code, ensures cottage clusters are not underbuilt and that Portland continues to meet Metro's Urban Growth Functional Plan density requirements of 80% of the maximum base zone allowance.

- (2) Visitable bathroom. At least one bathroom with a sink and toilet must be designed to accommodate an unobstructed circle that is at least 60-inches in diameter. As an alternative, the bathroom may be designed to accommodate an unobstructed area that is comprised of two rectangles that are at least 36 inches by 60 inches, and oriented at right angles to each other. See Figure 110-14. The visitable bathroom must be on the same floor as the visitable entrance or be accessible from the visitable entrance via a ramp, elevator or lift. Adjustments are prohibited;
 - (3) Visitable living area. There must be at least 200 square feet of living area on the same floor as the visitable entrance or 200 square feet of living area must be accessible from the visitable entrance via a ramp, elevator or lift. Adjustments are prohibited; and
 - (4) Visitable doors. All door openings between and including the visitable entrance, visitable living area, and the visitable
- c. Exemptions. The following are exempt from the standards of this Paragraph~~Subparagraph E.3.b~~:
- (1) Lots with an average slope of 20 percent or greater;
 - (2) Lots where there is more than a 3-foot rise between the highest elevation along the street lot line and the lowest grade measured at the front setback;
 - (3) Conversion of an existing residential structure to a fourplex or multi-dwelling structure.

G. Cottage cluster. Cottage clusters that meet the following standards are allowed on sites in the R10 through R2.5 zones. Cottage clusters are prohibited on sites that do not have frontage on a maintained street, except sites that have frontage on a private street that connects to a maintained street, and sites that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement. Adjustments to the following standards are prohibited.

1. Minimum site dimensions.

a. Minimum site area.

- (1) R10 and R7. In the R10 and R7 zones, cottage cluster sites must be at least 7,000 square feet in area.
- (2) R5 and R2.5. In the R5 and R2.5 zones, cottages clusters sites must be at least 5,000 square feet in area.

b. Minimum site width. Cottage cluster sites must be at least 36 feet wide. Site width for a cottage cluster is measured as lot width is measured. See 33.930.100.

2. Maximum area. Cottage cluster sites must not be greater than one acre.

3. Minimum density. The minimum number of dwelling units required is 3 or the minimum number stated in Table 110-8 whichever is greater.

Commentary

33.110.265.G Cottage Cluster (cont'd)

4. Maximum dwelling units. Based on discussions with Ross Chapin, an architect who pioneered pocket neighborhoods and cottage style development, a typical cohesive cluster community is formed from 12 to 16 dwelling units. Certainly, larger communities exist, but are generally formed around smaller clusters within that community. There are no cluster separation requirements that would prevent one cottage cluster site from locating next to another. The 16-unit max per cottage cluster project is also intended to reflect the principle of infill development, as opposed to larger new greenfield subdivision development. With significant limits on what the city can regulate through a clear and objective administrative review, these larger and consequently more complex developments cannot be adequately addressed through standards alone.

5. Floor area. The state prohibits cities from applying FAR to cottage clusters, but cities may regulate individual unit "floor area". This standard is adapted from the state Model Code. To ensure that individual dwelling units are smaller and more "cottage"-like, a maximum floor area is necessary. By allowing the floor area to be averaged creates the ability to vary unit types and sizes. For example, including an 1,800 sq ft 3-4 bedroom unit with a 1,000 sq ft 2-bedroom unit would meet the 1,400 sq ft average. Existing houses are excluded from floor area calculation as a way of encouraging their retention on cottage cluster sites. Detached and connected accessory structures have a 400 sq ft floor area limit. Attached accessory structures would be included in the dwelling unit floor area.

6. Maximum height. In conjunction with unit building coverage limits and average floor area size, a lower height limit helps ensure that individual dwelling units are smaller and more "cottage"-like. This provides sufficient dimensions for two full stories, but is less than the 30-35 foot limit for the zones. In comparison, ADU height limits are 20 feet which typically results in 1½ story construction.

7. Separation between units. Units must also be separated from each other by at least 6 feet. Separation distances only apply to the dwelling units. Other structures are allowed between dwellings, provided they are not attached accessory structures that increase the dwelling unit building coverage and they must meet building code fire separation requirements. Base zone setbacks apply to the perimeter of the site. When separation is increased to 10 feet or more, the amount of required common area is reduced.

8. Building Coverage. The HB2001 definition of Cottage Cluster states units must have a maximum "footprint" of 900 square feet. The state prohibits cities from applying building coverage limits to cottage cluster sites. To use pre-existing defined terms - "footprint" is synonymous with a fixed amount of building coverage for each structure. Detached covered accessory structures are also limited in building coverage to ensure they remain secondary to the dwelling unit buildings.

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

Table 110-8				
Cottage Cluster Minimum Density				
	R10	R7	R5	R2.5
<u>Minimum density</u>	<u>1 unit per</u> <u>12,500 sq. ft.</u> <u>of site area</u>	<u>1 unit per</u> <u>8,750 sq. ft. of</u> <u>site area</u>	<u>1 unit per</u> <u>6,250 sq. ft. of</u> <u>site area</u>	<u>1 unit per</u> <u>3,125 sq. ft. of</u> <u>site area</u>

4. Maximum dwelling units. The maximum number of dwelling units allowed on a cottage cluster site is 16.
5. Floor area. Cottage clusters are exempt from 33.110.210, Floor Area Ratio. However, the maximum average floor area for the cottage cluster site is 1,400 square feet per dwelling unit, including the floor area for attached accessory structures. The applicant may choose to exclude the floor area of any existing dwelling units that received final inspection at least 5 years ago from the average. The maximum floor area allowed for a detached or connected accessory structure is 400 square feet.
6. Maximum height. The maximum height allowed is 25 feet. Existing dwelling units that received final inspection at least 5 years ago that exceed this maximum height are allowed but the height cannot be increased. The maximum height standards for detached and connected accessory structures are stated in 33.110.245, Detached and Connected Accessory Structures.
7. Separation. Dwelling units within the cottage cluster site must be separated by at least 6 feet.
8. Building coverage. Cottage clusters are exempt from 33.110.225. Building Coverage. The following building coverage standards apply:
 - a. The maximum building coverage allowed for each dwelling unit is 900 square feet and includes attached accessory structures. Existing dwelling units that received final inspection at least 5 years ago that exceed this limit are allowed but the building coverage cannot be increased; and
 - b. The building coverage of a detached or connected covered accessory structure may not be greater than the building coverage of the smallest primary structure.

Commentary

33.110.265.F Cottage Cluster (cont'd)

9. Common outdoor area. HB2001 also requires that there be a common area. The Model Code provides additional guidance on dimensional requirements, including one common area per each 8 units, 150 sq ft of area per unit, 15 foot minimum width in all directions, and surfacing and amenity requirements.

A minimum amount of 450 sq ft per common area is intended to prevent each unit from having one single 150 sq ft area. Note the 15 foot dimension is measured differently than "required outdoor area" in 33.110.240 which is of a size to accommodate a square with a specified dimension. Here, as soon as the area narrows to less than 15 feet wide, it is no longer considered part of the open area. Similar to 33.110.240, common area may be incorporated into the side or rear setback but may not be located in the front setback. Where any dwelling units on the cottage cluster site are separated by less than 10 feet, the common outdoor area requirement is increased to 200 sq ft per unit.

10. Dwelling Unit Orientation. This standard requires that units within 25 feet of a street must orient toward the street and that 50% of the remaining dwelling units be oriented toward the common area. Street facing orientation is a fundamental principle of the base zone design standards, since a strong relationship of the built environment to the public realm is what ensures a more inclusive and welcoming neighborhood. Buildings that turn their back to the street convey a very different message.

Together these standards mean that units that are located at or within 25 feet of a street lot line are treated like other homes on the street, orienting toward the street. At least 50% of the remaining units must orient toward a common area. And the rest of the units that don't orient to a common area or the street must orient to the pedestrian connection system.

11. Windows. This standard is similar to the street facing façade requirement in 33.110.235, but applies the window requirement to the façades with main entrances that are oriented per 33.110.265.E.10.

9. Common outdoor area. The following common outdoor area standards apply to cottage clusters. Cottage clusters are exempt from 33.110.240:
- a. The total amount of common outdoor area required is 150 square feet per dwelling unit if all the dwelling units are separated by at least 10 feet, or 200 square feet per dwelling unit if any of the dwelling units are separated by less than 10 feet.
 - b. Each common outdoor area:
 - (1) Must be at least 450 square feet in area. Required pedestrian connections located adjacent to or within a common outdoor area count toward this minimum size;
 - (2) Must measure at least 15 feet in all directions. Required pedestrian connections located adjacent to or within a common outdoor area are included in this minimum width; and
 - (3) Must be located outside the required front setback.
 - c. Each required common outdoor area must be surfaced with landscaping, pavers, decking, or sport court paving to allow the area to be used for active or passive recreational use. No more than 50 percent of the total common outdoor area can be in an impervious surface. Common outdoor area may not be used as vehicle area.
 - d. User amenities. User amenities, such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pools may be placed in the outdoor area. Common, shared outdoor areas may also be developed with amenities such as play areas, plazas, picnic areas, and open recreational facilities.
10. Dwelling unit orientation. Dwelling units located within 25 feet of a street property line must meet the base zone main entrance standards of 33.110.230. All other dwellings units are exempt from 33.110.230 but must meet the following dwelling unit orientation standards:
- a. At least 50 percent of the dwelling units that are exempt from 33.110.230 must:
 - (1) Have at least one main entrance facing a common outdoor area; and
 - (2) Be located within 10 feet of the common outdoor area, measured from the closest point of the façade with the main entrance to the nearest edge of the common outdoor area.
 - b. Dwelling units that do not have a main entrance facing the common outdoor area or street must have at least one main entrance facing a pedestrian connection that is connected to the common outdoor area.
11. Windows. Cottage clusters are exempt from 33.110.235.C. However, 15 percent of the area of the façade with the required main entrance must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street, pedestrian connection or common outdoor area. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard.

Commentary

33.110.265.F Cottage Cluster (cont'd)

12. Pedestrian Connections. This standard mimics the multi-dwelling zone pedestrian standards in 33.120.255. To reduce required impervious area, a sidewalk in the right of way may be incorporated into the pedestrian system to link units to common areas and other units.

13. Visitability. The visitability standard applies to cottage clusters like other middle housing types with 3 or more units on a site. This requires a certain number of units be constructed with reduced barriers for people with mobility impairments and encourage visitation as well as create a base level of accessibility for more tailored modifications.

Certain exemptions are included to address site topography. Steeply sloped lots (>20%) are commonly exempted from additional zoning code standards based on their unique development challenges, especially in terms of making a zero-step entry work.

Another common challenge is smaller lots that are elevated from the street. When the highest point along the street lot line to the lowest grade along the front setback is more than 3 feet, then the visitability standards do not apply. This is due to the challenges of creating a code compliant ramp within the front setback area. Taller grade differences become less practical and more costly to create accessible routes.

Example: cottage cluster



12. Pedestrian connections.

- a. A pedestrian connection system is required that connects the main entrances of all of the dwelling units on the site to the street and to common outdoor areas. Sidewalks within the right-of-way can be included as part of the pedestrian connection system.
- b. The pedestrian connection system must be hard surfaced and must be at least 3 feet wide for sites with 3 or 4 dwelling units and 4 feet wide for sites with 5 or more dwelling units.

13. Visitability.

- a. Purpose. The visitability standard ensures that a baseline of accessible features is provided to accommodate people living in or visiting the residence regardless of age or ability. The standards:
 - Promote a diverse supply of more physically accessible housing;
 - Allow people of all ages and abilities to easily enter and visit the residence;
 - Foster community interaction by reducing barriers that can lead to social isolation; and
 - Enhance public safety for all residents and visitors.
- b. Visitable unit standard. Unless exempted by Subparagraph E.3.c., at least 33 percent of the dwelling units on the cottage cluster site must meet all of the following visitability standards:
 - (1) Visitable entrance. At least one entrance must be accessible via a route that does not have any stairs between it and the street lot line or an on-site parking space. The slope of the route may not exceed 1:8.
 - (2) Visitable bathroom. At least one bathroom with a sink and toilet must be designed to accommodate an unobstructed circle that is at least 60-inches in diameter. As an alternative, the bathroom may be designed to accommodate an unobstructed area that is comprised of two rectangles that are at least 36 inches by 60 inches, and oriented at right angles to each other. See Figure 110-14. The visitable bathroom must be on the same floor as the visitable entrance or be accessible from the visitable entrance via a ramp, elevator or lift;
 - (3) Visitable living area. There must be at least 200 square feet of living area on the same floor as the visitable entrance or 200 square feet of living area must be accessible from the visitable entrance via a ramp, elevator or lift; and
 - (4) Visitable doors. All door openings between and including the visitable entrance, visitable living area, and the visitable bathroom must be at least 34 inches wide.
- c. Exemption. The following are exempt from this Paragraph:
 - (1) Lots with an average slope of 20 percent or greater are exempt; and
 - (2) Lots that are less than 7,000 square feet in area when there is more than a 3-foot rise between the highest elevation along the street lot line and the lowest grade measured at the front setback.

GH. Planned development. See Chapter 33.270, Planned Developments.

Commentary

33.110.270.C. Institutional Development Standards.

Updating reference to institutional development standards table to reflect the addition of Table 110-8, Cottage Cluster Minimum Density.

33.110.270 Institutional Development Standards

- A. Purpose.** The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.
- B. Use categories to which these standards apply.** The standards of this section apply to uses in the institutional group of use categories, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions to institutional uses. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- C. The standards.**
1. The development standards are stated in Table 110-~~89~~. If not addressed in this section, the regular base zone development standards apply.
 - 2.-6. [No change]
 7. Electrical substations. In addition to the standards in Table 110-~~89~~, the entire perimeter of electrical substations, including the street lot line (except for the access point), must be landscaped to the L3 standards stated in Chapter 33.248. This landscaping must be planted on the outside of any security fence. Electrical substations that are in a fully enclosed building are exempt from this requirement.
 8. Grassy areas. Grassy play areas, golf courses, cemeteries, and natural areas are not subject to the L3 landscaping standard of Table 110-~~89~~ and are exempt from the setback standard of Paragraph 4, above.
 - 9.-10. [No change]

Commentary

Table 110-9

The table has been renumbered to reflect the addition of Table 110-8, Cottage Cluster Minimum Density.

33.110.296 Recycling Areas

With the ability to create up to 4 units, or up to 16 units in the case of a cottage cluster, the reference to recycling area requirements become more relevant and mirrors what is in the multi-dwelling and mixed-use base zones.

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

Table 110-89 Institutional Development Standards [1]	
Minimum Site Area for New Uses	10,000 sq. ft.
Maximum Floor Area Ratio [2]	0.5 to 1
Maximum Height [3]	50 ft.
Minimum Building Setbacks [2]	1 ft. back for every 2 ft. of bldg. height, but in no case less than 15 ft.
Maximum Building Setback Transit Street or Pedestrian District [7]	20 ft. or per CU/IMP review
Maximum Building Coverage [2]	50% of site area
Minimum Landscaped Area [2,4]	25% of site area to the L1 standard
Buffering from Abutting Residential Zone [5]	15 ft. to L3 standard
Buffering Across a Street from a Residential Zone [5]	15 ft. to L1 standard
Setbacks for All Detached Accessory Structures Except Fences [6]	10 ft.
Parking and Loading	See Chapter 33.266
Signs	See Title 32, Signs and Related Regulations

Notes:

[1] The standards of this table are minimums or maximums as indicated. Compliance with the conditional use approval criteria might preclude development to the maximum intensity permitted by these standards.

[2] For campus-type developments, the entire campus is treated as one site. Setbacks are only measured from the perimeter of the site. The setbacks in this table only supersede the setbacks required in Table 110-4. The normal regulations for projections into setbacks and for detached accessory structures still apply.

[3] Towers and spires with a footprint of 200 square feet or less may exceed the height limit, but still must meet the setback standard. Elevator mechanical equipment that is set back at least 15 feet from all roof edges on street facing facades may extend up to 16 feet above the height limit. Other mechanical equipment and stairwell enclosures that provide rooftop access when these cumulatively cover no more than 10 percent of the roof area and are set back at least 15 feet from all roof edges on street facing facades may extend up to 10 feet above the height limit.

[4] Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.

[5] Vehicle areas are subject to the parking lot setback and landscaping standards stated in Chapter 33.266, Parking, Loading And Transportation And Parking Demand Management.

[6] Setbacks for structures that are accessory to recreational fields for organized sports on a school, school site, or in a park, are stated in Chapter 33.279, Recreational Fields for Organized Sports.

[7] The maximum building setbacks are described in 33.110.270.C.

33.110.296 Recycling Areas

Requirements for recycling areas are regulated by the Bureau of Planning and Sustainability. See Section 17.102.270, Businesses and Multifamily Complexes Required to Recycle, of the Portland City Code.

Commentary

Table 120-2 Housing Types

Cottage clusters are a new residential structure type that HB2001 requires cities to allow in residential areas. See also 33.120.270 and 33.910 for related development standards and definition changes.

Cottage Clusters are not an allowed housing type in RM2 through RX zones. The minimum density requirements for these higher density zones make cottage cluster style development impractical. Nevertheless, for the purposes of complying with HB2001, the development standards for these zones already allow multi-dwelling development at densities and intensities that match or exceed the cottage cluster standards. The RM1 zone has density requirements that are on par with these cottage cluster standards, so this change would allow applicants to decide which set of standards to choose, depending on the type of development being proposed.

Cottage Clusters are not allowed in the RMP (manufactured dwelling) zone, as this zone does not allow detached single dwellings. Only manufactured homes are allowed in this zone.

33.120 Multi-Dwelling Zones

120

33.120.200 Housing Types Allowed

- A. Purpose.** A broad range of housing types are allowed in the multi-dwelling zones. This range allows for efficient use of land, provides options to increase housing variety and housing opportunities, and promotes affordable and energy-efficient housing.
- B. Housing types.** The types of housing allowed in the multi-dwelling zones are stated in Table 120-2.

Housing Type	RM1	RM2	RM3	RM4	RX	RMP
House	Yes	Yes	Yes	Yes	Yes	No
Attached House (See 33.120.270 C.)	Yes	Yes	Yes	Yes	Yes	No
Accessory dwelling unit (See 33.205)	Yes	Yes	Yes	Yes	Yes	No
Duplex	Yes	Yes	Yes	Yes	Yes	No
Attached Duplex (See 33.120.270.F)	Yes	Yes	Yes	Yes	Yes	No
Triplex	Yes	Yes	Yes	Yes	Yes	No
Fourplex	Yes	Yes	Yes	Yes	Yes	No
Multi-Dwelling Structure	Yes	Yes	Yes	Yes	Yes	No
<u>Cottage Cluster</u>	<u>Yes</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>	<u>No</u>
Multi-Dwelling Development	Yes	Yes	Yes	Yes	Yes	Yes [1]
Manufactured Dwelling (See Chapter 33.251)	Yes	Yes	Yes	Yes	Yes	Yes [2]
Manufactured Dwelling Park (See Chapter 33.251)	Yes	No	No	No	No	Yes
Houseboat (See Chapter 33.236)	Yes	Yes	Yes	Yes	Yes	No
Congregate Housing Facility	Yes	Yes	Yes	Yes	Yes	No

Yes = allowed; No = prohibited.

Notes:

[1] The only type of multi-dwelling development allowed in the RMP zone is manufactured dwellings in a manufactured dwelling park.

[2] Except on individual lots created under the provisions of 33.642, Land Divisions of Manufactured Dwelling Parks, manufactured dwellings are only allowed in manufactured dwelling parks.

Commentary

33.120.206.C. Minimum required site frontage standard.

