

Planning Commission Code Amendments

As-Adopted—January 25, 2023
Ordinance # 191150

Find more information and supporting materials

at: <https://www.portland.gov/bps/planning/pc-amendments>

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THE BUREAU OF **PLANNING
& SUSTAINABILITY**

**Portland Planning and Sustainability
Commission**

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December 13, 2022

Mayor Wheeler and City Commissioners
City Hall
1220 SW 4th Ave
Portland, OR 97205

Dear Mayor and City Commissioners,

The Planning and Sustainability Commission (PSC) is pleased to offer its support for the Planning Commission Code Amendments project, scheduled for your consideration on January 18, 2023. The Commission voted unanimously on November 22, 2022, to recommend adoption of the amendments that will dissolve the Planning and Sustainability Commission and create the Planning Commission.

This proposal is the result of a healthy process to reassess the capacity of the PSC, a process that started in late 2021 when Commissioner Carmen Rubio hired a consultant, Insight Organizational Development, to gather different perspectives about how the PSC has been working. The consultant conducted 30 interviews with nearly 40 City staff and Commissioners, including current and past PSC members. PSC members welcomed the report findings and partnered with staff over the course of months to codify them into the recommended language before you.

The PSC recognizes the new Planning Commission is being established during a time of change in the City's form of government. The proposed Planning Commission Code Amendments define and reinforce the future Planning Commission's role in the legislative land use process, consistent with the authority granted to the Planning Commission by Oregon state law and the Portland Zoning Code, and provide continuity during this period of transition.

In its deliberations on the proposed amendments, the PSC also elevated the importance of continued commitment to advancing equity and climate goals in future land use plans, policies and programs; the recommended, updated

Planning Commission “Purpose Statement” reflects the intention that these values guide the work of the future Planning Commission.

The PSC discussed the need for a new climate or sustainability commission to be created in a reasonable time frame to ensure there is a future body to provide input to the City Council on these important topics. To this end, the Commission highlights the important directive in the Ordinance that City Council direct the Bureau of Planning and Sustainability to bring a proposal to create a sustainability or climate commission to City Council by no later than December 2023.

In conclusion, the PSC recommends the Planning Commission Code Amendments for adoption by City Council, thus creating a Planning Commission to focus on land use planning. As noted above, the PSC encourages the City to create a climate/sustainability commission quickly to ensure both areas of policy and decision making — land use planning and climate and sustainability — can be addressed with the focus, time, and attention each is warranted and to provide City Council with recommendations and input from both commissions in making decisions on these ever-important issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steph Routh', written in a cursive style.

Steph Routh Chair

Acknowledgments

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Ted Wheeler, Mayor
Rene Gonzalez
Mingus Mapps
Carmen Rubio
Dan Ryan

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Section I: Introduction

Planning and Sustainability Commission Recommendation

The Planning and Sustainability Commission recommends that City Council:

- Adopt this report.
- Amend Portland’s Comprehensive Plan to rename the Planning and Sustainability Commission the Planning Commission.
- Amend Zoning Code Chapter 33.710, Review Bodies, as listed in this report, to rename the Planning and Sustainability Commission the Planning Commission, modify the scope of the Planning Commission to focus on land use planning, and reduce the size of the Commission from 11 to 9 members.

Background

In 2010, the City of Portland combined the Planning Commission and the Multnomah County/Portland Sustainable Development Commission to create the Planning and Sustainability Commission (PSC). In the intervening years, the oversight responsibilities related to both land use planning and sustainability in Portland have become more than one commission can undertake effectively. In addition, issues related to sustainability and climate change have become more prominent and urgent. To ensure that both areas of policy and decision making can be addressed with the focus, time, and attention each is warranted, the City plans to create two separate public bodies.

In addition to the need for more Commission capacity, in late 2021 Commissioner Carmen Rubio hired a consultant, Insight Organizational Development, to gather different perspectives about how the PSC has been working. The consultant conducted 30 interviews with nearly 40 City staff and Commissioners, including past PSC Commissioners. Among the findings were the need to reset the scope and purview of the Commission and the perspective that the “massive breadth of the Commission’s scope” is a threat to its efficacy. A copy of the report can be found [here](#). The delivery of the report began a conversation that has resulted, in part, in this proposal.

This proposal will dissolve the Planning and Sustainability Commission (PSC) and create the Planning Commission. The new Planning Commission will focus on land use planning while continuing to advance the policies in Portland’s Comprehensive Plan, including those related to sustainability. A future project will amend City code to create a separate body focused on sustainability and climate.

Outreach

- Staff worked with a subgroup of PSC members (called the PSC Work Group) to draft this proposal. The work group met five times in September through November 2022.
- Staff sent notice to the Department of Land Conservation and Development on October 3, 2022, 35 days prior to the PSC hearing.
- Public notice of the PSC hearing was sent on October 7, 2022.
- The proposal was discussed at the BPS Community Involvement Committee on October 11, 2022.
- The PSC held a public hearing on November 8, 2022.
- Three people provided testimony on the proposal.
- The PSC held a work session and voted to recommend the project to City Council on November 22, 2022
- Public notice of the City Council hearing will be mailed to all those who have provided testimony on the matter on January 3, 2023.
- The City Council hearing is scheduled for January 18, 2023.

Section II: Comprehensive Plan Text Amendments

This section presents amendments to the Comprehensive Plan. The section is formatted to facilitate readability by showing amendments on the right-hand (odd) pages and related commentary on the facing left-hand (even) pages.

How to read these amendments:

- Language to be added is show in underline.
- Language to be deleted is show in ~~strikethrough~~.

Commentary

Comprehensive Plan

The name of the Commission appears in several places in the Comprehensive Plan. These amendments change the name of the Planning and Sustainability Commission to Planning Commission in those locations.

How to Use the Plan

Legislative process — Legislative decisions establish long-range land use plans, investments, policies, or regulations that can affect large parts of the city and many people. Legislative land use decisions can also be used to change any element of the Comprehensive Plan and change or create new related codes and area plans intended to implement the Plan. These changes are accomplished through adoption of an ordinance by City Council. Part of this process is the review and adoption of findings that the proposal is consistent with the goals and policies of the Comprehensive Plan or with State and Metro rules. Legislative projects typically are:

- Initiated by City Council or City agencies.
- Reviewed by the Planning and Sustainability Commission (PSC), which transmits its recommendation to City Council.

Commentary

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Commentary

Policy 1.16 Planning Commission review

The Zoning Code amendments proposed for the Planning Commission's purpose and powers and duties work in tandem with Policy 1.16 of the Comprehensive Plan. In addition to the name change in Policy 1.16, "sustainability" is being removed from the Planning Commission's charge. The new Planning Commission will focus on land use planning, while continuing to advance the policies in Portland's Comprehensive Plan, including those related to sustainability. "Sustainability" does not need to be listed separately.

Policy 1.16 ~~Planning and Sustainability~~ Commission review. Ensure the Planning ~~and Sustainability~~ Commission (PSC) reviews and makes recommendations to the City Council on all proposed legislative amendments to Comprehensive Plan elements, supporting documents, and implementation tools. The PSC advises City Council on the City's long-range goals, policies, and programs for land use, and ~~planning, and sustainability~~. The membership and powers and duties of the PSC are described in the Zoning Code.

Policy 2.8 Channels of communication. Maintain two-way channels of communication among City Council, the Planning ~~and Sustainability~~ Commission (PSC), project advisory committees, City staff, and community members.

Policy 2.20 Review bodies. Maintain review bodies, such as the Planning ~~and Sustainability~~ Commission (PSC), Design Commission, Historic Landmarks Commission, and Adjustment Committee, to provide an opportunity for community involvement and provide leadership and expertise for specialized topic areas.

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Section III: Zoning Code Amendments

This section presents amendments to the Zoning Code. The section is formatted to facilitate readability by showing code amendments on the right-hand (odd) pages and related commentary on the facing left-hand (even) pages.

How to read these amendments:

- Language to be added is show in underline.
- Language to be deleted is show in ~~striketrough~~.