This change restores the original intent of this exception. When Better Housing by Design was adopted, some changes were incorporated from the Residential Infill Project, based on the timing of adoption for those two projects. One of the incorporated changes from RIP1 was defining a fourplex as its own housing type, as opposed to being a type of multi dwelling development. The exception for minimum frontage requirements in the multi dwelling zones was not updated to reflect that change. In addition, with the introduction of cottage clusters, and acknowledging that two detached units are considered "multi-dwelling development" more clarity was required. Now the exception applies when there are at least three primary dwelling units on the adjacent site and removes the specific distinction of the housing type.

C.2.b(3). The "and" was removed to clarify the exceptions in C.2.b are individual exceptions, and not all are required for the exception to be granted.

33.120.232.b.1

This amendment clarifies the application of the street-facing façade standards (windows) in the multi-dwelling zones, bringing it into alignment with the application of the main entrance standards in multi-dwelling zones and the application of the same standards in the single-dwelling zones. Applying the street-facing façade standards to all building with residential uses captures accessory structures, which was not the intent for multi-dwelling zones.

33.120.206 Minimum Required Site Frontage for Development

A-B. [No change]

C. Minimum required site frontage standard.

1. Standard. If the site is more than 160 feet deep, new dwelling units are prohibited unless the site has at least 90 feet of frontage on a street. Adjustments are prohibited.
2. Exceptions. The following exceptions apply:
 - a. Adding an accessory dwelling unit to a lot with an existing house, existing attached house, existing manufactured home, or existing duplex is allowed;
 - b. Development is allowed on a site when all of the lots that share a side lot line with the development site meets at least one of the following:
 - (1) The lot is zoned multi-dwelling and meets the minimum density standard for the base zone;
 - (2) The lot is zoned multi-dwelling and has at least three primary dwelling units on the lot~~an existing multi-dwelling structure or multi-dwelling development~~; or
 - (3) The lot is not zoned multi-dwelling; ~~and~~
 - c. Development approved through a Planned Development Review is allowed. See Chapter 33.270, Planned Development.

33.120.232 Street-Facing Facades

A. [No change]

B. Where these standards apply.

1. The standards of this section apply to the street-facing facades of ~~buildings that include any residential uses~~all residential structure types except for accessory dwelling units, manufactured dwelling parks, and houseboat moorages. The standards of this section also do not apply in the RMP zone.
- 2-5. [No change]

Commentary

33.120.270.G. Cottage Cluster

These standards are applicable to cottage clusters in the RM1 zone and mirror the cottage cluster standards in the single dwelling zones.

Based on the minimum density standards specified in Table 120-3 for the RM1 zone (1 unit per 2,500 sq ft of site area) the maximum area for a cottage cluster is decreased to 40,000 sq ft (from an acre, or 43,560 sq ft) so that sites with 16 units will still meet the minimum density requirements.

For additional commentary related to these standards, refer to the commentary in 33.110.265.F

33.120.270 Alternative Development Options

A.-F. [No change]

G. Cottage cluster. Cottage clusters that meet the following standards are allowed in the RM1 zone. Cottage clusters are prohibited on sites that do not have frontage on a maintained street, except sites that have frontage on a private street that connects to a maintained street, and sites that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement. Adjustments to the following standards are prohibited.

1. Minimum site dimensions.
 - a. Minimum site area. Cottages cluster sites must be at least 5,000 square feet in area.
 - b. Minimum site width. Cottage cluster sites must be at least 36 feet wide. Site width for a cottage cluster is measured as lot width is measured. See 33.930.100.
2. Maximum area. Cottage cluster sites must not be greater than 40,000 square feet.
3. Maximum dwelling units. The maximum number of dwelling units allowed on a cottage cluster site is 16.
4. Floor area. Cottage clusters are exempt from 33.120.210, Floor Area Ratio. However, the maximum average floor area for all dwelling units on the cottage cluster site is 1,400 square feet, including the floor area for attached accessory structures. The applicant may choose to exclude the floor area of any existing dwelling units that received final inspection at least 5 years ago from the average. The maximum floor area allowed for a detached accessory structure is 400 square feet.
5. Maximum height. The maximum height allowed is 25 feet. Existing dwelling units that that received final inspection at least 5 years ago exceed this maximum height are allowed but the height cannot be increased. The maximum height standards for detached accessory structures are stated in 33.120.280, Detached Accessory Structures.
6. Separation. Dwelling units within the cottage cluster site must be separated by 6 feet.
7. Building coverage. Cottage clusters are exempt from 33.120.225. Building Coverage. The following building coverage standards apply:
 - a. The maximum building coverage allowed for each dwelling unit is 900 square feet and includes attached accessory structures. Existing dwelling units that received final inspection at least 5 years ago that exceed this limit are allowed but the building coverage cannot be increased; and
 - b. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the smallest primary structure.

Commentary

8. Common outdoor area. The following common outdoor area standards apply to cottage clusters. Cottage clusters are exempt from 33.120.240:
- a. The total amount of common outdoor area required is 150 square feet per dwelling unit if all the dwelling units are separated by at least 10 feet or 200 square feet per dwelling unit if any of the dwelling units are separated by less than 10 feet.
 - b. Each common outdoor area:
 - (1) Must be at least 450 square feet in area. Required pedestrian connections located adjacent to or within a common outdoor area count toward this minimum size;
 - (2) Must measure at least 15 feet in all directions. Required pedestrian connections located adjacent to or within a common outdoor area are included in this minimum width; and
 - (3) Must be located outside the required front setback.
 - c. Each required common outdoor area must be surfaced with landscaping, pavers, decking, or sport court paving to allow the area to be used for active or passive recreational use. No more than 50 percent of the total common outdoor area can be in an impervious surface. Common outdoor area may not be used as vehicle area.
 - d. User amenities. User amenities, such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pools, Common, shared outdoor areas may also be developed with amenities such as play areas, plazas, picnic areas, and open recreational facilities.
9. Dwelling unit orientation. Dwelling units located within 25 feet of a street property line must meet the base zone main entrance standards of 33.120.231, Main Entrances. All other dwellings units are exempt from 33.120.231 but must meet the following dwelling unit orientation standards:
- a. At least 50 percent of the dwelling units that are exempt from 33.120.231 must:
 - (1) Have at least one main entrance facing a common outdoor area; and
 - (2) Be located within 10 feet of the common outdoor area, measured from the closest point of the façade with the main entrance to the nearest edge of the common outdoor area.
 - b. Dwelling units that do not have a main entrance facing the common outdoor area or street must have at least one main entrance facing a pedestrian connection that is connected to the common outdoor area.

Commentary

33.120.270 Alternative Development Options

H. Planned Development

The reference is updated to reflect the renumbered PD chapter.

10. Windows. Cottage clusters are exempt from 33.120.232.C. However, 15 percent of the area of the façade with the required main entrance must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street, pedestrian connection, or common outdoor area. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard.

11. Visitability.

a. Purpose. The visitability standard ensures that a baseline of accessible features is provided to accommodate people living in or visiting the residence regardless of age or ability. The standards:

- Promote a diverse supply of more physically accessible housing;
- Allow people of all ages and abilities to easily enter and visit the residence;
- Foster community interaction by reducing barriers that can lead to social isolation; and
- Enhance public safety for all residents and visitors.

b. Visitability unit standard. Unless exempted by Subparagraph G.11.c., at least 33 percent of the dwelling units on the cottage cluster site must meet all of the following visitability standards:

- (1) Visitability entrance. At least one entrance must be accessible via a route that does not have any stairs between it and the street lot line or an on-site parking space. The slope of the route may not exceed 1:8.
- (2) Visitability bathroom. At least one bathroom with a sink and toilet must be designed to accommodate an unobstructed circle that is at least 60-inches in diameter. As an alternative, the bathroom may be designed to accommodate an unobstructed area that is comprised of two rectangles that are at least 36 inches by 60 inches, and oriented at right angles to each other. See Figure 110-14. The visitability bathroom must be on the same floor as the visitability entrance or be accessible from the visitability entrance via a ramp, elevator or lift;
- (3) Visitability living area. There must be at least 200 square feet of living area on the same floor as the visitability entrance or 200 square feet of living area must be accessible from the visitability entrance via a ramp, elevator or lift; and
- (4) Visitability doors. All door openings between and including the visitability entrance, visitability living area, and the visitability bathroom must be at least 34 inches wide.

c. Exemption. The following are exempt from this Paragraph:

- (1) Lots with an average slope of 20 percent or greater are exempt; and
- (2) Lots that are less than 7,000 square feet in area when there is more than a 3-foot rise between the highest elevation along the street lot line and the lowest grade measured at the front setback.

GH. Planned Development. See Chapter 33.270638, Planned Development.

Commentary

33.120.280.C Detached covered accessory structures

Reduced setbacks are permissible for detached and connected accessory structures when they meet certain size and height limitations. When the setbacks are reduced, the structure must be screened. However, the L3 standard specifies continuous 6-foot-tall shrubs and trees planted between 15 and 30 feet. The L3 option is being removed because the reduced setback makes planting of screening infeasible. See also 33.110.245.C.2.b.5

33.120.280.E Detached Uncovered Accessory Structures

This change corrects a grammatical error from a past project

33.120.280 Detached Accessory Structures

A.-B. [No change]

C. **Detached covered accessory structures.** Detached covered accessory structures are items such as garages, greenhouse, artist's studios, guest houses, accessory dwelling units, laundry or community buildings, storage buildings, covered bicycle parking, wood sheds, water collection cisterns, and covered decks or patios. The following standards apply to all detached covered accessory buildings. Garages are also subject to the standards of 33.120.283.

1. [No change]

2. Setbacks. Except as follows, detached covered accessory structures are subject to required building setbacks. See the additional regulations for garages in 33.120.283.

a. [No change]

b. Detached covered accessory structures are allowed in the side and rear building setbacks, if all of the following are met:

(1)-(4) [No change]

(5) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the ~~L3 or~~ F2 standards of Chapter 33.248, Landscaping and Screening;

(6)-(8) [No change]

3.-4. [No change]

D. [No change]

E. **Detached uncovered horizontal structures.** Uncovered horizontal structures are items such as decks, stairways, swimming pools, hot tubs, tennis courts, and boat docks not covered or enclosed. The following standards apply to detached uncovered horizontal structures:

1. Height. In general, the maximum height allowed for detached uncovered ~~vertical~~horizontal structures is the maximum height of the base zone. The maximum height allowed for detached uncovered ~~vertical~~horizontal structures that are accessory to a house, attached house, duplex, attached duplex or manufactured home on an individual lot is 20 feet.

2. [No change]

F. [No change]

Commentary

Additional Use & Development Regulations

- 33.203 Accessory Home Occupations
- 33.205 Accessory Dwelling Units
- 33.207 Accessory Short-Term Rentals
- 33.209 Aviation
- 33.218 Community Design Standards
- 33.219 Convenience Stores
- 33.224 Drive-Through Facilities
- 33.229 Elderly and Disabled High Density Housing
- 33.236 Floating Structures
- 33.237 Food Production and Distribution
- 33.243 Helicopter Landing Facilities
- 33.245 Inclusionary Housing
- 33.248 Landscaping and Screening
- 33.251 Manufactured Housing and Manufactured Dwelling Parks
- 33.253 Middle Housing Land Division Sites
- 33.254 Mining and Waste-Related
- 33.258 Nonconforming Situations
- 33.260 Occupied Recreational Vehicle
- 33.262 Off-Site Impacts
- 33.266 Parking and Loading
- 33.270 Planned Development
- 33.272 Public Recreational Trails
- 33.274 Radio Frequency Transmission Facilities
- 33.279 Recreational Fields for Organized Sports
- 33.281 Schools and School Sites
- 33.284 Self-Service Storage
- 33.285 Short Term, Mass, and Outdoor Shelters
- 33.288 Special Street Setbacks
- 33.293 Superblocks
- 33.296 Temporary Activities
- 33.299 Wind Turbines

Commentary

33.205 Accessory Dwelling Units

While HB2001 does not require cities to modify their rules regarding Accessory Dwelling Units (they are not technically a “middle housing type” under the bill), changes included in the first part of the Residential Infill Project, effective August 2021, expanded ADU allowances by allowing a house to have up to two ADUs or a duplex to have one ADU in the R2.5 through R7 single dwelling zones, multi dwelling zones and commercial mixed-use zones.

The changes in this section address two items.

- The first change expands the new ADU allowances to the remaining residential (R10 and R20) zones.
- The second change adds new minimum lot size requirements for ADUs in conjunction with attached houses. With the increased densities and smaller lot sizes allowed for attached houses in 33.610 and 33.611, these minimums ensure greater parity between density allowed for a fourplex and density allowed for two attached houses with two ADUs. Without these lot size minimums, it would be possible for example on a 7,000 sq ft R7 zoned lot to create four attached house lots each with an ADU, essentially octupling the base zone density. This change still permits attached houses on larger lots to have ADUs. For example on that 7,000 sq ft R7 lot, the lot could be divided for two attached houses, each having an ADU.

33.205 Accessory Dwelling Units

Sections:

- 33.205.010 Purpose
- 33.205.020 Where These Regulations Apply
- 33.205.030 General Requirements
- 33.205.040 Development Standards
- 33.205.050 Density

33.205.010 Purpose

Accessory dwelling units are allowed in certain situations to:

- Create new housing units while respecting the look and scale of single-dwelling development;
- Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- Allow more efficient use of existing housing stock and infrastructure;
- Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- Provide a broader range of accessible and more affordable housing.

33.205.020 Where Accessory Dwelling Units are Allowed

A. ~~RF through R10~~. One accessory dwelling unit is allowed on a site with a house, attached house or manufactured home in the ~~RF through R10~~ zones ~~except for attached houses in the R20 and R10 zones that were built using the regulations of 33.110.265.C.1. In this case, an accessory dwelling unit is prohibited.~~

B. ~~R7R20~~ through R2.5.

1. One accessory dwelling unit is allowed as follows:

a. ~~On a site with a house, attached house or manufactured home in the R7R20~~ through R2.5 zones when the lot complies with Section 33.110.202, When Primary Structures are Allowed.

b. On a site with an attached house when the lot meets the minimum lot area stated in Table 205-1.

<u>Zone</u>	<u>Minimum Lot Area</u>
<u>R20</u>	<u>10,000 sq. ft.</u>
<u>R10</u>	<u>5,000 sq. ft.</u>
<u>R7</u>	<u>3,500 sq. ft.</u>
<u>R5</u>	<u>2,500 sq. ft.</u>
<u>R2.5</u>	<u>1,500 sq. ft.</u>

Commentary

33.205.020.B.1.c

These standards apply to ADUs where there is a duplex. They are substantially the same as the standards in the deleted paragraph B.3. but have removed the restriction for sites with historic resources (see discussion in B.2 below).

An additional prohibition is included for sites with “detached unit duplexes”. This duplex configuration was specifically to address the desire for allowing two detached units to utilize the middle housing land division procedure. Including an ADU prevents such a division. Moreover, 3 detached units are already allowed in most cases as a cottage cluster.

Table 205-2

The minimum lot area required for R10 and R20 zones follow the precedent for other residential infill options where three or more units are allowed on a site.

Lot sizes in the higher density R2.5, R5 and R7 zones are reduced to correspond to reduced minimum lot sizes for Residential Infill Options with 3 or more units (Table 110-7) which now match lot sizes for new lots in the applicable base zone (i.e. 33.610 and 33.611).

33.205.020.B.2

A restriction is being deleted that prohibited the development of a second ADU when the site had a historic resource that had been demolished within the previous 10 years without obtaining demolition review approval from the city. This primarily affected conservation resources which are subject only to a 120-day demolition delay, not demolition review. The restriction is being deleted because changes within the Historic Resources Code Project are adding demolition review to conservation resources. This will help ensure alternatives to demolition are carefully considered, and incentives made available to better enable the resource to be converted to middle housing or some other use.

Clarification is added that if a site has frontage on at least one City-maintained street, an additional ADU is not prohibited. As written, a site with two street frontages, one of which abuts a street that is maintained by the City, would still be prohibited from having an additional ADU and that was not the original intent of the regulation. Also, when self-contained pedestrian connections are created as “streets” as part of a land division and they connect to a maintained street, lots that front on that pedestrian connection would be eligible for these additional ADUs. Being “self-contained” differentiates these from pedestrian connections that are sidewalks that are part of a street that also provides vehicle access.

c. On a site with a duplex:

- (1) When allowed: Except as prohibited by Subsubparagraph B.1.c.(2), one accessory dwelling unit is allowed on a site with a duplex when the lot meets the minimum lot area requirements stated in Table 205-2. The accessory dwelling unit must be detached from the duplex.
- (2) When prohibited. An accessory dwelling unit is prohibited on lots that contain a duplex made up of two detached primary dwelling units, and on lots that do not have frontage on a maintained street, except lots that have frontage on a private street that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement.

Zone	Minimum Lot Area
<u>R20</u>	<u>12,000 sq. ft.</u>
<u>R10</u>	<u>6,000 sq. ft.</u>
R7	4,200 <u>5,000</u> sq. ft.
R5	3,000 <u>4,500</u> sq. ft.
R2.5	1,600 <u>3,200</u> sq. ft.

2. ~~Up to two~~ Two accessory dwelling units are allowed as follows:

- a. When allowed. Except as prohibited by Subparagraph B.2.b., two accessory dwelling units are allowed on a site with a house, attached house or manufactured home in the ~~R7~~R20 through R2.5 zones when the lot meets the minimum lot area requirement stated in Table 205-~~42~~. If there are two accessory dwelling units on the site, at least one must be detached from the primary structure.
- b. When prohibited. Two accessory dwelling units are prohibited on lots that ~~do not~~ do not have frontage on a maintained street, except lots that ~~lots that abut a~~ have frontage on a private street that connects to a maintained street, and lots that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street, or highway that has not been accepted for maintenance by the City or State. See Title 17.42, Property Owner Responsibility for Streets. Payment in lieu of street improvements does not satisfy this requirement. ~~Two accessory dwelling units are also prohibited on lots where a Historic or Conservation Landmark or a contributing structure in a Historic or Conservation District was demolished within the past ten years unless the landmark or contributing structure was destroyed by fire or other causes beyond the control of the owner, the only structure that was demolished was an accessory structure, or the demolition was approved through demolition review. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.~~

Commentary

33.205.020.B.3.

These standards have been reorganized and incorporated into B.1.c.

33.205.020.C.

These changes align with language in 33.205.020.A.1.c(1)

~~3. One accessory dwelling unit is allowed on a site with a duplex in the R7 through R2.5 zones when the lot meets the minimum lot area requirements stated in Table 205-1. An accessory dwelling unit is prohibited on lots that do not abut a street that has been accepted for maintenance by the City of Portland, or the State of Oregon in the case of state highways, or is prohibited on lots that abut a private street that connects to a street or highway that has not been accepted for maintenance by the City or State. See Title 17.42, Property Owner Responsibility for Streets. Payment in lieu of street improvements does not satisfy this requirement. An accessory dwelling unit is also prohibited on lots where a Historic or Conservation Landmark or a contributing structure in a Historic or Conservation District was demolished within the past ten years unless the landmark or contributing structure was destroyed by fire or other causes beyond the control of the owner, the only structure that was demolished was an accessory structure, or the demolition was approved through demolition review. The accessory dwelling unit must be detached.~~

C. Multi-dwelling, C and EX.

1. Up to two accessory dwelling units are allowed on a site with a house, attached house or manufactured home in the multi-dwelling, C and EX zones. If there are two accessory dwelling units on the lot, at least one must be detached from the primary structure. ~~only one may be attached to or within the primary structure.~~
2. One accessory dwelling unit is allowed on a site with a duplex in the multi-dwelling, C and EX zones. ~~In this case, t~~The accessory dwelling unit must be detached from the duplex.

33.205.030 General Requirements

- A. Type B home occupation. An accessory dwelling unit is prohibited on a site with a Type B home occupation.
- B. Type A accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type A accessory short-term rental.
- C. Type B accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type B accessory short-term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.

33.205.040 Development Standards

- A. **Purpose.** Standards for creating accessory dwelling units address the following purposes:
 - Ensure that accessory dwelling units are compatible with the desired character and livability of Portland’s residential zones;
 - Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
 - Ensure that accessory dwelling units are smaller in size than primary dwelling units; and
 - Provide adequate flexibility to site buildings so that they fit the topography of sites.
- B. **Generally.** The development standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zone development standards apply.

Commentary

33.205.040.C.3.b.

This amendment reverts the language to the original language pre RIP1. The previous amended language created unintended results. The previous amendment was attempting to clarify the nature of the preposition "behind", i.e. that ADUs need not be directly in line "behind" and screened by the primary structure, but rather just further back than the back of the primary structure. However, the amended language did not adequately account for through lots.

- C. Requirements for accessory dwelling units.** Accessory dwelling units must meet the following:
1. **Parking.** No additional parking is required for the accessory dwelling unit. Existing required parking must be maintained or replaced on-site.
 2. **Maximum size.** The living area of the accessory dwelling unit may be no more than 75 percent of the living area of the primary dwelling-unit or 800 square feet of living area, whichever is less. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years. The size measurements are based on what the square footage of the primary dwelling unit and accessory dwelling unit will be after the accessory dwelling unit is created. When the primary dwelling unit is a duplex, the size of the accessory dwelling unit may be no more than 75 percent of the living area of the larger of the two primary units or 800 square feet of living area, whichever is less.
 3. **Setbacks.** Detached and connected accessory dwelling units must be:
 - a. Set back 40 feet from the front lot line; or
 - b. Located behind the rear building wall of the primary dwelling. For the purpose of this regulation, the rear wall of the primary dwelling unit is the wall furthest from the wall with the main entrance to the street.~~Located behind the rear building line of the primary dwelling unit.~~
 4. [No change]
 5. **Visitability.**
 - a. **Purpose.** Visitability standards ensure that a baseline of accessible features is provided to accommodate people living in or visiting a residence regardless of age or ability. The standards:
 - Promote a diverse supply of more physically accessible housing;
 - Allow people of all ages and abilities to easily enter and visit the residence;
 - Foster community interaction by reducing barriers that can lead to social isolation; and
 - Enhance public safety for all residents and visitors.
 - b. When the visitable unit standards apply. Unless exempted by Subparagraph C.5.d, the visitable unit standards apply to the following situations:

(1)-(2) [No change]

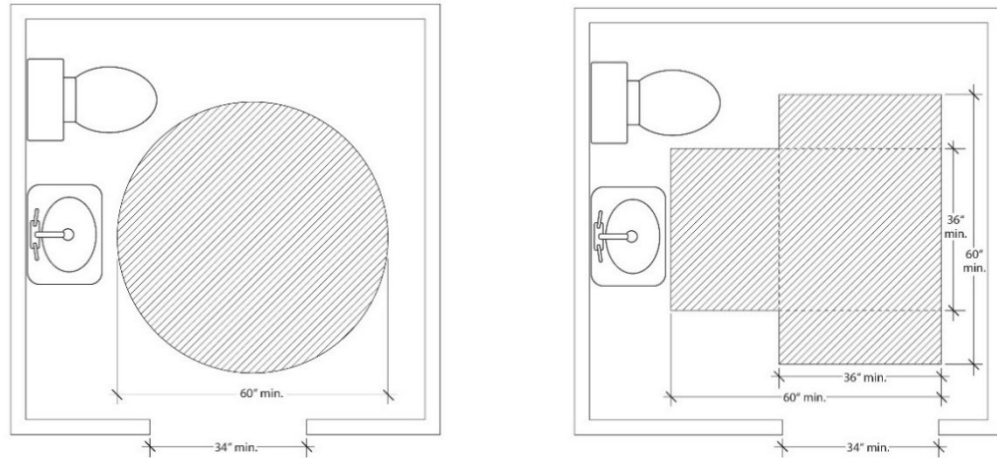
Commentary

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

- c. Visitability standard. Unless exempted by Subparagraph ~~C.5.d.E.3.e.~~, at least one dwelling unit on the lot must meet the following visitability standards:

(1)-(4) [No change]

Figure 205-1
Visitable Bathroom Clearances



- d. Exemptions. The following are exempt from the visitable unit standards of this Paragraph:
- (1) Lots with an average slope of 20 percent or greater;
 - (2) Lots where there is more than a 3-foot rise between the highest elevation along the street lot line and the lowest grade measured at the front setback.
 - (3) Conversion of an existing accessory structure that is at least 5 years old or converting space in a house that is at least 5 years old to an accessory dwelling unit.

Commentary

33.207.040 Type A Accessory Short-Term Rentals

This amendment should have been made with RIP1 when the definition of fourplex was added to the zoning code. Prior to the RIP1 code changes, a fourplex was a multi-dwelling structure and was therefore subject to this cap.

Cottage clusters are added to the list of housing types as another multi-unit housing type that have a cap on number of units permitted to have an ASTR.

33.207 Accessory Short-Term Rentals

33.207

33.207.040 Type A Accessory Short-Term Rentals

A. Use-related regulations.

1-3. [No change]

4. Cap. The number of dwelling units in a multi-dwelling structure, ~~or a triplex, fourplex, or cottage cluster~~ that can have an accessory short-term rental is limited to 1 unit or 25 percent of the total number of units in the structure or on the site, whichever is greater.

5. [No change]

B.-D. [No change]

33.207.050 Type B Accessory Short-Term Rentals

A. Use-related regulations.

1-3. [No change]

4. Cap. The number of dwelling units in a multi-dwelling structure, ~~or a triplex, fourplex, or cottage cluster~~ that can have an accessory short-term rental is limited to 1 unit or 25 percent of the total number of units in the structure or on the site, whichever is greater.

5. [No change]

B. [No change]

Commentary

33.218.100.E

The community design standards provide an alternative track for some Historic Resource Reviews. Section 33.218.100 addresses development in single dwelling zones and includes requirements for main entrances. The main entrance requirements are inconsistent with the requirements for cottage clusters in single-dwelling zones because a cottage cluster will have multiple primary structures with main entrances. The community design standards were crafted as if there is only one primary structure on the site. For this reason, cottage clusters will be exempt from the extra design standards.

33.218 Community Design Standards

218

33.218.100 Standards for Primary and Attached Accessory Structures in Single-Dwelling Zones

The standards of this section apply to development of new primary and attached accessory structures in single-dwelling zones.

A-D. [No change]

E. **Main entrance.** Cottage clusters are exempt from this standard.

1-5. [No change]

Commentary

33.251 Manufactured Homes and Manufactured Dwelling Parks

These changes are intended to enable manufactured homes (generally lower cost and more affordable housing) to be placed on sites where multiple conventional homes are allowed, either as a cottage cluster or multi-dwelling development. These changes permit up to 6 such homes on lots in the single dwelling zones where cottage clusters would otherwise be allowed. ORS Chapter 646 allows cities to authorize up to 6 manufactured homes before the site must be classified as a manufactured dwelling park.

Manufactured dwelling parks are prohibited in single dwelling zones and are regulated quite differently from individual manufactured homes where these parks are allowed.

The prohibition on manufactured dwellings in Historic Districts is deleted. The placement of manufactured homes in Historic Districts would be subject to Historic Resource Review, which can address design and compatibility issues through discretionary criteria, like any other proposed dwelling unit. The outright prohibition removes this potentially lower cost housing option from Historic Districts.

33.251.020.D. Other regulations

The change to the perimeter foundation is intended to clarify that it need not be fully enclosed where flood plain regulations make that impractical.

33.251 Manufactured Homes and Manufactured Dwelling Parks

251

33.251.020 Manufactured Homes on Individual Lots

- A. Purpose.** The purpose of this section is to allow affordable housing opportunities in structures whose appearance is similar to housing built to the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State.)
- B. Zones and types of manufactured homes allowed.** Manufactured homes are allowed on individual lots as follows:
1. In all zones where houses are an allowed housing type, ~~except in Historic Districts where they are prohibited;~~
 2. In zones where cottage clusters are allowed, three to six manufactured homes may be allowed if they meet the provisions of this chapter;
 - ~~23.~~ In zones where multi-dwelling development is allowed, two to six manufactured homes may be allowed if they meet the provisions of this chapter; and
 - ~~34.~~ On individual lots in manufactured dwelling parks that were created under the provisions of Chapter 33.642.
- C. Development standards.** Manufactured homes must meet the development standards of the base zone, except on individual lots in manufactured dwelling parks that were created under the provisions of Chapter 33.642.
- D. Other regulations.** Manufactured homes must meet the following standards:
1. Foundation. The manufactured home must be set on a perimeter foundation ~~that is enclosed at the perimeter.~~
 2. Hauling mechanisms. The transportation mechanisms including the wheels, axles and hitch must be removed.

Commentary

33.251.025. More Than One Manufactured Home on a Site

These changes recognize the different allowable configurations of units on sites with multiple dwelling units. They are also intended to clarify that manufactured homes may be sited as ADUs.

33.251.025.D. Historic Districts and Conservation Districts

The limitation on Manufactured Homes in Historic and Conservation areas is being deleted consistent with direction from the Historic Resource Code Project and HB2001. Placement of manufactured homes will continue to be reviewed like other new development in these districts.



Mississippi Cottages, Ocean Springs - built 2008

Photo: Bruce Tolar

33.251.025 More Than One Manufactured Home on a Site

The following standards apply when more than one manufactured home is located on a site:

A. Two or three manufactured homes.

1. ~~Two or three manufactured homes on a site~~ are may be regulated as primary and accessory dwelling units in zones that allow up to two accessory dwelling units, as a cottage cluster in zones that allow cottage clusters, or multi-dwelling development in zones that allow multi-dwelling development.
2. ~~They~~ The manufactured homes are subject to the density and development standards that would apply to primary and accessory dwelling units, cottage clusters or multi-dwelling development on the site.
3. On sites with a cottage cluster, the manufactured homes must be detached. On all other sites, ~~the~~ manufactured homes may be detached or may share common walls or ceilings with other manufactured homes on the site.
4. The manufactured homes must also meet the standards of 33.251.020.D, above.

B. Four to six manufactured homes. Four to six manufactured homes on a site must meet one of the following standards:

1. Four to six manufactured homes on a site may be regulated as a cottage cluster in zones that allow cottage clusters or as multi-dwelling development in zones that allow multi-dwelling development. They are subject to the density and development standards that would apply to cottage clusters or multi-dwelling development on the site. On sites with a cottage cluster, the manufactured homes must be detached. On all other sites, ~~the~~ manufactured homes may be detached or may share common walls or ceilings with other manufactured homes on the site. The manufactured homes must also meet the standards of 33.251.020.D, above; or
2. Four to six manufactured homes on a site must meet the regulations of Section 33.251.030, Manufactured Dwelling Park Regulations.

C. Seven or more manufactured homes. Seven or more manufactured homes on a site must meet the regulations of Section 33.251.030, Manufactured Dwelling Park Regulations.

~~**D. Historic Districts and Conservations Districts.** Manufactured homes are prohibited in Historic Districts. More than one manufactured home on a site is prohibited in Conservation Districts.~~

Commentary

33.253 Development on a Middle Housing Land Division Site

This is a new chapter to address how development on a Middle Housing Land Division Site will be reviewed after the development on the initial land division is complete.

This chapter applies to future development and alterations to development on a site that has undergone a middle housing land division. The chapter also incorporates certain limitations that are specified in SB458, namely that the type of housing doesn't change with the creation of new individual lots (i.e. a triplex remains a triplex even though it is on separate lots); that only one dwelling is allowed per lot (i.e. ADUs are not allowed, and sites may not have a mixture of single unit lots and multi-unit lots); the uses are restricted to residential uses, and that the lots may not be subsequently divided.

Plats approved under SB458 will also include a notation on the plat to that effect (see 33.730.060), to make a clear link between the plat and this chapter. However, it should be noted that the tax maps themselves will not include visible distinctions for these plats from other land division plats.

This chapter reinforces definitional changes in 33.910, for "site", "duplex", "triplex", "fourplex", and "cottage cluster". The primary intent of this chapter is to distinguish how the development standards of this title will be applied to subsequent development on the land division site. Unlike most other situations where the development standards relate to specific lots or combinations of lots under single ownership, for middle housing land divisions, the development standards are applied as though the underlying original site has not been divided. Elements like FAR, building coverage, and setbacks are all measured with respect to the plat boundary, not with respect to individual lots within that plat.

Note that for the purposes of applying tree preservation standards in development situations, Title 11 refers to the definition of site in Title 33. This means that the original site size is considered for applicability of the lot size exemptions in 11.50.

For building code regulations (Title 24, 25, 26, and 27), and provision of services and access (Title 17, 21 and 31), the underlying lots may be considered separately.

33.253 Development on a Middle Housing Land Division Site

253

Sections:

33.253.010 Purpose

33.253.020 Where These Regulations Apply

33.253.030 Applying Title 33 to Development on a Middle Housing Land Division Site

33.253.040 Number of Dwelling Units

33.253.050 Allowed Use

33.253.060 Future Land Division

33.253.010 Purpose

These middle housing land division standards carry out certain key aspects of ORS 92.031 that ensure that:

- The residential structure type developed on the middle housing land division site remains the same structure type after the land division is approved;
- No more than one dwelling unit is allowed per lot; and
- The middle housing land division lots cannot be further divided.

33.253.020 Where These Regulations Apply

The standards of this chapter apply to lots resulting from a middle housing land division.

33.253.030 Applying Title 33 to Development on a Middle Housing Land Division Site

- A. For the purposes of development, the regulations of Title 33 apply to the lots and tracts resulting from a middle housing land division collectively and not to each lot individually. For example, the building setback standards of the base zone apply to the property lines of the original site prior to the land division and not to the property lines of each individual lot created through the land division.
- B. The residential structure type on a site that has been divided through a middle housing land division remains the residential structure type that was proposed with the middle housing land division. For example, if the middle housing land division was approved for a site with a fourplex, the residential structure type on the site remains a fourplex following the middle housing land division.

33.253.040 Number of Dwelling Units

More than one dwelling unit is prohibited on a lot that has been created through a middle housing land division. Accessory dwelling units are prohibited on lots that have been divided through middle housing land divisions.

33.253.060 Allowed Use

All the primary uses on a middle housing land division site must be residential uses. Accessory home occupations are allowed.

33.253.060 Future Land Division

The further division of a lot created through a middle housing land division is prohibited.

Commentary

33.266.130 Development Standards for All Other Development

These standards apply to vehicle parking for development other than houses, attached houses, duplexes, triplexes, and fourplexes. For the single dwelling zones, these standards would apply to institutional and conditional uses (e.g. schools, churches) and non-conforming uses. These standards would also be applicable to multi-dwelling structures (e.g. affordable 5-6 plexes in 33.110.265.E) as well as cottage cluster developments (33.110.265.F.)

33.266.130.C.3. Frontage Limitation

The 40% paving area limit has been added to the R10 and R20 zones. With additional middle housing types being allowed, and the potential desire to create more off-street parking, these standards prevent the front yard from being dominated by vehicle paving for the higher intensity uses.

33.266 Parking, Loading, And Transportation And Parking Demand Management

266

33.266.130 Development Standards for All Other Development

A-B. [No change]

C. On-site locations and size of vehicle areas.

1.2. [No change]

3. Frontage limitation.

- a. The standard of this Subparagraph applies outside the Central City plan district in the ~~R7, R5, R20~~ through R2.5, RM1, RM2, RM3, RM4, and RMP zones. No more than 40 percent of the frontage on a street may be used for vehicle areas. On sites with more than one street frontage, this standard applies to the street with the highest transit designation. If two streets have the same highest transit classification, the applicant may choose on which street to meet the standard. Sites where there is less than 100 square feet of net building area are exempt from this standard.
- b. The standard of this Paragraph applies outside the Central City plan district in the RX, CR, CM1, CM2, CM3, CE, CX, EG1, EX, CI, and IR zones. Where vehicle areas are adjacent to a transit street or a street in a Pedestrian District, no more than 50 percent of the frontage on the transit street or street in a Pedestrian District may be used for vehicle areas. Sites where there is less than 100 square feet of net building area are exempt from this standard.

4. [No change]

D-G. [No change]

Commentary

Table 266-3 Location of Vehicle Areas

This standard restricts parking spaces from being located between the primary building and the street. This is especially relevant for cottage clusters or institutional uses, to avoid the entry and area adjacent to the public realm from being dominated by a parking lot. Adjustments to the general standards may be requested.

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

Table 266-3 Location of Vehicle Areas [1], [2]			
Zone	General Standard	Exception for Through Lots and Sites with Three Frontages	Exception for Full-Block Sites
OS, RF-R10, EG2, I	No restrictions.		
RMP, IR, CE, EG1, CI; sites in RM1, RM2, and RM3 that are more than 10,000 square feet in total area; sites in CM1, CM2, and CM3 that are more than 2 acres in total area	Vehicle areas not allowed between the portion of the building that complies with the maximum street setback and the transit street or streets in a Pedestrian District.	May have vehicle areas between the portion of the building that complies with the maximum street setback and one Local Service Transit Street.	May have vehicle areas between the portion of the building that complies with the maximum street setback and two Local Service Transit Streets.
R20-R2.5, RM4, RX, CX, CR, EX,, sites in RM1, RM2, and RM3 that are 10,000 square feet or less in total area; sites in CM1, CM2, and CM3 that are 2 acres or less in total area	Not allowed between a building and any street.	May have vehicle areas between the building and one Local Service Transit Street.	May have vehicle areas between the building and two Local Service Transit Streets.

Notes:

[1] Driveways that provide a straight-line connection between the street and a parking area inside a building are not subject to these regulations.

[2] Vehicle areas that are separated from a street by a building are not subject to these regulations.

Commentary

33.270.020.B. Density and FAR

With RIP1, the density formulas for Planned Developments were changed to create better parity with the new unit densities allowed on lots in the single dwelling zones. For lots in the Constrained Sites Overlay Zone, where only a duplex or house plus ADU are allowed, the multiplier for PD units is two. For sites outside the Constrained Sites Overlay Zone, where up to a fourplex would be allowed, the multiplier for PD units is four.

For the RF (Farm and Forest) zone, duplexes and other middle housing types are not allowed. Therefore, the current density standards continue to apply.

Since middle housing types are being expanded to R10 and R20 zones, they are newly incorporated into the density multipliers and FAR standards for PDs.

References in the formulas have been changed from the table in Chapter 610 to Section 33.610.100 (and 33.611.100 in the case of R2.5 zones) in order to eliminate duplicate formulas and correct an unintended consequence of RIP1, which resulted in confusion about how density would be calculated when a street is being created with a PD. Also, with the introduction of different Attached House lot densities in the land division chapters, the distinction for "Density B" (standard lot density) vs. "Density A" (attached house lot density) has been incorporated into these standards.

33.270 Planned Development

270

33.270.020 Relationship to Other Regulations

A. [No change]

B. **Density and FAR.** Adjustments to density and FAR regulations are prohibited.

1. Density.

a. Maximum dwelling unit density.

(1) ~~RF through R10.~~ In the RF zone through R10, maximum density is expressed as a number of lots. Maximum density for the RF ~~through R10~~ zones is specified in 33.610.100. Maximum density can be met in the Planned Development by providing the same number of dwelling units.

(2) ~~R7R20 through and R5.~~ In the R20 through R5 zones, maximum density is calculated as follows:

- If the Planned Development is in the Constrained Sites Overlay or does not qualify to use the triplex or fourplex provisions of 33.110.265.E, maximum density is calculated as follows:

~~Square footage of site;~~

~~÷ Maximum density from Table 610;~~

Maximum number of lots allowed as specified for maximum density B in 33.610.100 for;

x 2

= Maximum number of dwelling units allowed.

- For all other Planned Developments, maximum density is calculated as follows:

~~Square footage of site;~~

~~÷ Maximum density from Table 610;~~

Maximum number of lots allowed as specified for maximum density B in 33.610.100 for;

x 4

= Maximum number of dwelling units allowed.

(3) R2.5. In R2.5 maximum density is calculated as follows:

~~Square footage of site;~~

~~÷ 2,500;~~

Maximum number of lots allowed as specified for maximum density B in 33.611.100 for;

x 2

= Maximum number of dwelling units allowed.