Commentary

33.710 Review Bodies

Many of the amendments in this chapter facilitate changing the name of the Planning and Sustainability Commission to Planning Commission.

33.710.010 Purpose

This amendment aligns the code language with the language used in the Comprehensive Plan, specifically Chapter 2 - Community Involvement. The term "community" is more inclusive and neutral.

33.710.030.A Length of terms

No amendments are proposed for this subsection. The PSC work group discussed whether having an individual serve for more than two full terms on the Planning Commission (8 years) was in the public interest. The concern is that having one perspective for so many years goes against the Planning Commissions' value of hearing more voices. On the other hand, they acknowledged that it takes a long time for new Planning Commissioners to be fully up to speed.

Given these perspectives and the fact that re-appointments for a second term are not automatic (they must be approved by Council), the PSC work group members were in agreement to maintain the status quo, which gives City Council the most flexibility in ensuring a fully functioning Planning Commission, while at the same time adding fresh perspectives. In addition, not amending this section keeps the length of terms consistent with other commissions listed in the zoning code.

Note: The PSC has had a one-term limited/2-year term for a youth commissioner since 2014. This added perspective has been invaluable to planning the future of Portland. It is anticipated that this practice will continue, and the general guidelines about the youth positions will be added to the Planning Commission's Bylaws.

33.710 Review Bodies

710

Sections:

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- 33.710.020 Delegation of Authority
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33.710.010 Purpose

Review bodies are established to make decisions on land use actions and to recommend land use policy to the City Council. The review bodies provide an opportunity for ~~citizen~~community involvement and provide expertise for specialized topic areas. Review bodies that make quasi-judicial decisions do so on authority delegated by the City Council. The provisions of this chapter define the powers and duties for each review body and state how each body will operate.

33.710.020 Delegation of Authority

The commissions, committees, boards, and officers established in this chapter are empowered to perform all duties assigned to them by State law or this Title on behalf of the City Council.

33.710.030 Commissions, Committees, and Boards Generally

- A. Length of terms.** Members of commissions, committees, and boards provided under this chapter may be appointed to terms of not more than 4 years. Initial appointments for newly formed commissions, committees, and boards must include a sufficient number of appointments for ~~less~~fewer than the maximum 4-year term of office to provide overlap and a continuity of membership. Members of commissions are limited to a maximum of two full terms. Vacancies ~~which~~that may occur must be filled for the unexpired terms.
- B. Required attendance.** If a member fails to attend three consecutive meetings or misses 20 percent or more of the meetings held during a calendar year, the Mayor may declare the position vacant.
- C. Officers and rules.** Each commission, committee, or board elects its own presiding officers and adopts rules of procedure that are necessary to fulfill its duties. The rules of procedure must be in writing and comply with the Oregon Public Meetings law, Statutory land use hearing requirements, and this Title.
- D. Voting.** A majority of the members present must vote affirmatively in order to take action. Individual members may not have more than one vote for the conduct of commission or committee business.

Commentary

33.710.030.I Conflict of interest

These amendments do four things:

- They bring the subsection into alignment with state law that prevents participation when an action, decision or recommendation would have the effect of a private pecuniary benefit to the person, the person's relative or a business with which the person is associated. The definition of relative in state law is: "The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official." The zoning code is currently missing stepparent, stepsibling, son-in-law and daughter-in-law, however, to be more gender neutral, the PSC recommends using the term "child-in-law" instead of son- and daughter-in-law and recommends using "parent-in-law" in place of mother- and father-in-law;
- They bring the subsection into alignment with ORS 224 gift code, which used defines a "member of the household" as including "any person who resides with the member;"
- They add the term "domestic partner" to augment the term "spouse;"
- They consolidated the terms "brother" and "sister" into the term "sibling," which is also wording consistent with state law.

33.710.030.J Commission coordination

The amendment to this subsection reflects the reality that, due to heavy workloads, the chairs of the Planning and Sustainability, Design, and Historic Landmarks commissions have not been consistently meeting quarterly for some years. The goal for staff and the commissions is to meet quarterly, but when that is not possible, the amendment allows for less frequent coordination.