Commentary

33.270.020.B.2. FAR

This change just expands the reference to R10 and R20 zones where FAR may be applied (to sites or lots that are less than 10,000 sq ft)

33.270.200 Additional requirements for Planned Developments

Adding the R10 and R20 zones, since they are now part of the new density multipliers for PDs

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

- b. Minimum density. Minimum density must be met in the Planned Development. Minimum density for single-dwelling zones is expressed as a number of lots. Minimum density can be met in a Planned Development by providing the same number of dwelling units. Minimum density for single-dwelling zones is stated in 33.610.110 and 33.611.100. Minimum density for all other zones is stated in the base zone chapters.
2. FAR
- a. Maximum FAR
 - (1) ~~R7R20~~ through R2.5. The maximum FAR in the ~~R7R20~~ through R2.5 zones is specified in 33.110.210.
 - (2) Multi-dwelling zones. The maximum FAR in the multi-dwelling zones is specified in 33.120.210.
 - (3) Commercial/mixed use zones. The maximum FAR in the commercial/mixed use zones is specified in 33.130.205.
 - b. Minimum FAR. Where the base zone requires a minimum FAR, the standard must be met in a Planned Development
- C. [No change]

33.270.200 Additional requirements for Planned Developments in the ~~R7R20~~ and through R5 Zones

- A. **Where this standard applies.** In the ~~R7R20~~ and through R5 zones, unless exempted by Subsection C., the standards of this section apply when the total number of proposed dwelling units is at least 75 percent of the maximum number of dwelling units allowed through the Planned Development,
- B-C. [No change]

Commentary

33.418 Constrained Sites Overlay Zone

The purpose statement has been modified to reflect the addition of the R10 and R20 zones, as well as incorporate the language from HB2001 Administrative Rules related to “goal protected areas”.

33.418.030 Applying the Constrained Sites Overlay Zone

HB2001 allows middle housing (other than duplexes) to be limited in certain “goal-protected areas”, such as natural resource and land hazard areas. There are four key changes to the elements that comprise this overlay zone:

Natural Resources - RIP part 1 limited middle housing on sites that contained inventoried natural resources. This inventory forms the basis for where the environmental overlay zones are located. Subsequent state rulemaking clarified that only resources that have been both identified *and* protected through regulations could be considered. This means that only areas in Goal 5 environmental overlays can be excluded. Note that the overlay map proposal includes e-zones as modified by the [Environmental Zones Correction Project](#). Subsequent changes to the ezones as that project proceeds could impact how the 'z' overlay is applied to specific properties.

Wildfire Risk - The R20 and R10 zones are heavily impacted by wildfire risk because these zones are located at wildland urban interface and may be more likely to lack infrastructure systems including a reduced street network to support emergency services and access. For these reasons, wildfire risk is now factored into the overlay for the R20 and R10 zones. Wildfire risk is not factored into the overlay for the R7, R5 and R2.5 zones because these higher density areas have higher housing opportunity scores, have greater transportation access, and are proximate to services, jobs, education, and amenities. Therefore, growth in these areas is more consistent with the overall city growth strategy.

Airport Noise - RIP Part 1 did not incorporate infill options in the R10 and R20 zones. Portions of the airport noise overlay where noise levels are above 68DNL limit residential densities. No areas of RIP1 were impacted, but they are present in R10 and R20.

Future industrial lands - Additionally, there are small areas of R10 or R20 zoning where there is an underlying Industrial Sanctuary comprehensive plan designation. These areas are intended for future land conversion to employment uses in conformance with the City's Goal 9 obligations, and increased residential densities are incompatible with that future land use.

Clarification is added so that when a site is rezoned to a non-single dwelling zone, the constrained sites overlay is automatically removed.

33.418 Constrained Sites Overlay Zone

418

Sections:

- 33.418.010 Purpose
- 33.418.020 Map Symbol
- 33.418.030 Applying the Constrained Sites Overlay Zone
- 33.418.040 Housing Type Limitations

33.418.010 Purpose

Under some circumstances, ~~up to four dwelling units is~~ more than two dwelling units are allowed per ~~on~~ lots in the ~~R7, R5 and R20~~ through R2.5 zones. The Constrained Sites overlay zone reduces ~~that~~ development potential to comply with protective measures adopted and acknowledged pursuant to statewide land use planning goals. This overlay zone reduces risk to life or property from certain natural hazards. on lots that have certain development constraints. The constraints make the lots unsuitable for three or more dwelling units.

33.418.020 Map Symbol

The Constrained Sites overlay zone is shown on the Official Zoning Maps with the letter “z” map symbol.

33.418.030 Applying the Constrained Sites Overlay Zone

The Constrained Sites overlay zone is applied to lots in the R20, R10, R7, R5 and R2.5 zones when any portion of the lot has one of the following constraints. When property is rezoned out of an R20, R10, R7, R5, or R2.5 zone, the Constrained Sites overlay zone is automatically removed from the zoning map:

- A. Environmental Conservation overlay zone, Environmental Protection overlay zone, or Pleasant Valley Natural Resource overlay zone ~~Low, medium, or high value natural resource as shown on the City's Natural Resources Inventory;~~
- B. Special flood hazard area;
- C. Floodway;
- D. 1996 Flood Inundation area;
- E. Potential Rapidly Moving Landslide Hazard Zones as shown in the DOGAMI IMS-22 publication;
- F. Deep landslide—High Susceptibility or Landslide Deposit or Scarp as shown in the DOGAMI IMS-57 publication;
- G. Sites in the R10 and R20 zones with a cumulative hazard value of 5 or more as shown on the 1998 City of Portland Wildfire Hazard Zone map;
- H. Sites in the R10 and R20 zones with a high or extreme risk rating as shown on the 2001 Multnomah County Community Wildfire Protection Plan map 13B that are not also included in the 1998 City of Portland Wildfire Hazard Zone map;
- I. Land within an industrial sanctuary comprehensive plan designation;
- J. Land within the Portland International Airport Noise Impact overlay zone with a 68DNL or higher noise contour.

Commentary

33.418.040 Housing Type Limitations

These changes add R10 and R20 zones, along with cottage clusters. The changes also address the new configuration of duplexes where units are detached from one another. This infill option is added to the list of options that cannot be used within the constrained site overlay. While regular duplexes are permitted in these areas, these are more likely to concentrate the development and related impacts to one area of the site, since the units must be attached. Detached ADUs are likewise permitted in these areas, but again, the small size and footprint impacts from ADUs are likely to be significantly reduced in comparison to a full size detached unit (i.e. a 2nd "house").

Note that the new higher density attached houses are addressed in 33.610 and 33.611, where the higher density for attached houses is restricted in the 'z' overlay zone. Attached houses on lots in the 'z' overlay that meet 33.110.202 continue to be allowed.

33.418.040 Residential Infill and ADU Limitations Housing Type Limitations

The following residential infill and accessory dwelling unit options do not apply in the Constrained Sites overlay zone:

- A.** 33.110.265.D.2 which allows duplexes consisting of two detached primary dwelling units in the R20 through R2.5 zones.
- AB.** 33.110.265.E which allows triplexes and fourplexes in the ~~R7~~R20 through R2.5 zones;
- BC.** 33.110.265.F which allows fourplexes and multi-dwelling structures with up to six dwelling units in the ~~R7~~R20 through R2.5 zones;
- D.** 33.110.265.G which allows cottage clusters in the R10 through R2.5 zones;
- DE.** ~~33.205.020.B.31.c~~ 33.205.020.B.31.c which allows an accessory dwelling unit on a site with a duplex in the ~~R7~~R20 through R2.5 zones.;
- CF.** 33.205.020.B.2 which allows two accessory dwelling units on a site with a house, attached house, or manufactured home in the ~~R7~~R20 through R2.5 zones.; ~~and~~

Commentary

33.430.070 When these regulations apply

This amendment exempts a middle housing land division from environmental overlay zone regulations in accordance with SB458 which does not allow cities to apply approval criteria other than what is specified in that bill (see 33.671.130). This exemption applies to middle housing land divisions for all applicable middle housing types in non-single dwelling zones and only applies to duplexes in the single dwelling zones since other middle housing types are restricted in these areas.

While the middle housing land division is exempt from this chapter, the associated building permit and any associated utility and site improvements needed for that land division would still be subject to this chapter.

33.430.160.F.1

The environmental overlay zone development standards for land divisions currently allows up to 225 inches of native trees to be removed "per dwelling unit". The standard was written at a time when only one primary dwelling unit was allowed per lot. Now that more than one primary dwelling unit is allowed per lot (e.g., duplex), the total amount of native trees allowed to be removed in an environmental overlay zone has inadvertently increased. This amendment returns the total amount allowed to be removed with a land division or planned development to the status quo prior to RIP1. This is an amendment that should have been made with RIP1.

33.430 Environmental Zones

430

33.430.070 When These Regulations Apply

Unless exempted by Section 33.430.080, below, the regulations of this chapter apply to the following:

- A. Development;
- B. All land divisions and property line adjustments except for middle housing land divisions. The regulations of this chapter do apply to development proposed on a middle housing land division site;
- C. Removing, cutting, mowing, clearing, burning, or poisoning native trees and plants listed in the *Portland Plant List*;
- D. Planting or removing trees and plants listed on the Nuisance Plants List, and planting or removing non-native non-nuisance trees and plants;
- E. Changing topography, grading, excavating, and filling;
- F. Resource enhancement; and
- G. Dedication and expansions of rights-of-way.

33.430.160 Standards for Land Divisions and Planned Developments

The following standards apply to land divisions and Planned Developments in the environmental overlay zones. All of the standards must be met.

A-E. [No change]

F. Tree removal is allowed as follows:

1. Native trees. In residential zones, the combined total diameter of native trees cut may not exceed 225 inches per ~~lot~~dwelling unit, counting only native trees that are at least 6 inches in diameter. In all other zones, native tree removal is limited to the boundaries of the approved disturbance area. Native trees must be replaced as shown in Table 430-3;

G-J. [No change]

Commentary

33.465.070 When these regulations apply

This amendment exempts a middle housing land division from the Pleasant Valley overlay zone regulations in accordance that bill (see 33.671.130). This exemption applies to middle housing land divisions for all applicable middle housing types in non-single dwelling zones and only applies to duplexes in the single dwelling zones since other middle housing types are restricted in these areas.

While the middle housing land division is exempt from this chapter, the associated building permit and any associated utility and site improvements needed for that land division would still be subject to this chapter.

33.465 Pleasant Valley Natural Resources Overlay Zone

465

33.465.070 When These Regulations Apply

Unless exempted by Section 33.465.080, below, the regulations of this chapter apply to the following:

- A. Development;
- B. All land divisions except for middle housing land divisions. The regulations of this chapter do apply to development proposed on a middle housing land division site;
- C. Removing, cutting, mowing, clearing, burning, or poisoning native trees and plants listed in the *Portland Plant List*;
- D. Planting or removing trees and plants listed on the Nuisance Plant List and removing non-native non-nuisance trees and plants;
- D. Changing topography, grading, excavating, and filling;
- F. Resource enhancement; and
- G. Dedication and expansions of rights-of-way.

Commentary

33.475.403 When these regulations apply

This amendment exempts a middle housing land division from the River Environmental overlay zone regulations in accordance with that bill (see 33.671.130). River Environmental Zones are not included in the list of constraints that formulate the 'z' overlay, so unlike the Environmental Zones and Pleasant Valley Overlay Zone, other types of middle housing in addition to duplexes could be proposed to be divided in the single dwelling zones. This exemption applies to middle housing land divisions for all applicable middle housing types in non-single dwelling zones.

While the middle housing land division is exempt from this chapter, the associated building permit and any associated utility and site improvements needed for that land division would still be subject to this chapter.

33.475 River Overlay Zones

475

33.475.403 When These Regulations Apply

Unless exempted by 33.475.405, the regulations apply to:

- A. Development;
- B. Planting, removing, pruning, mowing, clearing, burning or poisoning trees or vegetation;
- C. Changing topography, grading, excavation or filling;
- D. Resource enhancement; and
- E. All land divisions and property line adjustments except for middle housing land divisions. The regulations of this chapter do apply to development proposed on a middle housing land division site.

Commentary

33.505.230 Attached Houses on Vacant Lots in the R5 zone

With HB2001, cities are unable to apply regulations that discourage middle housing through unreasonable added cost or delay. In this case, the requirement that a lot remain vacant for 5 years is seen as an unreasonable delay period.

In addition, HB2001 specifies density allowances for attached houses that exceed those prescribed here.

Therefore, these provisions have been deleted, with a reference to the new base zone standards for attached houses.

33.505 Albina Community Plan District

505

33.505.230 Attached Houses on Vacant Lots in R5 Zoned Areas

- A. Purpose.** The increased density permitted by this section encourages infill development in areas that are generally well served by existing public services. The increase allows the area to absorb additional growth without creating market pressure that might lead to the early removal of existing sound housing. The increased density will lower the cost of housing while increasing opportunities for owner-occupied housing. Required design review of new development ensures that the new housing will make a positive contribution to the neighborhood's character.
- B. Attached houses.** Attached houses are allowed in the R5 zone as stated in 33.110.265, Residential Infill Options, ~~if all of the following are met. Adjustments to Subparagraphs B.1 through B.4, below, are prohibited:~~
- ~~1. The proposed attached housing development will be on a lot or lot of record that was created at least five years ago;~~
 - ~~2. There has not been a dwelling unit on the lot or lot of record for at least five years;~~
 - ~~3. A land division creating an individual lot for each attached housing unit is recorded; and~~
 - ~~4. The proposed attached housing development meets all development standards for attached housing development in the R2.5 zone.~~

Commentary

33.521.120 Housing Regulations

This standard is being deleted because the new base zone standards for attached houses will now allow attached houses at a higher density than this regulation allows.

33.521 East Corridor Plan District

521

Sections:

General

- 33.521.010 Purpose
- 33.521.020 Where These Regulations Apply

Use Regulations

- 33.521.100 Purpose
- 33.521.110 Prohibited Uses
- ~~33.521.120 Housing Regulations~~

Development Standards

- 33.521.200 Purpose
- 33.521.210 Building Height
- 33.521.220 Floor Area Ratios
- 33.521.230 Connectivity
- 33.521.240 Pedestrian Standards
- 33.521.250 Entrances
- 33.521.260 Building Design
- 33.521.270 Exterior Display and Storage
- 33.521.280 Drive-Through Facilities
- 33.521.290 Parking
- 33.521.300 Additional Standards in the 122nd Avenue Subdistrict

Map 521-1 East Corridor Plan District

Map 521-2 Maximum Building Heights

Map 521-3 Floor Area Ratios

Map 521-4 Areas Where Exterior Display and Storage are Allowed

~~33.521.120 Housing Regulations~~

- ~~A. **Purpose.** Housing is regulated to ensure that new housing is built at transit-supportive densities.~~
- ~~B. **Attached houses.** Attached housing at R2.5 densities is allowed on lots in the R5 or R7 zone if the development standards of the R2.5 zone are met and the site:
 - ~~1. Is on a corner; or~~
 - ~~2. Is adjacent to a light rail alignment; or~~
 - ~~3. Has a side or rear lot line that abuts a multi-dwelling, C, E, or I zone.~~~~

Commentary

33.530 Glendoveer Plan District

Several changes are included in the density standards for the Glendoveer Plan District. First, HB2001 establishes higher density standards for attached houses. The previous 7,500 sq ft lot size is inconsistent with HB2001 attached house lot sizes of 1,500 sq ft. The lot size and density requirements for lots developed exclusively with attached houses are spelled out in 33.610. (Maximum Density "A")

Second, HB2001 also establishes that increased dwelling unit density be allowed on lots where single dwellings are allowed (e.g. duplexes, triplexes, fourplexes, cottage clusters). The previous language referring to maximum densities of 1 unit per 7,500 sq ft are inconsistent with HB2001. The changes clarify that the lot size standard applies to proposed lots (other than attached house lots) not dwelling unit densities.

Third, there are roughly 135 existing lots within the plan district that otherwise meet the lot size requirements for a primary structure in the R7 zone, but are not 7,500 sq ft in size (e.g. larger than 4,200 sq ft). This change which makes this section only applicable in a land division scenario potentially enables more existing R7 lots to provide additional housing.

33.530.040 Building Setbacks

This change clarifies that for attached houses, the setback on the attached wall side is 0 feet.

33.530 Glendoveer Plan District

530

33.530.030 Minimum Lot Size and Maximum Density for New Lots

The minimum lot area is 7,500 square feet. The minimum lot width is 70 feet. Maximum density is 1 unit per 7,500 square feet of site area. For land divisions within the Glendoveer plan district, the following maximum density and minimum lot size standards replace the respective standards in 33.610:

- A. Maximum density B in Table 610-1 is 7,500 square feet;
- B. Minimum lot area for all other lots in Table 610-2 is 7,500 square feet; and
- C. Minimum lot width for all other lots in Table 610-2 is 70 feet.

33.530.040 Building Setbacks

- A. Building setback standards.** The minimum building setbacks are:

Setback	Distance
Front setback	30 feet
Side setback	10 feet <u>[1]</u>
Rear setback	15 feet

[1] For sites with attached houses, the required building setback on the side containing the common wall is reduced to zero. The reduced setback applies to all buildings on the lot and extends along the full length of the lot line that contains the common or abutting wall.

- B. [No change]**

Commentary

33.561.310 Compatibility Standards in the RM1 zone

This amendment deletes the supplemental duplexes and attached house compatibility standards because HB2001 doesn't allow cities to treat those middle housing types any differently than houses. Since those additional standards are now only applicable to multi-dwelling structures, the reference to R2.5 is deleted because multi-dwelling structures aren't allowed in R2.5 (without a PD).

33.561 North Interstate Plan District

561

Sections:

General

33.561.010 Purpose

33.561.020 Where These Regulations Apply

Development Standards

33.561.210 Maximum Building Height

33.561.220 Floor Area Ratios

33.561.230 Transition Between Zones

33.561.250 Exterior Display and Storage

33.561.260 Off-Site Impacts of Industrial Uses in the CM3 Zone

33.561.270 Required Building Lines

33.561.280 Active Building Use Areas

33.561.300 Motor Vehicle Access

33.561.310 Compatibility Standards in the RM1~~R2.5 and R2~~ Zones

Map 561-1 North Interstate Plan District

Map 561-2 North Interstate Plan District: Maximum Building Heights

Map 561-3 North Interstate Plan District: Floor Area Ratios

Map 561-4 North Interstate Plan District: Required Building Lines/Active Building Use Areas

33.561.310 Compatibility Standards in the R2.5 and RM1 Zones

A. [No change]

B. **Where these standards apply.** The standards of this section apply to ~~duplexes, attached houses, and~~ multi-dwelling structures in the ~~R2.5 and~~ RM1 zones.

C. [No change]

Commentary

33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea

This section is amended to incorporate provisions relating to Senate Bill 534 (2019 regular session). This requires that development of at least one unit be allowed on each platted lot, unless the City determines the lot is constrained by steep slopes, natural resources, hazards, or lack of infrastructure. The regulations in 33.110.202 address these requirements for lots and adjusted lots. Moreover, the reference to lots created after May 26, 2006 is no longer relevant.

On the other hand, lot remnants (lots that have been reduced in area below their original size) and lots of record (a piece of property that is not a lot and was established by a deed recorder prior to July 26, 1979) are still subject to the larger area thresholds of this chapter.

Subsection *G*, which referred to Table 563-1, has been incorporated into Subsections *A* and *B* and is therefore deleted.

33.563 Northwest Hills Plan District

563

33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea

The regulations of Section 33.110.202 do not apply to lots of record and lot remnants in the Linnton Hillside Subarea. In this subarea, primary structures are allowed on lots of record and lot remnants in single-dwelling residential zones as specified in this section. The regulations of 33.110.202 apply to lots and adjusted lots in the Linnton Hillside Subarea. Adjustments to the standards of this section are prohibited. ~~Primary structures are prohibited on lot remnants that are not otherwise lots of record or are not combined with lots or lots of record.~~ Primary structures are only allowed if one of the requirements in A. through ~~ED.~~ are met:

- A. The ~~lots,~~ lots of record, lot remnant, or combinations thereof:
 1. ~~Are~~Is at least 36 feet wide; and
 2. Meets the minimum area standard of ~~Table 563-1 Subsection G;~~
- B. The ~~lots,~~ lots of record, lot remnant, or combinations thereof:
 1. ~~Are~~Is at least 36 feet wide;
 2. Meets the minimum area standard of Table 610-2 or Chapter 33.611, but does not meet the minimum area standard of ~~Table 563-1 Subsection G;~~ and
 3. ~~Have~~Did not abutted any lot or lot of record owned by the same family or business on March 15, 2006, or any time since that date;
- C. The ~~lots,~~ lots of record, lot remnant, or combinations thereof:
 1. ~~Does~~Do not meet the minimum area standard of Table 610-2 or Chapter 33.611; and
 2. ~~Have~~Did not abutted any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;
- D. On ~~lots,~~ a lots of record, lot remnant, and/or combinations thereof that did meet the requirements of Subsections A, B, or C, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way;
- ~~E.~~ ~~On lots created after May 26, 2006;~~
- ~~FE.~~ Additional regulations for property line adjustments.
 1. The ~~lots,~~ lots of record, lot remnant, or combinations thereof described in Subsection A may not be reduced in area below the standards of Table 563-1;
 2. The ~~lots,~~ lots of record, lot remnant, or combinations thereof described in Subsections B and C may not be reduced in area;
 3. There are no minimum lot area or width standards for the ~~lots,~~ lots of record, lot remnant, or combinations thereof described in Subsection C;
- ~~G.~~ ~~Minimum area standards. The minimum area standards are in Table 563-1. These minimum area standards apply only as specified in Subsections A and B, above. New lots proposed through a land division are subject to the regulations of Chapters 33.610 and 33.611, not the regulations of this subsection.~~

Commentary

33.563.225 Duplexes and Attached Houses in the Linnton Hillside Subarea.

These provisions are being deleted to comply with HB2001 which requires that duplexes be allowed wherever a detached house is allowed.

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

Zone	Minimum Area
RF	87,120 square feet
R20	20,000 square feet
R10	10,000 square feet
R7	7,000 square feet
R5	5,000 square feet
R2.5	2,500 square feet

~~33.563.225 Duplexes and Attached Houses in the Linnton Hillside Subarea.~~

~~In the Linnton Hillside subarea, duplexes as allowed by 33.110.265.D, and attached houses on corners as allowed by 33.110.265.C.1.a(2) are prohibited.~~

Commentary

33.564.050 Additional Housing Type Regulations

Prohibiting attached houses does not comply with HB2001. When the Pleasant Valley plan district was approved in 2005, allowing duplexes on all lots was allowing more than that base zone allowed (at the time, duplexes were only allowed on corners in the R7 zone). Now, this standard is obsolete because the base zones allow duplexes on all lots.

33.564.060 When Primary Structures are Allowed

This standard is being updated to correspond to changes made as part of the Residential Infill Project Part 1 which renumbered section 33.110.212 to 33.110.202

33.564.330 Maximum Density

This standard is being updated to correspond to changes made as part of the Residential Infill Project Part 1 which changed single dwelling zone density from units per site area to lots per site area.

33.564.360 Planned Development

HB2001 requires cities to allow middle housing in residential areas. The RF zone is an agricultural zone and not subject to HB2001, therefore the housing type limitations are maintained for RF.

33.564.370 Housing Variety

The primary intent of HB2001 is to increase the amount of housing variety available in residential areas. Expanding the range of housing types available to meet the approval criterion is consistent with HB2001 and the purpose of this section.

33.564 Pleasant Valley Plan District

564

~~33.564.050 Additional Housing Type Regulations~~

~~Attached houses are prohibited in the R7 zone. Duplexes are allowed on all lots in the R7 zone if approved as part of a land division and within the maximum density allowed for the site.~~

33.564.060 When Primary Structures are Allowed

Primary structures are allowed as specified in 33.110.~~212~~202 using Table 33.610-2. The lot dimension standards in this chapter do not supersede the lot dimension standards of Table 33.610-2 for the purposes of implementing Section 33.110.~~212~~202.

33.564.330 Maximum Density

- A. **RF zone.** In the RF zone, maximum density is one ~~unit~~lot per 20 acres.
- B. **R7 zone.** In the R7 zone, maximum density within the Pleasant Valley Natural Resources overlay zone is one ~~unit~~lot per acre.

33.564.360 Planned Development

The following uses and development are prohibited through a planned development in the RF zone:

- A. Attached houses;
- B. Attached duplexes;
- C. Triplexes;
- D. Fourplexes;
- E. Multi-dwelling structures; and
- F. Commercial uses.

33.564.370 Housing Variety

- A. **Purpose.** The purpose of the housing variety criterion is:
 - To encourage the mix of housing intended for the Pleasant Valley plan district as described in the Comprehensive Plan
 - To avoid over-repetition of the same building type or lot size
 - To promote housing choice
- B. **When this criterion applies.** This criterion applies to land divisions and Planned Developments in the R7 zone.
- C. **Approval criterion.** To the extent practicable, the design and layout of the land division ensures that a range of housing choices will be provided within the land division site. Some methods to provide this range of housing choices are:
 1. Thirty percent of the proposed lots are larger than 7,500 square feet in area, and the remaining lots are less than 7,500 square feet in area;
 2. Twenty percent, ~~but not more than 40 percent,~~ triplexes, fourplexes; of the dwelling units are duplexes,
 3. Thirty percent of the lots have accessory dwelling units; or
 4. Other techniques which are consistent with the purpose of this criterion.

Commentary

Land Divisions and Planned Developments

Lots

33.605 Lots in the Open Space Zone

33.610 Lots in RF through R5 Zones

33.611 Lots in the R2.5 Zone

33.612 Lots in Multi-Dwelling and IR Zones

33.613 Lots in Commercial Lots in Commercial/Mixed Use and CI Zones

33.614 Lots in Employment Zones

33.615 Lots in Industrial Zones

Additional Regulations

33.630 Tree Preservation

33.631 Sites in Special Flood Hazard Areas

33.632 Sites in Potential Landslide Hazard Areas

33.633 Phased Plans and Staged Final Plats

33.634 Required Recreation Area

33.635 Clearing and Grading and Land Suitability

33.636 Tracts and Easements

33.639 Solar Access

33.640 Streams, Springs, and Seeps

33.641 Transportation Impact

33.642 Land Divisions of Manufactured Dwelling Parks

33.644 Middle Housing Land Divisions

Services and Utilities

33.651 Water Service

33.652 Sanitary Sewer Disposal Service

33.653 Stormwater Management

33.654 Rights-of-Way

33.655 School District Enrollment Capacity

Commentary

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

Reviews

33.660 Review in OS, R, & IR Zones

33.662 Review of Land Divisions in CI, Commercial/Mixed Use, Employment, & Industrial Zones

33.663 Final Plats

33.664 Review on Large Sites in I Zones

33.668 Review of Changes to an Approved Planned Unit Development

33.669 Review of Changes to an Approved Industrial Park

33.670 Review of Land Divisions of Manufactured Dwelling Parks

33.671 Review of Middle Housing Land Divisions

33.675 Replat

33.676 Lot Confirmation

33.677 Property Line Adjustments

Commentary

33.610 Lots in RF Through R5 Zones

With HB2001, the introduction of new higher density requirements for attached houses requires some significant changes to the land division standards for lots in R20 through R5 zones.

33.610.100 Density standards

One significant change is the creation of a density distinction between

- "Maximum Density A" (lots outside the 'z' overlay, on a maintained street, and developed with attached houses) and
- "Maximum Density B" (lots for all other situations - including institutional and residential uses).

"Maximum Density A" aligns with the Oregon Administrative Rules (OARs) for HB2001 and the State's HB2001 model code and are generally equivalent to allowed triplex and fourplex densities. Consequently, attached houses in the R20 - R7 zones will have four times the regular lot size density; and R5 will have three times the regular lot density.

Minimum density standards are indexed to "Maximum Density B" which maintains the current minimum density requirements. In other words, while the maximum density is increased for attached houses, the baseline for *minimum* density does not increase with the change to attached housing. This means that a land division with attached houses could be built at the same minimum lot density as other development, if the applicant so chooses.

Because the attached house lot densities introduce the possibility to divide substandard lots that would not have otherwise been eligible for a primary structure under 33.110.202, a new regulation has been added to restrict that from happening. For example, a 10,000 sq ft lot of record in the R20 zone which would not permit a single primary structure will not be able to propose a two lot attached house partition to create buildable lots.

When a project includes different types of development (i.e. attached housing and other development) the density is calculated separately for each. In these cases, the applicant would show the area of the site designated for attached housing and calculate the density for that area. The result would be rounded (according to 33.930) and totaled with the number of lots calculated and rounded for the remaining areas. When a street is proposed or required as part of the land division, the 15% area deduction occurs first, and then the density is calculated separately for the remaining site area.

33.610 Lots in RF Through R5 Zones

610

33.610.100 Density Standards

- A. Purpose.** Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.
- B. Generally.**
1. The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial width street, or dedicating right-of-way to widen an existing right-of-way.
 2. To be eligible for maximum density A, the site being divided must qualify for a primary structure in conformance with 33.110.202, When Primary Structures are Allowed.
 3. When lots will be created using both maximum density A and maximum density B, maximum density is calculated separately for the area being divided under each maximum density. When streets are created, density is calculated separately after deducting for streets.
- C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited:
- Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed on the site:
Square footage of site;
÷ Maximum density A or B from Table 610-1;
= Maximum number of lots allowed.
 - Minimum density. Minimum density is based on the zone and size of the site, and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:
Square footage of site;
- Square footage of site within an environmental or River Environmental overlay zone, potential landslide hazard area, or special flood hazard area;
x 0.80;
÷ Maximum density B from Table 610-1;
= Minimum number of lots required.

Commentary

D. Street created. Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Pedestrian connections that are self-contained streets created solely for the use of pedestrians and bicyclists are not considered streets for the purposes of calculating density under this subsection. Adjustments to this subsection are prohibited:

1. Maximum density. Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

Square footage of site;

x 0.85;

÷ Maximum density A or B from Table 610-1;

= Maximum number of lots allowed.

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints, and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site

- Square footage of site within an environmental or River Environmental overlay zone, potential landslide hazard area, or special flood hazard area;

x 0.68

÷ Maximum density B from Table 610-1

= Minimum number of lots required.

E. Exceptions to minimum density. Exceptions to minimum density standards are allowed in the following situations. Adjustments to this subsection are prohibited:

1. If the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one;
2. If the minimum required density is larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum;
3. The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.

Commentary

Table 610-1

A separate set of density standards have been added for attached house lots that will be located outside the 'z' overlay and are on a maintained street.

The standards for "all other lots" are the same as the standards that currently apply.

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

Table 610-1 Maximum Density Standards					
	RF	R20	R10	R7	R5
Maximum Density A: Maximum density for lots that <ul style="list-style-type: none"> • <u>Will be developed with attached houses;</u> • <u>Will be located entirely outside the Constrained Sites overlay zone; and</u> • <u>Will have frontage on a maintained street, a private street that connects to a maintained street, or a self-contained pedestrian connection created solely for pedestrians and bicycles.</u> 	<u>NA</u>	<u>1 lot per 5,000 sq. ft.</u>	<u>1 lot per 2,500 sq. ft.</u>	<u>1 lot per 1,750 sq. ft.</u>	<u>1 lot per 1,500 sq. ft.</u>
Maximum Density B: Maximum D density for all other lots	1 lot per 87,120 sq. ft.	1 lot per 20,000 sq. ft.	1 lot per 10,000 sq. ft.	1 lot per 7,000 sq. ft.	1 lot per 5,000 sq. ft.

Commentary

Table 610-2 Lot Dimension Standards

New dimensional requirements for attached house lots were also required to address HB2001. Now, regardless of zone, the minimum lot size is 1,500 sq ft, the width and front lot line is 15 feet. Only the lot depth standard varies by zone. It should be noted that the density and lot dimension standards do not and are not intended to exactly match. For instance, an R10 zoned lot of 10,000 sq ft has a maximum density of 4 attached houses. Each of those lots can be as small as 15 feet wide and 1,500 sq ft, but one or more of the lots will need to be necessarily larger to account for the additional site area. Only in the R5, R2.5 zone and RM1 zones is where the density and lot areas match.

33.610.200 Lot Dimension Regulations

Lots in the RF through R5 zones must meet the lot dimension regulations of this section.

A. Purpose. The lot dimension regulations ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with existing lots;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services;
- Lots are not landlocked; and
- Lots are regularly shaped.

	RF	R20	R10	R7	R5
Minimum Lot Area					
<u>Attached house lots [1]</u>	<u>NA</u>	<u>1,500 sq. ft.</u>	<u>1,500 sq. ft.</u>	<u>1,500 sq. ft.</u>	<u>1,500 sq. ft.</u>
<u>All other lots</u>	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.
Maximum Lot Area	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width [2]					
<u>Attached house lots [1]</u>	<u>NA</u>	<u>15 ft.</u>	<u>15 ft.</u>	<u>15 ft.</u>	<u>15 ft.</u>
<u>All other lots</u>	60 ft. {4}	60 ft. {4}	50 ft. {4}	40 ft. {4}	36 ft. {4}
Minimum Front Lot Line					
<u>Attached house lots [1]</u>	<u>NA</u>	<u>15 ft.</u>	<u>15 ft.</u>	<u>15 ft.</u>	<u>15 ft.</u>
<u>All other lots</u>	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.

Notes:

[1] This dimensional standard is only allowed for lots that are located entirely outside the Constrained Sites overlay zone, have frontage on a maintained street or a private street that connects to a maintained street or a self-contained pedestrian connection created solely for pedestrians and bicycles, and will be developed with attached houses.

[4] See 33.930.100.A for how lot width is measured.

B. Minimum lot area. Each lot must meet the minimum lot area standard stated in Table 610-2. Lots that do not meet the minimum lot area standard may be requested through Planned Development Review. Adjustments are prohibited.

C. Maximum lot area. Lots larger than the maximum lot area standards stated in Table 610-2 are not allowed. Lots with a conditional use or Conditional Use Master Plan are exempt from this standard.

Commentary

33.610.200.D. Minimum Lot Width

With HB2001 requirements for narrow lot frontages and smaller lot sizes, minimum lot width for attached houses was likewise reduced to be complementary. Since the new standards allow lots as narrow as 15 feet, additional criteria to further reduce the lot width for attached houses was no longer necessary. Additional flexibility, should it be needed, may be requested through a Planned Development review.

- D. Minimum lot width.** Each lot must meet one of the following regulations. Lots that do not meet these regulations may be requested through Planned Development Review. Adjustments to the regulations are prohibited.
1. Each lot must meet the minimum lot width standard stated in Table 610-2; or
 2. Minimum lot width may be reduced below the dimensions stated in Table 610-2, if all of the following are met:
 - a. On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations;
 - b. The minimum lot width for lots that will be developed with attached houses may not be reduced below 15 feet, and the minimum width for all other lots that will be developed with detached houses may not be reduced below 26 feet;
 - c. If the lot abuts a public alley, then vehicle access must be from the alley;
 - d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.250.~~DC~~ at the time of development;
 - e. Lots that are less than 32 feet wide must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and
 - f. In areas where parking is not required by this, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of Subparagraph D.2.d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:
 - (1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;
 - (2) Meet the requirements of Section 33.700.060, Covenants with the City; and
 - (3) Be attached to, and recorded with the deed for the new lot.
- E. Minimum front lot line.** Each lot must have a front lot line that meets the minimum front lot line standard stated in Table 610-2. Lots that are created under the provisions of Paragraph D.2 above, may reduce the front lot line to equal the width of the lot. Lots that do not meet the minimum front lot line standard may be requested through Planned Development Review. Adjustments to this standard are prohibited.
- F. Minimum lot depth.** Each lot must meet the minimum lot depth standard stated in Table 610-2. Lots that do not meet the minimum lot depth standard may be requested through Planned Development Review. Adjustments to this standard are prohibited.
- G. Regular lot lines.** As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.

Commentary

33.611 Lots in the R2.5 zone

A significant change is the creation of a density distinction between

- "Maximum Density A" (lots outside the 'z' overlay, on a maintained street, and developed with attached houses) and
- "Maximum Density B" (lots for all other situations - including institutional and residential uses).

Regarding "Maximum Density A" , the HB2001 rules state that cities must allow attached houses at four times the maximum density allowed for detached single family dwellings (1 unit per 625 sq ft), or 25 units per acre (1 unit per 1,742 sq ft), whichever is less. Four times the lot density in the R2.5 zone would mean lots as small as 625 square feet. These small lot sizes begin to create challenges in terms of reasonable FAR allowances, floor plate design, and utility services. To ensure feasible lot sizes are created for future development, the changes for density establish 1,500 sq ft as the density floor for attached house lots (for R5, R2.5, and RM1). This is consistent with the minimum lot size requirement of 1,500 sq ft, is compliant with providing density of at least 1 lot per 1,742 sq ft and is a round number that is more easily remembered.

Minimum density standards are unchanged

Because the attached house lot densities introduce the possibility to divide substandard lots that would not have otherwise been eligible for a primary structure under 33.110.202, a new regulation has been added to restrict that from happening.

When a project includes different types of development (i.e. attached housing and other development) the density is calculated separately for each. In these cases, the applicant would show the area of the site designated for attached housing and calculate the density for that area. The result would be rounded (according to 33.930) and totaled with the number of lots calculated and rounded for the remaining areas. When a street is proposed or required as part of the land division, the 15% area deduction occurs first, and then the density is calculated separately for the remaining site area.

33.611 Lots in the R2.5 Zone

611

33.611.100 Density Standards

- A. Purpose.** Density standards match housing density with the availability of public services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the return on public investments in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given applicable base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.
- B. Generally.**
1. The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial width street, or dedicating right-of-way to widen an existing right-of-way.
 2. To be eligible for maximum density A, the site being divided must qualify for a primary structure in conformance with 33.110.202, When Primary Structures are Allowed.
 3. When lots will be created using both maximum density A and maximum density B, maximum density is calculated separately for the area being divided under each maximum density. When streets are created, density is calculated separately after deducting for streets.
- C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited.
- Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed on the site:
Square footage of site;
 \div Maximum density A or B from Table 611-12,500;
= Maximum number of lots allowed.
 - Minimum density. Minimum density is based on the zone and the size of the site and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:
Square footage of site;
- Square footage of site within an environmental or River Environmental overlay zone, landslide hazard area, or special flood hazard area;
 \times 0.80;
 \div 5,000;
= Minimum number of lots required.

Commentary

Table 611-1

A new table is added, similar to Table 610-1 to create a separate set of density standards for attached house lots that will be located outside the 'z' overlay and are on a maintained street.

The standards for "all other lots" are the same as the density standards that currently apply.

D. Street created. Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Pedestrian connections that are self-contained streets created solely for the use of pedestrians and bicyclists are not considered streets for the purposes of calculating density under this subsection. Adjustments to this subsection are prohibited.