- E. Pay.** All members on a commission, committee, or board serve without pay.
- F. Public meetings.** All meetings, including briefing sessions, must be open to the public and comply with the Oregon Public Meetings law.
- G. Staff.**
1. ~~Planning and Sustainability Commission.~~ The Director of the Bureau of Planning and Sustainability must provide the ~~Planning and Sustainability~~ Commission with staff assistance necessary to enable it to discharge its duties.
 2. Design Commission, Historic Landmarks Commission, Adjustment Committee. The Director of the Bureau of Development Services must provide the Design Commission, Historic Landmarks Commission, and Adjustment Committee with staff assistance necessary to enable them to discharge their duties.
- H. Records.**
1. ~~Planning and Sustainability Commission.~~ The Director of the Bureau of Planning and Sustainability keeps an accurate record or minutes of all proceedings of the ~~Planning and Sustainability~~ Commission.
 2. Design Commission, Historic Landmarks Commission, Adjustment Committee. The Director of the Bureau of Development Services keeps an accurate record or minutes of all proceedings of the Design Commission, Historic Landmarks Commission, and Adjustment Committee.
- I. Conflict of interest.** A member of any commission, committee, board, or review body except City Council may not participate as a member in deciding any land use action in which the member has a direct or substantial financial interest. A member may not participate if any person who resides with the member or the member's spouse, domestic partner, brother, sister sibling, stepsibling, child, parent, ~~stepparent, fatherparent-in-law, or mother-in-law,~~ child-in-law have has a direct or substantial financial interest, or if any business in which the member is then serving or has served within the previous two years or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment, has a direct or substantial financial interest. Any actual or potential interest must be disclosed at the hearing or meeting where the action is scheduled.
- J. Commission coordination.** The chairs, or their delegates, of the ~~Planning and Sustainability~~ Commission, Design Commission, and Historic Landmarks Commission meet quarterly, or as necessary, to discuss trends and issues relevant to their respective commissions and, as appropriate, to coordinate the Commissions' programs. The chairs will share a summary of their meeting with their respective ~~Commissions.~~

Commentary

33.710.040 Planning and Sustainability Commission

Many of the amendments in this section facilitate changing the name of the Planning and Sustainability Commission to Planning Commission.

33.710.040.A Purpose statement

The word "stewardship" is replaced with "guiding" because the PSC feels it is a more appropriate word to express the intent around the Commission's role as it relates to the Comprehensive Plan, which focuses on developing, updating, and maintaining the Plan, and recognizes that implementation is carried out by the activities of many City bureaus.

The amendments to the purpose statement also reflect the PSC's desire to be clear that, while the commission will no longer include climate and sustainability in its mission, the commission members themselves are committed to using climate and equity as a lens in their decision-making processes, as is called for in the Comprehensive Plan guiding principles, and the commission supports the use of city equity toolkits to inform their deliberations.

33.710.040.B Membership

The total number of commission members was increased from nine to eleven in 2010 when the Planning and Sustainability Commission was created. Previously, the Planning Commission had nine members. Since 2010, it has been difficult to keep all of the Commission positions filled as commission members term-out or move on to other endeavors. In order to have more opportunities for the Commission to function at full capacity, and to reduce the amount of time staff spends recruiting and filling vacant positions, this amendment will reduce the Commission membership back to nine members.

The PSC Work Group agreed that nine members is an adequate number to ensure a diversity of representation. There was recognition that diversity in terms of demographic composition and geographic representation is desirable. There was also recognition that members should bring a broad mixture of subject matter and lived experience expertise. Like other City advisory bodies, the recruitment process ensures that the Planning Commission is composed of members who provide valuable insights on Portland's diverse community needs and interests.