1. **Maximum density.** Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

$$\begin{aligned} & \text{Square footage of site;} \\ & \quad \times 0.85; \\ & \quad \div \text{Maximum density A or B from Table 611-12,500;} \\ & \quad = \text{Maximum number of lots allowed.} \end{aligned}$$

2. **Minimum density.** Minimum density is based on the zone, the size of the site, whether there are physical constraints and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:

$$\begin{aligned} & \text{Square footage of site} \\ & \quad - \text{Square footage of site within an environmental or River Environmental overlay zone,} \\ & \quad \text{landslide hazard area, or special flood hazard area;} \\ & \quad \times 0.68 \\ & \quad \div 5,000; \\ & \quad = \text{Minimum number of lots required.} \end{aligned}$$

<u>Table 611-1</u>	
<u>Maximum Density Standards</u>	
	<u>R2.5</u>
<u>Maximum Density A:</u> <u>Maximum density for lots that:</u> <ul style="list-style-type: none"> • <u>Will be developed with attached houses;</u> • <u>Will be located outside the Constrained Sites overlay zone; and</u> • <u>Will have frontage on a maintained street, a private street that connects to a maintained street, or a self-contained pedestrian connection created solely for pedestrians and bicycles.</u> 	<u>1 lot per 1,500 sq. ft.</u>
<u>Maximum Density B:</u> <u>Maximum density for all other lots</u>	<u>1 lot per 2,500 sq. ft.</u>

Exceptions to minimum density. Exceptions to minimum density standards are allowed in the following situations:

1. If minimum density is equal to maximum density, then the minimum is automatically reduced by one;
2. If minimum density is larger than maximum density then the minimum is reduced to one less than the maximum;

Commentary

33.611.200 Lot Dimension Regulations

A. Purpose

The purpose statement has been modified to remove the reference to maximum lot size standards, since there are no such regulations for land divisions in the R2.5 zone.

B. Minimum Lot area

The minimum lot area was reduced to 1,500 sq ft consistent with attached house lots in RM1 and the other single dwelling zones, as well as in conformance with HB2001

C. Minimum lot width

The State's Administrative Rules establish 20 feet as the largest minimum lot width that cities may require for attached houses. Nevertheless, the minimum lot width is reduced to 15 feet for attached houses, consistent with attached house lots in RM1 and the other single dwelling zones as well as the Model Code. However, there is no longer differentiated lot widths for end units and internal units. Applicants will need to make adjustments to proposed lot widths as necessary to account for end unit setbacks if they wish to maintain consistently wide units.

3. The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.

33.611.200 Lot Dimension Regulations

Lots in the R2.5 zone must meet the lot dimension regulations of this section. Lots that do not meet these regulations may be requested through Planned Development Review. Adjustments to the regulations are prohibited.

- A. Purpose.** The lot dimension regulations ensure that:
 - Each lot has enough room for a reasonably-sized attached or detached house;
 - Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;
 - ~~• Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;~~
 - Each lot has room for at least a small, private outdoor area;
 - Lots are wide enough to allow development to orient toward the street;
 - Each lot has access for utilities and services;
 - Lots are not landlocked;
 - Lots don't narrow to an unworkable width close to the street;
 - Lots are compatible with existing lots while also considering the purpose of this chapter; and
 - Lots are regularly shaped.
- B. Minimum lot area.** Each lot must be at least ~~1,600~~1,500 square feet in area.
- C. Minimum lot width.** Each lot must meet one of the following regulations.
 1. Each lot must be at least 36 feet wide; or
 2. Minimum lot width may be reduced to 26 feet if the following are met:
 - a. An existing dwelling unit or attached garage is located on the site so that it precludes a land division that meets the minimum lot width standard of Paragraph C.1. The dwelling unit and attached garage must have been on the site for at least 5 years; or
 - b. The side lot line of a lot that is less than 36 feet wide will not abut the side lot line of any other lot within the land division site.
 - ~~3. Minimum lot width may be reduced to 21 feet for a lot if the lot will be developed with an attached house that shares a common wall with at least one other attached house.~~
 - ~~4. Minimum lot width may be reduced to 16 feet for a lot if the lot will be developed with an attached house that shares two common walls with two other attached houses.~~
- D. Minimum front lot line.** Each lot must have a front lot line that is at least 30 feet long. Lots that are created under the provisions of Paragraph C.2. ~~or through C.34.~~, may reduce the front lot line to equal the width of the lot.
- E. Minimum lot depth.** Each lot must be at least 40 feet deep.
- F. Regular lot lines.** As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.

Commentary

33.612.100 Density

With the introduction of triplexes and fourplexes as part of RIP1, what had previously been considered "multi-dwelling development" were made distinct housing types. The land division may only condition certain types of housing be built on lots to meet minimum density. For multi-dwelling development, minimum density is assured at time of development. Adding triplexes and fourplexes to the list removes ambiguity to how they are reviewed in this context.

33.612 Lots in Multi-Dwelling and IR Zones

612

33.612.100 Density

- A. **Single-dwelling-or development.** When ~~single-dwelling or a house, attached house, duplex, triplex, or fourplex development~~ development is proposed for some or all of the site, the applicant must show how the proposed lots can meet the minimum density stated in Chapter 33.120. Site area devoted to streets is subtracted from the total site area in order to calculate minimum density.
- B. **All other development.** When development other than ~~single-dwelling or a house, attached houses, duplex, triplex, or fourplex~~ development is proposed, minimum density must be met at the time of development.

33.612.200 Lot Dimension Standards

- A. [No change]
- B. **Lot dimensions.** Minimum lot dimensions are stated in Table 612-1.
 - 1. Minimum lot dimensions for lots that will be developed with residential structures are stated in Table 612-1.
 - 2. Nonconforming uses. Minimum lot dimensions for lots with nonconforming uses are the same as those for detached houses.

Commentary

Table 612-1 Lot Dimension Standards

New dimensional requirements for attached house lots were required to address HB2001. The RM1 zone is the only multi dwelling zone that did not already conform to HB2001. This change reduces the lot area requirement for attached houses (and attached duplexes) to 1,500 sq ft.

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

Table 612-1 Minimum Lot Dimensions							
	RM1	RM2	RM3	RM4	RX	RMP	IR (1)
Lots to be developed with:							
Multi-Dwelling Structures or Development:							
Minimum Lot Area	4,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	None	10,000 sq. ft.	10,000 sq. ft.
Minimum Lot Width	33 ft.	70 ft.	70 ft.	70 ft.	None	70 ft.	70 ft.
Minimum Lot Depth	70 ft.	70 ft.	100 ft.	100 ft.	None	100 ft.	100 ft.
Minimum Front Lot Line	30 ft.	70 ft.	70 ft.	70 ft.	10 ft.	70 ft.	70 ft.
Attached Houses and Attached Duplexes							
Minimum Lot Area	1,600 <u>1,500</u> sq. ft.	None	None	None	None	NA	None
Minimum Lot Width	15 ft.	15 ft.	None	None	None	NA	None
Minimum Lot Depth	None	None	None	None	None	NA	None
Minimum Front Lot Line	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.	NA	10 ft.
Detached Houses and Duplexes							
Minimum Lot Area	1,600 <u>1,500</u> sq. ft.	None	None	None	None	NA	None
Minimum Lot Width	25 ft.	25 ft.	None	None	None	NA	None
Minimum Lot Depth	None	None	None	None	None	NA	None
Minimum Front Lot Line	25 ft.	25 ft.	10 ft.	10 ft.	10 ft.	NA	10 ft.
Triplexes and Fourplexes							
Minimum Lot Area	2,000 sq. ft.	None	None	None	None	NA	2,000 sq. ft.
Minimum Lot Width	33 ft.	None	None	None	None	NA	None
Minimum Lot Depth	50 ft.	None	None	None	None	NA	None
Minimum Front Lot Line	30 ft.	10 ft.	10 ft.	10 ft.	10 ft.	NA	30 ft.

Notes:

[1] This regulation may be superseded by an Impact Mitigation Plan.

Commentary

33.644 Middle Housing Land Divisions

This is a new chapter to create a regulatory framework for SB458 which allows middle housing development projects to be divided into separate lots, using an expedited land division process. Refer also to amendments in Chapters 33.671 and 33.730.

There are several key constraints on cities ability to review these land division requests, including the inability to require street frontage, apply minimum lot sizes, or establish dimensional standards to lots created from the "parent" middle housing development site. Other criteria normally applied to a land division (e.g. tree preservation, solar access, transportation impacts) that are not contained in SB458 may not be applied. The overarching principle for MHLDs is that those impacts be assessed through standards applied to the middle housing building permit. SB458 does include criteria relating to provision of separate services, which are further described in Chapter 33.671.

33.644.020 When a Middle Housing Land Division is Allowed

SB458 applies to middle housing as defined in ORS 197.758. This means specifically duplexes, triplexes, fourplexes, and cottage clusters. Accessory dwelling units are not a type of middle housing (and dividing ADUs onto separate lots removes all relationship of them being accessory to something else).

"Townhouses" (or attached houses as defined by the zoning code) are not on this list of middle housing types. That is because they are defined as dwelling units each on their own lot, attached at a common wall along the property line. Their underlying precondition is that they are *already* on divided lots, and therefore would not need an expedited land division process to divide the lots. This is further reinforced by the SB458 rules that state the type of housing is not altered by the completed expedited land division. Moreover, the ability to divide duplexes, triplexes, or fourplexes will result in an applicant's ability to have ostensibly "attached houses", only that they will continue to be recognized by the zoning code as plexes.

33.644.030 Relationship to Other Land Division Regulations

SB458 states that cities "may not subject an application to approval criteria except as provided in this section [of SB458]". Those criteria are largely incorporated in 33.671. Therefore, these land divisions are exempt from the lot dimensional standards, tree preservation, flood and landslide criteria, clearing and grading criteria, solar access, streams and springs, transportation impact and school district capacity criteria. Moreover, water service, sanitary, stormwater, and rights of way criteria are not subject to the MHLD review (except as provided in 33.671). Chapter 33.636 Tracts and Easements continues to be applicable.

33.644 Middle Housing Land Divisions

644

Sections:

33.644.010 Purpose

33.644.020 When a Middle Housing Land Division is Allowed

33.644.030 Relationship to Other Land Division Regulations

33.644.010 Purpose

The regulations of this chapter allow owners of land upon which middle housing development is allowed per ORS 197.758 (2) and (3), to divide their land without being subject to the other land division regulations and procedures of this Title. Allowing these land divisions is required by State law. Allowing these land divisions facilitates the acquisition of middle housing through a fee simple transaction.

33.644.020 When a Middle Housing Land Division is Allowed

Middle housing land divisions are only allowed for proposals to divide land that contains, or is proposed to contain, a:

- A. Duplex. A middle housing land division is prohibited if the site with a duplex has an accessory dwelling unit;
- B. Triplex;
- C. Fourplex; or
- D. Cottage cluster.

33.644.030 Relationship to Other Land Division Regulations

Land divisions proposed under the provisions of this chapter are exempt from the regulations of chapters 33.605 through 33.635, chapters 33.639 through 33.642, and chapters 33.651 through 33.655.

Commentary

33.663 Final Plats

Middle Housing final plats are reviewed the same as other final plats.

33.663.110.B

SB458 establishes a different plat expiration timeline for middle housing land divisions than a regular land division. Whereas a regular land division final plat expires three years after BDS sends a request for any missing final plat information, a middle housing land division final plat application will expire if it is not approved within three years after the preliminary plan is approved. (i.e. shorter timeline).

33.663.200 Approval Standards

Certain flexibility during the final plat review is provided to address necessary changes that occur to respond to construction issues in the field. Many of these final plat thresholds would not be relevant in a Middle Housing Land Division, but others may be.

For example, if the middle housing building was constructed a few inches off from where the preliminary plan indicated, minor changes to the lot dimensions or approvable changes to utility tracts and locations can be made at the final plat stage without the need for a new preliminary plan application.

Because required easements or tracts in a MHLD could include features not addressed in this list (such as common outdoor area), and the flexibility granted here is to increase (not decrease) those areas, those changes would be allowed as part of the final plat review.

33.663 Final Plats

663

33.663.110 Voiding of Final Plat Application

A. [No change]

B. Exceptions.

1. For final plat applications that were submitted before January 1, 2021, the 180-day period identified in A.1, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of August 10, 2020.
2. For middle housing land divisions, the Final Plat application is voided if within 3 years of the date of final decision on the preliminary plan the Final Plat has not been approved.

33.663.200 Approval Standards

These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of Chapter 33.660, ~~or~~ Chapter 33.662, or Chapter 33.671. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:

A. Conformance with Preliminary Plan. The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:

1. A decrease in the number of lots by one, if minimum density requirements continue to be met;
2. An increase or decrease in the width or depth of any lot by less than 5 percent;
3. A decrease in the area of any lot by less than 5 percent;
4. An increase in the area of any lot;
5. An increase or decrease of up to 5 percent in the area of a stormwater tract;
6. An increase of up to 5 percent in the area of a shared parking tract;
7. An increase in the area of the following tracts or easements:
 - a. Environmental resource tracts;
 - b. Tree preservation tracts;
 - c. Flood hazard easements or tracts;
 - d. Landslide hazard easements or tracts; ~~and~~
 - e. Recreation area tracts; and
 - f. An easement or tract, other than a stormwater or parking tract, in a middle housing land division.

Commentary

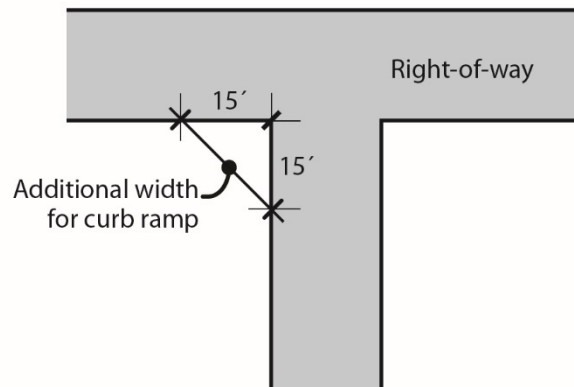
33.663.200.E

A supplemental survey is required for the final plat of a middle housing land division to ensure that lot lines and easements shown on the final plat match the as-constructed conditions. This standard will prevent lot lines from inadvertently being drawn through dwelling units, or having utilities or services located outside recorded tracts or easements.

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

8. Moving a public or private right-of-way if approved by the appropriate service bureau;
9. Changes to a stormwater facility if approved by the appropriate service bureau;
10. An increase of up to 5 percent in the area approved for clearing and grading.
11. A decrease in the area approved for clearing and grading.
12. Increasing the width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 663-1.
13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and
14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

Figure 663-1
Allowed Increase to Right-of-Way Width



- B. Conditions of approval.** The Final Plat must comply with all conditions of approval that apply to the Final Plat. All other conditions of approval remain in effect;
- C. Services.** All services must meet the requirements of the City Code;
- E. Middle housing land division as-built survey.** For a middle housing land division, the as-built survey shows that structures and services are constructed in conformance with the preliminary plan and meet requirements in relation to property lines and any easements or tracts.
- EF. Sureties.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval;
- FG. Legal documents.** Required legal documents, such as maintenance agreements, Conditions, Covenants and Restrictions (CC&Rs), and acknowledgements of tree preservation requirements or other conditions of approval, must be reviewed and approved by the Bureau of Development Services prior to Final Plat approval. These documents must also be reviewed and approved by the City Attorney prior to final plat approval or submitted on forms approved by the City Attorney. The required legal documents must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval; and

Commentary

33.663.200.H Variations beyond the limits allowed in this section

This change notes that when changes to a Middle Housing Land Division exceed the thresholds set, then those changes are reviewed against the criteria in 33.671.300

GH. Variations beyond the limits allowed in this Section.

1. Generally. If the Final Plat contains variations that exceed the limits listed in this section and that were not specifically allowed under the Preliminary Plan approval, the land division is subject to a review of changes to an approved preliminary plan stated in Section 33.660.300 for land divisions in Open Space and Residential zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones, or Section 33.671.300 for middle housing land divisions. If a Land Use Review is required for the changes to the approved preliminary plan, the revised Final Plat must also undergo a Final Plat Review.
2. Changes to tree preservation requirements. If the only changes proposed are to tree preservation requirements, the changes are processed as described in Chapter 33.853, Tree Review.

Commentary

33.671. Review of Middle Housing Land Divisions

This is a new chapter to codify the review process for middle housing land divisions. Senate Bill 458 created a requirement that cities allow middle housing developments (i.e. duplexes, triplexes, fourplexes, and cottage clusters) to be divided into separate lots to facilitate more straightforward ownership options, as opposed to using the condominium process. See also amendments in 33.644 and 33.730.013

33.671.020 Where these regulations apply

An applicant who wishes to divide a middle housing development may choose to use these review procedures and criteria or the procedures and criteria in the “normal” land division chapters. While some middle housing developments would be unable to meet those standards (e.g. lots lacking street frontage or meeting minimum lot sizes), other middle housing developments could meet those standards and be approved as a more conventional land division. It should be noted that unlike a Middle Housing Land Division, a proposal to divide units through a conventional land division *would* alter the residential structure type for the purposes of the zoning code (e.g. a fourplex would become four attached houses, a cottage cluster would become either houses or multi-dwelling development)

33.671.030 Application Requirements

These application requirements are a tailored subset of the land division application requirements in 33.730.060.D that are relevant to the review criteria for a middle housing land division.

33.671 Review of Middle Housing Land Divisions

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Sections:

General

33.671.010 Purpose

33.671.020 Where These Regulations Apply

33.671.030 Application Requirements

Review of Preliminary Plan

33.671.110 Review Procedures

33.671.130 Approval Standards

Review of Changes to an Approved Preliminary Plan

33.671.300 Review Procedures

33.671.310 Approval Standards

General

33.671.010 Purpose

These regulations ensure that middle housing land divisions will be processed with the appropriate level of city and public review. This chapter establishes clear procedures and approval standards for the middle housing land division proposal.

33.671.020 Where These Regulations Apply

The regulations of this chapter apply to proposals for middle housing land divisions. Proposals that are eligible for a middle housing land division are eligible to use the applicable regulations and procedures of chapter 33.660 through 33.664 instead of the regulations and procedures of this chapter. The applicant may choose which chapter to use.

33.671.030 Application Requirements

A complete application for a middle housing land division under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction.

A. Preliminary Plan. An application for Preliminary Plan must include all of the following:

1. Application form. Three copies of the completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;

Commentary

2. Written statement. Two copies of a written statement that includes the following:
 - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
 - A description of how all approval standards are met;
 - Additional information needed to understand the proposal;
 - Names and addresses of land division designer or engineer and surveyor;
 - Proposed maintenance agreements or Conditions, Covenants and Restrictions; and
 - If more than 3 lots are proposed, the proposed name of the land division;
 - Proposed names of all streets;
3. Vicinity map. Three copies of a vicinity map. The map must cover an area extending at least 200 feet in each direction from the land division site, and show the following existing conditions for both the site and the vicinity:
 - Streets;
 - Pedestrian and bicycle facilities and connections; and
 - Location of utilities and services;
4. Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
 - a. Surveyed information:
 - Boundary lines of the site with dimensions and total site area;
 - Proposed lot layout with sizes, dimensions, and lot and block numbers;
 - Proposed tract layout with sizes, dimensions, purpose, and name;
 - Proposed layout and widths of all rights-of-way including dimensioning and roadway width;
 - Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way;
 - Proposed location, dimensions, and purpose of all easements;
 - North arrow and scale of map;
 - Identification as the Preliminary Plan Map;
 - Stamp of surveyor;
 - If more than 3 lots are proposed, the proposed name of the land division;
 - Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified; and
 - Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;

Commentary

33.671.030.A.4.b Additional information

Unlike conventional land divisions, the application must include a proposal for middle housing, including sufficient information to demonstrate that the building and services will meet applicable building codes and land division review requirements.

Because *existing* middle housing could be divided (if it was constructed to meet current building code, and correctly provided separate utility services that met service provision standards), the application must still be able to demonstrate that those requirements are met but could rely on previously approved and inspected permit plans.

33.671.110 Review Procedures

Per SB458, a middle housing land division is reviewed using the procedures for an expedited land division. See amendments in 33.730.013.

33.671.130 Approval standards

SB458 prevents cities from applying criteria that are not included in the bill. A summary of the applicable criteria/standards from the bill include:

- 1) The site must include middle housing (as defined in HB2001 and OARs) that complies with land use regulations (i.e., Title 33)
- 2) Separate utilities must be provided to each dwelling unit
- 3) Easements are required for constructing and maintaining utilities, providing pedestrian access from the unit to a street, and designated common areas, driveways, and parking.
- 4) Only one dwelling unit is allowed per lot. ADUs are not allowed
- 5) Evidence must be provided that the buildings will meet "building codes" considering the new lot lines and that the building itself meets the Oregon Residential Specialty Code (ORSC), regardless of the new lot lines.
- 6) Cities may add conditions to prohibit further division of the lots, and may note the approval for the plat was per SB458 (a Middle Housing Land Division)
- 7) Cities may require street frontage improvements (consistent with how such improvements would be required in a building permit application for the middle housing type)
- 8) Cities may not apply other criteria including that a lot be required to have vehicle access, parking, or street frontage
- 9) Cities may not apply land division procedures or rules that are inconsistent with the middle housing land division rules
- 10) Cities may allow concurrent review of an expedited land division with the building permit.
NOTE: cities must also allow existing middle housing to apply for a division, provided the criteria can be demonstrated and met.
- 11) Cities may require the final plat to be recorded prior to issuing building permits for the middle housing, though this is ineffective for pre-existing development.
- 12) The type of middle housing is not altered by a middle housing land division (e.g., a triplex does not become a 3-unit attached house; a cottage cluster does not become houses only because the parent parcel has been divided)

b. Additional information:

- Zoning and Comprehensive Plan designations;
- Location, dimensions, and purpose of existing and proposed easements on and abutting the site;
- Proposed development;
- Existing and proposed services and utilities for each dwelling unit;
- Information showing how existing and proposed development meets approval standard 33.671.130.B. For sites without existing development, proof that building permit plans are under City review is required; and
- Any other information necessary to show that the approval standards are met.

5. Fees. The applicable filing fees.

Review of Preliminary Plan

33.671.110 Review Procedures

Review of Preliminary Plans is processed through an Expedited Land Division (ELD) procedure except that the middle housing land division is not required to meet the elements specified in ORS 197.360.

33.671.130 Approval Standards

The Preliminary Plan for a middle housing land division will be approved if the review body finds that the applicant has shown that all of the following approval standards have been met. Adjustments are prohibited. The approval standards are:

A. Lots.

1. The number of lots proposed is the same as the number of dwelling units proposed, approved, or legally existing on the middle housing land division site; and
2. There is only one dwelling unit per lot.

B. Buildings, structures and other development.

1. The proposed, approved, or legally existing development meets the standards and regulations of Title 33 applicable to development on the original site prior to the land division. See 33.644, Middle Housing Land Divisions, for development that is eligible for a middle housing land division; and
2. All of the buildings and structures on a resulting lot comply with applicable building code provisions relating to the proposed property lines and, all of the structures and buildings located on the lots comply with the Oregon residential specialty code.

Commentary

33.671.130 Approval Standards

C. Services – The majority of utility service issues and review will occur as part of the development permit review, however, these criteria ensure that the requirements for separate utilities to each dwelling unit are satisfied (since a single combined development site would not have those additional requirements). In other words, while a building permit for a fourplex could propose either combined services or separated services, the middle housing land division *requires* that services be separated.

These standards also ensure that when facilities are present (i.e. "available") but do not meet established services levels (e.g. an undersized water line), that the services will meet established service levels by the time the development is complete.

For most types of middle housing, HB2001 and OAR660-046 requires that sufficient infrastructure is available, which includes connection to a public sewer system. However, this standard does not extend to the construction of duplexes. In these cases, a private septic system may be utilized if public sewer is not available, and the Sanitarian has confirmed that the site conditions are suitable to construct a private on-site sanitary sewage disposal system..

D. Tracts and Easements. Depending on the configuration of the middle housing land division, the plat may need to include tracts or easements for utilities, pedestrian access, common use areas or building elements like community buildings, shared driveways and parking areas, and the common outdoor area in a cottage cluster. The size and location of the tracts or easements will be determined jointly between the development permit and platting requirements. SB458 fails to address ongoing maintenance and ownership requirements for these tracts and easements. Therefore, the requirements of Chapter 33.636 apply.

C. Services.

1. Water service. The Water Bureau or District and the Fire Bureau have verified that water facilities that meet established service levels are, or will be, available to serve each dwelling unit separately.
2. Public sanitary sewer service. The Bureau of Environmental Services has verified that sewer facilities that meet established service levels are, or will be, available to serve each dwelling unit separately.
3. Private on-site sanitary sewage disposal. Private on-site sanitary sewage disposal is prohibited as part of a middle housing land division except when the development proposed, approved, or legally existing is a duplex. When private on-site sanitary sewage disposal is proposed, BDS has verified that an onsite wastewater treatment system that meets established service levels is, or will be, available to serve each dwelling unit separately.
4. Stormwater management. The Bureau of Environmental Services has verified that a stormwater management system and stormwater disposal facilities that meet established service levels are, or will be, available to each dwelling unit.
5. Right-of-way. For public streets, the Bureau of Transportation has preliminarily approved any proposed streets. For private streets, the Bureau of Development Services has preliminarily approved any proposed private streets.

D. Tracts and easements.

1. The preliminary plan includes easements or tracts necessary for each dwelling unit for:
 - a. Locating, accessing, replacing and servicing all services;
 - b. Pedestrian access from each dwelling unit to a street and, in a cottage cluster, to any required common outdoor area;
 - c. Any common use areas or shared building elements;
 - d. Any shared driveways or parking; and
 - e. Any shared common area;
2. The standards of Chapter 33.636, Tracts and Easements, must be met.

Commentary

Review of Changes to an Approved Preliminary Plan

Following the approval of a preliminary plan, it is not uncommon for minor changes to be necessary to address requirements discovered during the land division review process. Many of these more minor changes are permissible through the final plat review (see Chapter 33.663). However, in cases where the changes exceed those tolerances, the preliminary plan must be reviewed again. Since the Expedited Land Division process does not include a more simplified type of review, the modified Expedited Land Division must be reviewed as a new application.

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

Review of Changes to an Approved Preliminary Plan

33.671.300 Review Procedure

Changes to an approved Preliminary Plan are reviewed through an Expedited Land Division (ELD) procedure except that meeting the elements of ORS 197.360 is not required. The decision of the Director of BDS is final.

33.671.310 Approval Standards

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the approval standards of Section 33.671.130 have been met.

Commentary

33.675 Replat

A replat allows an applicant to modify the configuration and to a limited degree, the number of lots in a platted land division.

33.675.300.A.2

The first amendment deletes the exception for regular lots lines because it already exists as a standard in 33.610 (which is applicable based on 33.675.300.A.) and there are no caveats where the regular lot line standard should be exempted.

33.675.A.3 (to be renumbered A.2)

In some cases, a replat may be necessary to reorient a lot line. In cases where the site is already out of conformance with density, the current standard prevents a replat because the reorientation does not bring the site closer to conformance, even though it does not increase density nor increase the degree of non-conformity. This change enables these situations to be approved.

33.675 Replat

675

33.675.300 Approval Criteria

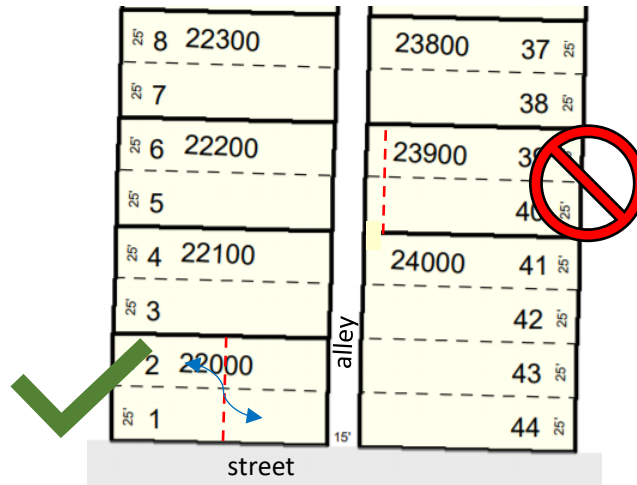
A replat will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met:

- A. Lots.** The replatted lots must meet the standards of Chapters 33.605 through 33.615, with the following exceptions:
1. [No change]
 - ~~2. Regular lot lines. As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.~~
 23. Maximum density. If the replat ~~brings the replat site closer to~~does not move the site further out of conformance with maximum density requirements, the replat does not have to meet maximum density requirements;
 34. Lots without street frontage. If the replat consolidates lots that do not have street frontage with lots that have street frontage, the replat does not have to meet minimum density and maximum lot area requirements;
 45. Through lots. If any of the existing lots within the replat site are through lots with at least one front lot line abutting an arterial street, then the consolidated or reconfigured lots may be through lots;
 56. Split zoning. If any of the existing lots within the replat site are in more than one base zone, then the consolidated or reconfigured lot may be in more than one base zone.

Commentary

33.677.100 Prohibited Property Line Adjustments

A clarification was added for property line adjustments to address corner lots with alley access. It is fairly common for two narrow rectangular platted lots on a corner to be reconfigured as two square lots. The property line adjustment prohibition prevented this, which was not its intent. This was put in place to avoid midblock lots from removing alley frontage with another mid-block lot.



The amendment clarifies that the type of property line adjustment on the left is allowed, but the type on the right is not.

33.677 Property Line Adjustment

677

33.677.100 Prohibited Property Line Adjustments

The following are prohibited as part of a Property Line Adjustment:

- A. A Property Line Adjustment that configures either property as a flag lot, unless:
 - 1. The property was already a flag lot; or
 - 2. Both properties are in the R5 or R2.5 zone and:
 - a. There is an existing house on one or both properties;
 - b. Only one flag lot is proposed;
- B. A Property Line Adjustment that results in the creation of a buildable property from an unbuildable lot, lot of record, or lot remnant;
- C. A Property Line Adjustment that results in the creation of street frontage for property that currently does not have frontage on a street;
- D. A Property Line Adjustment that removes alley frontage from one or both properties unless:
 - 1. The property line adjustment site includes a corner lot and alley frontage will only be removed for one lot; or
 - 2. aAlley frontage will only be removed from the lot in front of a flag lot that is being created through the Property Line Adjustment; and
- E. A Property Line Adjustment that creates a nonconforming use.

Commentary

33.720.020 Quasi Judicial Land Use Reviews

In conformance with ORS 197.375, an appeal of an expedited land division is heard by a City's hearings officer (when one has been designated by the local government).

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. **[No change]**.
- B. **Hearings Officer.** All appeals of land use reviews that were processed as an Expedited Land Division, a Type II or Type IIX procedure and all land use reviews subject to a Type III procedure, unless stated otherwise in Subsection C., or D., or E. below, are assigned to the Hearings Officer.
- C.-G. [No change]

Commentary

33.730.013 Application Requirements

The expedited land division process has existed in state statute since 1995; however, very few applicants have opted to use this process in part due to the eligibility requirements and limitations that apply, and in part due to the inflexibility afforded by the process timeline. Furthermore, all the review criteria of a regular land division still apply.

Middle Housing Land Divisions (MHLDs) are a new type of land division that are eligible to use the process established for expedited land divisions. MHLDs, unlike other expedited land divisions, have very different review criteria that supersede most of the regular land division criteria. They are also not subject to the eligibility requirements in ORS 197.360

Since MHLDs offer applicants a path to create fee-simple lots for middle housing dwelling units (as opposed to creating condominiums), the city anticipates the expedited land division process to be used more regularly. Moreover, SB458 draws certain distinctions between the procedures and eligibility requirements of a regular expedited land division and a middle housing land division. Therefore, the relevant provisions from the ORS are being incorporated into the zoning code to reduce confusion.

One distinction between a regular Expedited Land Division and a Middle Housing Land Division is the omission of the neighborhood contact and pre-application requirements for Middle Housing Land Divisions. The overarching principle of these MHLDs is that they are generally treated like building permits, subject to clear and objective standards, but with the subsequent or concurrent addition of property lines. Therefore, no pre app is required and only the relevant neighborhood contact procedures that apply to middle housing building permits would apply.

The remaining provisions are adapted from ORS 197.365-380, including the specific notice requirements and processing time (ORS 197.365), grounds for an appeal (ORS 197.375) and establishing fees (ORS 197.380).

33.730 Quasi-Judicial Procedures

730

33.730.013 Expedited Land Division Procedure

An Expedited Land Division (ELD) is an administrative process with public notice but no hearing. The Expedited Land Division (ELD) procedure provides an alternative to the standard procedures for some land divisions. In some cases the zoning code assigns this procedure. In other cases, the applicant may choose to use the ELD process if the land division request meets all of the elements specified in ORS 197.360. The steps of this procedure are in ORS 197.365 through .375. The application requirements are listed in Section 33.730.060, below. Two additional steps are required for land division requests using the ELD Procedure:

AB. Pre-application conference. A pre-application conference is required for all land division requests processed through the ELD procedure, except for middle housing land divisions. See 33.730.050.A., Pre-Application Conference. The pre-application conference must be held before applying for an ELD review.

BA. Neighborhood contact.

1. When the ELD includes four to ten lots, the applicant is required to meet the neighborhood contact requirements specified in 33.705.020.A., Neighborhood contact I. If the proposed expedited land division is a middle housing land division or in an EG or I zone, it is exempt from the neighborhood contact requirements.
2. When the ELD includes eleven or more lots, the applicant is required to meet the neighborhood contact requirements specified in 33.705.020.A., Neighborhood contact II. If the proposed expedited land division is a middle housing land division or in the EG1, EG2, or an I zone, it is exempt from the neighborhood contact requirements.

C. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

D. Preliminary notice. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to the owner, the applicant if different, any state agency, local government or special district responsible for providing public facilities or services, all property owners within 100 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, and to all recognized organizations within 400 feet of the site. See 33.730.070.B, Expedited Land Division, Type I and Type Ix notice of request.

E. Processing time. Upon determining that the application is complete, the Director of BDS will make a decision on the case as follows:

1. The Director of BDS will not make the decision until 14 days after the notice required by Subsection D, above, is mailed.
2. The Director of BDS will make a final decision on the case and mail a notice of decision within 63 days after receiving a completed application.

Commentary

33.730.013.J.2.

These state the applicable grounds for an appeal and are directly from ORS 197.375. One of those appeal grounds is that the land division does not qualify for a middle housing land division (i.e. is not a duplex, triplex, fourplex, or cottage cluster). SB458 has not been incorporated into the ORS at this time, but should be prior to its effective date in July 2022.

F. Administrative decision.

1. In making the decision, the Director of BDS may consult with the owner, applicant, other citizens, City agencies, and other public and private organizations to solicit information relevant to the request. The decision is based on the Director of BDS's findings, which are based on an evaluation of the facts and the applicable code regulations.
2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.

G. Notice of decision (pending appeal). The Director of BDS will mail the notice of the decision to the owner, the applicant if different, any state agency, local government or special district responsible for providing public facilities or services, all property owners within 100 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, to all recognized organizations within 400 feet of the site, and to any person who submitted written comments. See 33.730.070.F, Expedited Land Division, Type I, Type Ix and Type IV notice of decision (pending appeal).

H. Ability to appeal. The Director of BDS's decision is final unless appealed. The decision may be appealed by the applicant, the owner, and any person who submitted written comments. The appeal must be submitted to the Director of BDS within 14 days of the day the notice of decision is mailed.

I. When no appeal is filed. If no one appeals the decision, the decision is final and effective on the day after the last day to appeal.

J. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
 - The file number and land use review(s) appealed;
 - The appellant's name, address, signature, phone number;
 - A statement of the allegations of the appeal; and
 - The required fee.
2. Valid appeal allegation. The appeal must be based solely on one or more of the following allegations:
 - a. The decision violates the substantive provisions of the applicable land use regulations;
 - b. The decision is unconstitutional;
 - c. That the application is not eligible for review under ORS 197.360 to 197.380 or ORS 92.031 and should be reviewed as a land use decision or limited land use decision; or
 - d. That the appellant's substantive rights have been substantially prejudiced by an error in procedure by the local government.

Commentary

3. Notification of appeal hearing. The Hearings Officer, or its designee, will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant, and the owner. Within 7 working days of the receipt of the appeal, the Hearings Officer, or its designee, will mail a notice of the appeal hearing to the owner, the applicant if different, and all persons and recognized organizations that received the notice of the decision. See 33.730.070 H, Notice of an appeal hearing.
4. Scheduling of hearing. The Hearings Officer will schedule a public hearing to take place at least 21 days from the mailing of the notice of an appeal hearing.
5. Appeal hearing. Appeal hearings must comply with the provisions of 33.730.100, Public Hearing Requirements, and 33.730.110, Ex Parte Contact.
6. Appeal decision. The Hearings Officer may approve the decision of the Director of BDS, modify it, or reject it based on information presented at the hearing and in the record.
 - a. If the Hearings Officer determines that the application does not qualify as an expedited land division as described in Chapter 33.644, the Hearings Officer shall remand the application for consideration as a land use decision or limited land use decision.
 - b. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 14 days of the close of the record.
7. Notice of final decision. Within 17 days of the close of the record, the Hearings Officer will mail notice of the final decision to the applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the appeal hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.I, Notice of final decision.
8. Date that decision is final and effective. The decision of the Hearings Officer is final and effective on the day the notice of decision is mailed.
9. Appeal decision final. The appeal decision of the Hearings Officer is final and may not be appealed to another review body within the City.

Commentary

33.730.060.D.3.a Application Requirements

To ensure that future purchasers and planners are aware that the lots within the middle housing land division were approved through the expedited land division procedure adopted through Senate Bill 458 of the 2021 regular legislative session, this notation will appear on the plat. This is important to distinguish that the lots contained in the middle housing land division plat are treated differently from other platted lots in terms of the application of zoning development standards (which are applied to the overall parent parcel or site, and not to the individual lots, see 33.253)

33.730.060.D.3.d

A supplemental survey is required as part of the application for the final plat of a middle housing land division to ensure that lot lines and easements shown on the final plat match the as-constructed conditions. A corollary standard can be found in 33.663.200.E.

33.730.060 Application Requirements

A-C. [No change]

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1-3. [No change]

3. Final Plat. An application for a Final Plat must include all of the following:

- a. Final Plat Survey. Copies of a Final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following information must be on the Final Plat survey:
 - The statement: “This plat is subject to the conditions of City of Portland Case File No. LUR...”; ~~and~~
 - Easements and tracts, including their purpose;
 - In the case of a middle housing land division, this statement: “This plat was approved as a Middle Housing Land Division under ORS 92.031”.
- b. Supplemental plan. A supplemental plan, the number determined by the Director of BDS and that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. Such restrictions include special development standards such as special setbacks, lot coverage limitations, impervious surface limitations, access restrictions, restrictive building areas, and approved minimum or maximum densities;
- c. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval such as development envelopes, final tree preservation plans, mitigation plans, and final landscape / planting plans;
- d. As-built survey. For a middle housing land division, copies of an as-built survey showing building footprints and any building projections with distances to proposed lot lines, and the location of underground services in relation to any tracts or easements;
- ~~e.~~ Maintenance agreements and CC&Rs. Three copies of each required maintenance agreement or Conditions, Covenants and Restrictions;
- ~~f.~~ Performance Guarantees. One copy of each Performance Guarantee;
- ~~g.~~ Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;
- ~~h.~~ Service bureau requirements. Documentation of submittal of all service bureau requirements, including water system plans, final street construction plans, final sewer and storm water plans, construction management plans, final clearing and grading plans; and
- ~~i.~~ Fees. The applicable filing fees.

4. [No change]

Commentary

33.730.070 Written Notice Requirements

These changes incorporate Expedited Land Divisions for the required notice information

33.730.070 Written Notice Requirements

A. [No change]

B. **Expedited Land Division, Type I and Type Ix notice of request.** The notice of request, when processed through an Expedited Land Division, a Type I₂ or Type Ix procedure, will contain at least the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal which could be authorized;
- An explanation of the local decision-making process for the decision being made;
- A list, by commonly used citation, of the applicable criteria for the decision;
- An invitation to comment, in writing, on the proposal and the place, date and time that comments are due;
- A statement that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised prior to expiration of the comment period;

Commentary

- A statement that issues must be raised with sufficient specificity to afford the Director of BDS an opportunity to respond to the issues;
- A statement that copies of all evidence submitted by the applicant is available for review, and that copies can be obtained for a fee equal to the City's cost for providing the copies; and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

C.-E. [No change]

F. **Expedited Land Division, Type I, Type Ix and Type IV notice of decision.** The notice of decision must include the following:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- A description of the review body decision, the decision date, and filing date; and
- A statement that the decision is final, but may be appealed to the Hearings Officer or Land Use Board of Appeals (LUBA) as specified in ORS 197.375 or ORS 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA have appeared during the local proceedings (orally or in writing), and file a notice of intent to appeal with LUBA within 21 days after the decision becomes final.