33.710.040 ~~Planning and Sustainability~~ Commission

- A. Purpose.** The Planning ~~and Sustainability~~ Commission ~~advises~~makes recommendations to City Council on the City's long-range goals, policies, and programs for land use,~~and planning, and sustainability.~~ In making recommendations ~~and decisions,~~ it considers the economic, environmental, and social well-being of the city in an integrated fashion. The Commission has specific responsibility for guiding, developing, maintaining and updating the stewardship, ~~development and maintenance of~~ the City's Comprehensive Plan, ~~Climate Action Plan,~~ and zoning code. The Commission deliberates using a climate and equity lens and is committed to effective public involvement and leadership in its work ~~and in the decisions it considers.~~
- B. Membership.** The Planning ~~and Sustainability~~ Commission consists of ~~nine~~eleven members, none of whom may hold public elective office. The members are appointed by the Mayor and confirmed by the City Council. The membership of the Planning ~~and Sustainability~~ Commission should include broad representation of Portland's community and reflect the dynamic nature of this changing city. No more than two members of the Planning ~~and Sustainability~~ Commission may be engaged in the same occupation, business, trade, or profession. No more than two members of the Commission may be individuals, or members of any partnership, or officers or employees of any corporation that engages principally in the buying, selling, leasing, or developing of real estate for profit.

Commentary

33.710.040.C.1 Meetings and officers.

As a result of reducing the total number of commission members, the number of members present to constitute a quorum is also reduced proportionally. In addition, this amendment adds language to indicate what constitutes a quorum when there are vacant positions on the commission. When there are one or more vacancies, it can be difficult to get a quorum of 5 members present at all meetings.

The amendments also eliminate the option for creating a subcommittee to act on behalf of the Planning Commission. The PSC supports using non-quorum work groups that bring a recommendation to the Planning Commission for a vote of the full Commission rather than using subcommittees with three members that can vote on behalf of the full Commission. The PSC has not created or used such subcommittees since its creation in 2010.

33.710.040.D Powers and duties

The powers and duties of the Planning Commission are being revised to narrow the focus of the Commission's work to land use planning.

The amendments list the decisions that require the Planning Commission to hold a hearing and make a recommendation to City Council. The following list is provided for reference:

- Comprehensive Plan - per Comp Plan Policy 1.16
- Zoning Code - per Title 33 and Comp Plan policy 1.16
- Significant transportation plans and policies
- Portions of Title 11 - per Title 11.10.040.C
- Urban renewal plans - per ORS 457.089, 457.095 and Comp Plan Policy 1.16
- Street vacations - per Title 17
- Sign regulations - per Title 32
- Renaming city streets - per ORS 227.120

33.710.040.E Communications on appeals

This subsection is being deleted because neither the Planning and Sustainability Commission nor the previous Planning Commission have submitted testimony on a quasi-judicial appeal to the best of our knowledge. In addition, the Planning Commission is not briefed on quasi-judicial land use reviews or appeals of quasi-judicial reviews and would not have the background necessary to provide relevant comments.

- C. ~~Meetings, and officers, and subcommittees.~~** 1. ~~The Planning and Sustainability Commission meets at least once a month. Meetings are conducted in accordance with adopted rules of procedure. Five~~Six~~ members constitute a quorum at a meeting. When there are vacant positions on the Planning Commission, a majority of the non-vacant positions constitutes a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.~~
2. ~~The Planning and Sustainability Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.~~
- D. Powers and duties.** The Planning and Sustainability Commission has all of the powers and duties ~~which~~that are now or may in the future be imposed upon City planning commissions by State law, by this Title, by the City Council, or by the City Charter. The Planning Commission's powers and duties include:
1. Holding hearings and making recommendations to City Council on all policy matters related on proposals to adopt, amend and update: the Comprehensive Plan; the Climate Action Plan;the zoning code; significant transportation ~~and sustainable development~~ policies, projects, and issues; the portions of Title 11, Trees, identified in 11.10.040.C; urban renewal plans; street vacations; sign regulations; and renaming city streets.;
 2. Advising the City Council on plans and policies regarding such issues as ~~land use, zoning,~~ housing, ~~energy,~~ transportation, ~~urban renewal,~~ urban design, equity, economic development, public buildings, ~~climate change, sustainable development,~~ environmental protection, resource conservation, and other policies of ~~C~~citywide interest;
 3. ~~Articulating and guiding the City's long-range goals, policies, and programs for developing and achieving sustainable communities; and~~
 34. ~~Developing opportunities~~Providing a forum for community members to learn about principles, policies, and programs that promote sound land use planning ~~practices~~sustainable practices and development.
- E. ~~Communications on appeals.~~** ~~The Planning and Sustainability Commission may submit written responses or appear in person on appeals of quasi-judicial land use decisions to the City Council.~~

Commentary

33.710.040.F Annual Report

Although the PSC has not been writing an annual report, this section is being retained because the goal is to begin this practice.