G. [No change]

H. **Notice of an Expedited Land Division, a Type II, Type Iix, or Type III appeal hearing.** If a local appeal of an Expedited Land Division, a Type II or Type Iix administrative or Type III decision is filed, the notice of appeal hearing will be provided in the same manner as set forth in 33.730.070.D for a Type III notice of request and hearing.

I. [No change]

Commentary

33.730.130.B.6

SB458 establishes a different plat expiration timeline for a middle housing land division than a regular land division. Whereas a regular plat will expire three years after BDS sends a request for any missing final plat information, a middle housing land division final plat application will expire if it is not approved within three years of approval of the preliminary plan. (i.e. shorter timeline).

33.730.130 Expiration of an Approval

A. [No change]

B. When approved decisions expire.

1-5. [No change]

6. Preliminary plans.

a. Generally. Approved preliminary plans for land divisions expire if within 3 years of the date of the final decision an application for approval of Final Plat has not been submitted.

b. Exceptions.

(1) Approved preliminary plans for middle housing land divisions expire if within 3 years of the date of final decision the final plat has not been approved.

(2) Final decisions on preliminary plans that became effective between August 10, 2017 and January 1, 2021 expire if an application for approval of Final Plat has not been submitted by January 1, 2024.

7-12. [No change]

C-D. [No change]

Commentary

33.900 List of Terms

900

Expedited Land Division

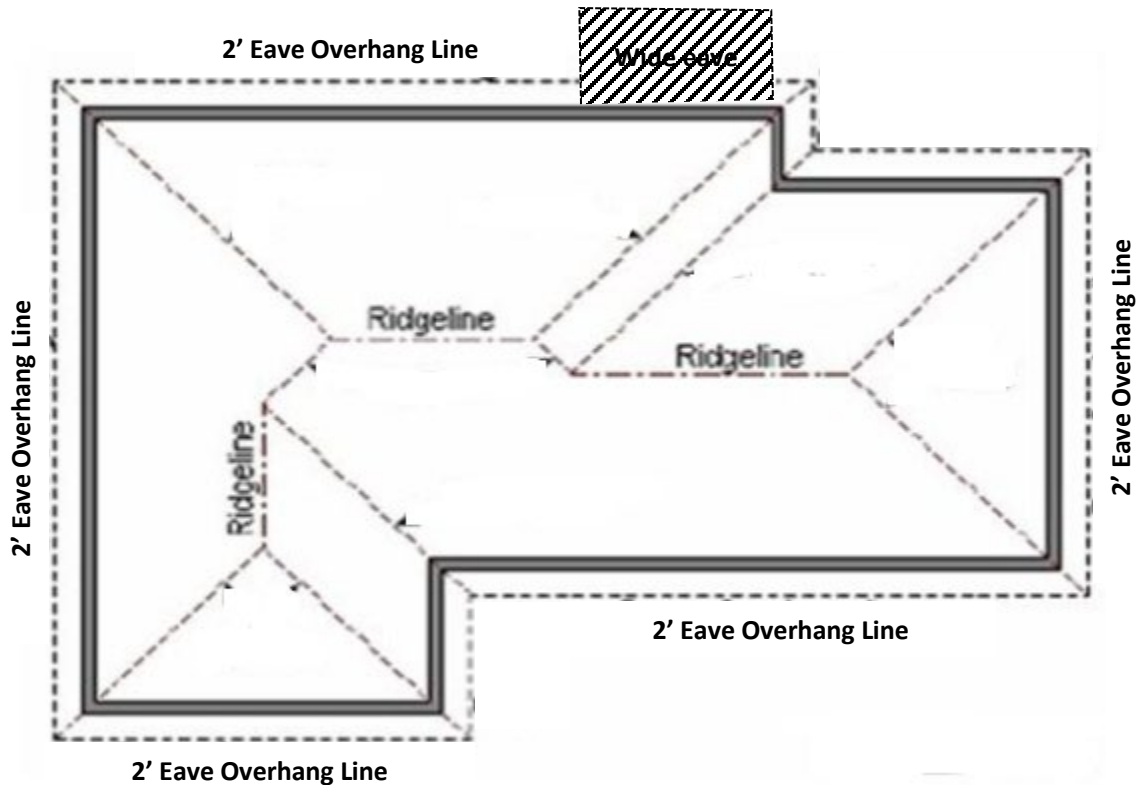
Residential Structure Types

- Accessory Dwelling Unit
- Attached Duplex
- Attached House
- Congregate Housing Facility
- Cottage Cluster
- Duplex
- Dwelling Unit
- Fourplex
- House
- Houseboat Moorage
- Manufactured Dwelling
 - Manufactured Home
 - Mobile Home
 - Residential Trailer
- Multi-Dwelling Development
- Multi-Dwelling Structure
- Triplex

Commentary

33.910 Definitions

Building Coverage. This change clarifies whether and how eaves are or are not counted with building coverage. Eaves up to 2 feet are excluded from building coverage. However, for eaves larger than 2 feet, the entire portion of that eave is counted.



area where eave is wider than 2 feet. Entire *portion* of eave area counts toward building coverage. (but not the entire perimeter eave, where it is less than 2 feet wide)

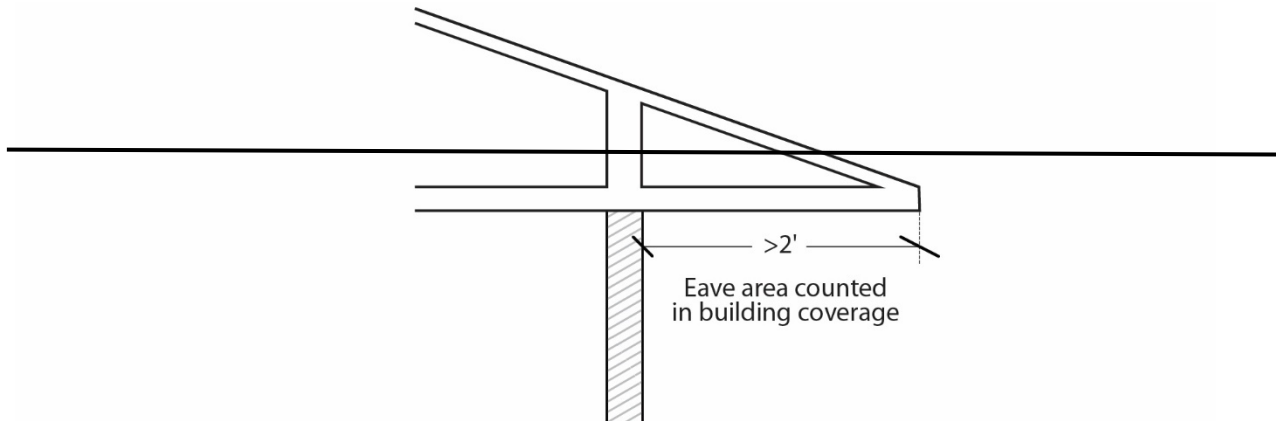
Expedited Land Division – This definition is from ORS 197.360, and further reinforces that Middle housing Land Divisions are exempt from the eligibility requirements of .360.

33.910 Definitions

910

Building Coverage. The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade. Eaves that are up to 2 feet or less in depth are not included in building coverage. Eaves that are greater than 2 feet in depth are included in building coverage. See ~~Figure 910-11.~~

Figure 910-11
~~Area of eave excluded from building coverage~~



Expedited Land Division. An Expedited Land Division is a division of land under ORS 92.010 (Definitions for ORS 92.010 to 92.192) to 92.192 (Property line adjustment), 92.205 (Policy) to 92.245 (Fees for review proceedings resulting in modification or vacation) or 92.830 (Definitions for ORS 92.830 to 92.845) to 92.845 (Relationship of subdivision in manufactured dwelling park or mobile home park to planned community statutes and series partition statutes) by a local government that, unless it is a middle housing land division, meets all of the elements of ORS 197.360.

Commentary

Floor area. The exclusion of low-ceiling area was too specifically tied to “attics”. This change recognizes that other low ceiling areas exist in a home (e.g. under a dormer, in a crawl space, etc.)

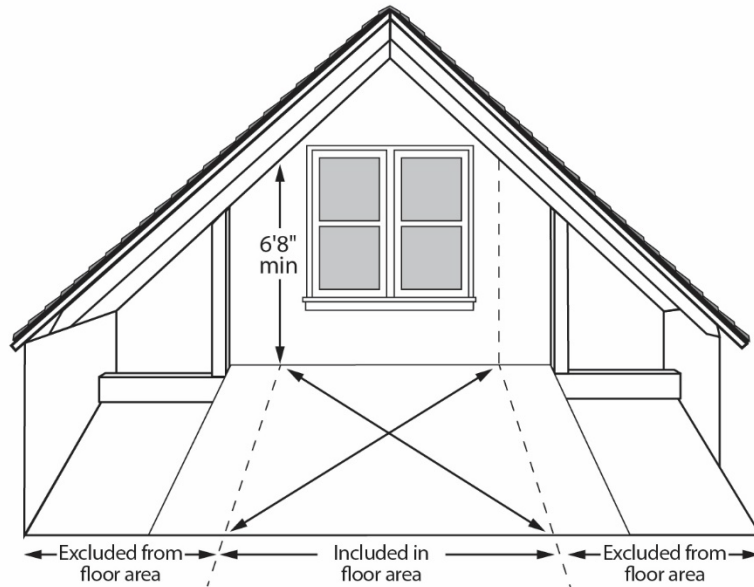
Garage. The definition is changed to recognize the addition of cottage clusters, which are groupings of detached dwelling units, and clarifies that these structures are not “structured parking”.

Floor Area. The total area of all floors of a building. Floor area is measured for each floor from the exterior faces of a building or structure. Floor area includes stairwells, ramps, shafts, chases, and the area devoted to garages and structured parking. Floor area does not include the following:

- Areas where the elevation of the floor is 4 feet or more below the adjacent right-of way;
- Basements;
- ~~Portions of attics~~Areas where the ~~finished ceiling~~ height is less than 6 feet 8 inches. See Figure 910-20;
- Roof area, including roof top parking;
- Roof top mechanical equipment; and
- Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height for 75 percent or more of their perimeter.

See also Net Building Area, Gross Building Area

Figure 910-20
Floor Area in Attics
Ceiling Height



Garage. A covered structure that is accessory to a use in a house, attached house, duplex, triplex, fourplex, cottage cluster, manufactured dwelling, or houseboat, and that:

- Is designed to provide shelter for vehicles;
- Is connected to a right-of-way by a driveway; and
- Has an opening that is at least 8-feet wide.

Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to or detached from another structure. See also Structured Parking.

Commentary

Land Division

Including a reference to expedited land divisions, for comparison and contrast.

Maintained Street

The term "maintained street" appears in 33.110.265 Residential Infill Options, 33.120.270.G. Cottage Clusters, 33.205.020 Where ADUs are Allowed, 33.610.100, and 33.611.100 Density Standards. To reduce the amount of text in these sections, the term has been defined. For city-maintained streets PBOT determines which have been accepted into maintenance.

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

Land Division. The act of dividing land to create new lots or tracts, or to reconfigure lots or tracts within a recorded land division. The result of a land division is a subdivision plat or partition plat. Actions that are exempt from the State law definitions of partition or subdivision (i.e., property line adjustment) are not considered land divisions. See also, Expedited Land Division, Lot, Tract, Plat, and Property Line Adjustment.

Maintained street. A maintained street is a street that has been accepted for maintenance by the City of Portland, Multnomah County, or the State of Oregon. See Title 17.42, Property Owner Responsibility for Streets.

Commentary

Attached House. Pursuant to SB458, the type of housing on a middle housing land division site remains the same type of housing after the land division:

“SECTION 2 (5): The type of middle housing developed on the original parcel is not altered by a middle housing land division.”

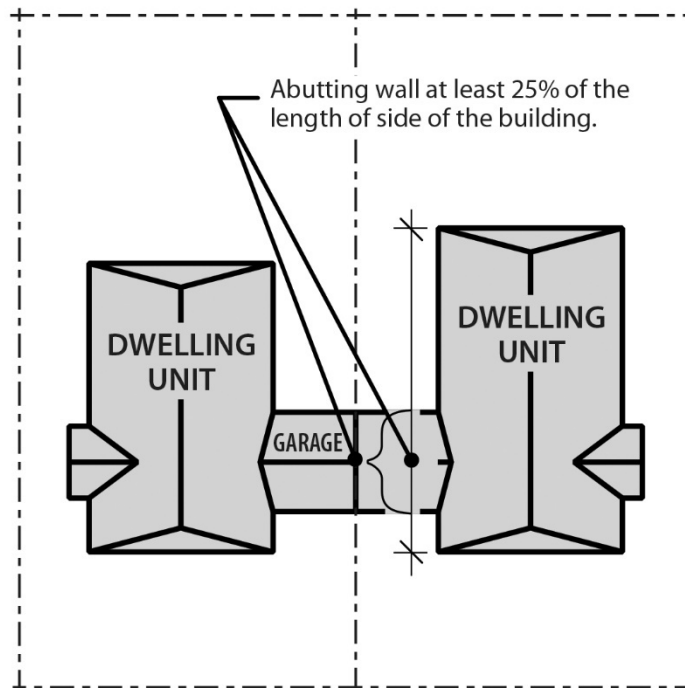
Because attached houses are defined as units located on separate lots, attached houses cannot be created through a Middle Housing Land Division. However, a fourplex that is divided into units on separate lots would otherwise become attached houses except for the provision in SB458 and this definitional exclusion.

This definitional change just clarifies the distinction, with similar changes included for duplex, triplex, and fourplex.

Residential Structure Types

- **Accessory Dwelling Unit.** An additional dwelling unit created on a lot with a primary dwelling unit. The additional unit is smaller than the primary dwelling unit except when the accessory dwelling unit is in an existing basement. The accessory dwelling unit includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people, independent of the primary dwelling unit. Kitchen facilities for cooking in the unit are described in Section 29.30.160 of Title 29, Property and Maintenance Regulations. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.
- **Attached Duplex.** A duplex, **located on its own lot**, that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the dwelling.
- **Attached House.** Except for individual dwelling units on lots created through a middle housing land division, A dwelling unit, **located on its own lot**, that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. The shared or abutting walls may be any wall of the buildings, including the walls of attached garages. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse or a common-wall house. See Figure 910-16.
- **Congregate Housing Facility.** A building, buildings, or portion of a building that includes separate bedrooms and individual or shared bathrooms but does not include a kitchen or if it does include a kitchen the number of kitchens is less than one kitchen per 12 bedrooms.

Figure 910-16
Attached Houses



Commentary

Cottage Cluster. Cottage clusters are defined as a distinctive housing type that differs from multi-dwelling development because cottage clusters necessarily include additional standards in the base zones in order to conform to the state's OAR requirements. Other forms of multi dwelling development may not meet those requirements (e.g. allowing attached units or units with footprints larger than 900 sq ft).

House, Duplex, Triplex, Fourplex. Pursuant to SB458, the type of housing on a middle housing land division site remains the same type of housing after the land division:

“SECTION 2 (5): The type of middle housing developed on the original parcel is not altered by a middle housing land division.”

These changes ensure that the housing type is not changed as a result of the middle housing land division.

The definition for duplex is further amended to create a “detached duplex” residential structure type. The amendment is aimed at allowing a detached unit to be added to a site with a house and have it be eligible for a middle housing expedited land division (SB458). A site with a house and an accessory dwelling unit is not considered middle housing under the state statues for middle housing and is therefore not allowed to be divided under SB458. This new duplex configuration will address that issue. See 33.110.265.D for the standards that apply to this “detached duplex” configuration.

- **Cottage Cluster.** A grouping of no fewer than three and no more than 16 individual detached primary dwelling units on one lot. A cottage cluster on a site that is divided through a middle housing land division remains a cottage cluster.
- **Duplex.** A building that contains two primary dwelling units on one lot. In this case, ~~the~~ units must share a common wall or common floor/ceiling. In the single-dwelling zones, a duplex can also be two detached primary dwelling units on one lot. A duplex on a site that is divided through a middle housing land division remains a duplex.
- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people, except that a congregate housing facility is not a dwelling unit. Kitchen facilities for cooking are described in Section 29.30.160 of Title 29, Property and Maintenance Regulations. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory, such as an outdoor grill.
- **Fourplex.** A structure that contains four primary dwelling units on one lot. Each unit must share a common wall or common floor/ceiling with at least one other unit. A fourplex on a site that is divided through a middle housing land division remains a fourplex.
- **House.** Except for a detached dwelling unit on a lot that was created through a middle housing land division, A detached dwelling unit located on its own lot.
- **Houseboat Moorage.** A facility which provides moorings for houseboats.
- **Manufactured Dwelling.** A dwelling unit constructed off of the site which can be moved on the public roadways. Manufactured dwellings include residential trailers, mobile homes, and manufactured homes.
 - **Manufactured Home.** A manufactured home is a manufactured dwelling constructed after June 15, 1976 in accordance with federal manufactured housing construction and safety standards (HUD code) in effect at the time of construction.
 - **Mobile Home.** A mobile home is a manufactured dwelling constructed between January 1, 1962, and June 15, 1976, in accordance with the construction requirements of Oregon mobile home law in effect at the time of construction.
 - **Residential Trailer.** A residential trailer is a manufactured dwelling constructed before January 1, 1962, which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), or the construction requirements of Oregon mobile home law.
- **Multi-Dwelling Development.** Except for cottage clusters, A grouping of individual structures where each structure contains 1 or more dwelling units. The land underneath the structures is not divided into separate lots. The key characteristic of this housing type is that there is no requirement for the structures on the sites to be attached.
- **Multi-Dwelling Structure.** A structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-dwelling includes structures commonly called garden apartments, apartments, and condominiums.
- **Triplex.** A structure that contains three primary dwelling units on one lot. Each unit must share a common wall or common floor/ceiling with at least one other unit. A triplex on a site that is divided through a middle housing land division remains a triplex.

Commentary

Site

This amendment, in combination with the amendments to the definitions of the middle housing residential structure types, is intended to make it clear that even though the middle housing site has been divided, for purposes of applying development standards, the site will remain the original lot and the structure type will remain the original structure type. This is required because SB458 says the middle housing type (duplex, triplex, fourplex, cottage cluster) does not change as a result of an expedited middle housing land division. It is also necessary since the creation of new lots would otherwise change the applicability of the development standards (e.g. building coverage, FAR, setbacks, etc). Chapter 33.253 works in conjunction with these definitional changes to clarify how the development standards should be applied after a middle housing land division is approved and recorded.

The basic premise is that lots created through a middle housing land division, while distinct lots for the purposes of separate ownership, are not recognized for the purposes of applying Title 33 development standards. Instead, the development standards continue to apply to the site as a whole as it existed prior to the land division.

Structured Parking

Adding cottage clusters to the list of housing types that have "garages" as opposed to "structured parking".

Site. For land divisions, the site is the lots, lots of record, or tracts proposed to be divided or reconfigured. For development on a lot that was created through a middle housing land division, the site is the original site prior to being divided. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes more than one ownership, then all the ownerships are included as the site.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Structured Parking. A covered structure or portion of a covered structure that provides parking areas for motor vehicles. Parking on top of a structure—where there is gross building area below the parking, but nothing above it—is structured parking. The structure can be the primary structure for a Commercial Parking facility or be accessory to multi-dwelling residential, commercial, employment, industrial, institutional, or other structures. A structure that is accessory to a ~~single-dwelling residential structure~~ (including houses, attached houses, duplexes, triplexes, fourplexes, cottage clusters, manufactured dwellings, or houseboats) is a garage and is not included as structured parking. See also Garage, Parking Area, and Underground Parking.