33.710.050 and .060 Design and Historic Landmarks Commissions

The amendments in these two sections facilitate changing the name of the Planning and Sustainability Commission to Planning Commission.

EF. Annual report. The Planning and Sustainability Commission must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Planning and Sustainability Director by the first working day of September. The Planning and Sustainability Director may combine the report with annual reports of other bodies for transmission to the City Council.

33.710.050 Design Commission

A-C. [No change]

D. Powers and duties. The Design Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:

1. [No change]
2. Recommending the establishment, amendment, or removal of the Design overlay zone and design districts to the Planning and Sustainability Commission;
- 3-4. [No change]
5. Providing advice on design matters to the Hearings Officer, Planning and Sustainability Commission, Historic Landmarks Commission, Portland Development Commission, City Council, and other City Bureaus or public agencies when necessary or requested.

E. [No change]

33.710.060 Historic Landmarks Commission

A-C. [No change]

D. Powers and duties. The Historic Landmarks Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:

- 1-2. [No change]
3. Providing advice on the establishment, amendment, or removal of Historic Districts and Conservation Districts to the Planning and Sustainability Commission in legislative actions;
- 4-6. [No change]
7. Providing advice on historic preservation matters to the Hearings Officer, Design Commission, Planning and Sustainability Commission, Portland Development Commission, other City commissions and committees, and City Council; and
8. [No change]

E. [No change]

Commentary

33.710.070 Adjustment Committee

33.710.120 Healy Heights Radiofrequency Advisory Board

The amendments in these two sections facilitate changing the name of the Planning and Sustainability Commission to Planning Commission.

33.710.070 Adjustment Committee

A-D. [No change]

E. Powers and duties. The Adjustment Committee has all of the powers and duties which are assigned to it by this Title or by City Council. The Committee powers and duties include:

1. [No change]
2. Providing advice on adjustment matters to the Hearings Officer, Planning ~~and Sustainability~~ Commission, Historic Landmarks Commission, Portland Development Commission, and City Council.

33.710.120 Healy Heights Radiofrequency Advisory Board

A-C. [No change]

D. Powers and duties. The duties, responsibilities, and authority of the advisory board include, but are not limited to:

Bullets 1-4 [No change]

- Advice to the Planning ~~and Sustainability~~ Commission, City Council, and Land Use Hearings Officer on legislative and quasi-judicial matters affecting RF operations in the plan district and to the Code Hearings Officer for enforcement;

Bullets 6-10 [No change]

Section IV: Commission name change under authority of Title 1.01.035

Title 1.01.035 specifies that the Auditor has the authority to “substitute any current title of an officer, bureau, department, commission or committee in lieu of the title originally appearing in the Code provision, in accordance with changes of title or duties subsequently made by law.” Under that authority, the name Planning Commission will be substituted for the name Planning and Sustainability Commission in the following locations in the Portland City Code. Because the Auditor has the authority to substitute the current name of the commission, strikethrough and underline is not shown:

- 2.12.020 Definitions
- 3.02.037 Time Certain Agenda
- 3.30.030 Development Review Advisory Committee
- 3.33 Bureau of Planning and Sustainability
- 3.116 Waterways Advisory Committee
- 11.10.040 Amendments to this Title
- 17.80.010 Plats and Dedications—Approval by Director of the Bureau of Transportation
- 17.84.030 Street Vacations—Consideration of Petition
- 17.93.040 Renaming City Streets—Review of Application and Public Hearings
- 33.720.030 Legislative Land Use Reviews
- 33.740.020 Commission Review
- 33.835.020 Initiating a Text Amendment
- 33.850.020 Initiating a Statewide Planning Goal Exception
- 33.855.020 Initiating a Zoning Map Amendment

