

Shelter to Housing Continuum – Part 2: **Technical Amendments**

February 2023 – As-Amended Draft

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Acknowledgments

City Council

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

Portland Planning and Sustainability Commission

Steph Routh (Chair)
Erica Thompson (Vice-Chair)
Valeria McWilliams (Vice-Chair)
Jeff Bachrach
Johnell Bell
Jessica Gittemeier
Katie Larsell
Oriana Magnera
Gabe Sheoships
Eli Spevak

Bureau of Planning and Sustainability

Carmen Rubio, Commissioner-in-charge
Donnie Oliveira, Director

Project Staff

Eric Engstrom, Deputy Director
Sandra Wood, Principal Planner
JP McNeil, City Planner
Shannon Buono, Senior Planner
Phil Nameny, City Planner

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Section I: Introduction

Project Summary

This project supplements the adopted **Shelter to Housing Continuum** project by proposing several refinements based on the initial implementation of zoning code language adopted in 2021. As the City launched the Safe Rest Villages Initiative and the Joint City-County Office of Homeless Services continues to operate and open other facilities, several zoning code barriers and unanticipated technical issues have arisen. This project proposes several zoning code amendments to address the identified issues. The recommended code changes, described in more detail below, fall into several categories:

1. Clarification of the size of outdoor shelters allowed in industrial zones;
2. Establishment of a limited set of development standards for outdoor shelters while otherwise exempting outdoor shelters from base zone, overlay zone, and plan district development standards;
3. Maintaining protections for greenway, environmental, and archeological resources;
4. Minor technical amendments that clarify how outdoor shelters operating as a temporary activity are regulated under 33.296, Temporary Activities; and
5. Amendments to allow shelters to be added to a site with an already approved conditional use without triggering a conditional use review.

Background

On April 28, 2021, Portland City Council adopted a package of City code amendments to help address the growing crisis of houseless Portlanders. The Shelter to Housing Continuum (S2HC) project amended the zoning code (Title 33) and six other City codes (Titles 8, 15, 17, 21, 29, and 30). The S2HC project was initiated as part of City Council's Housing Emergency Declaration in 2015. The code changes removed barriers that presented a burden to City-County efforts to open more homeless shelters. The SH2C package also included changes that expanded housing choice and facilitated the production of affordable housing projects.

The S2HC package contained four elements all of which took effect in 2021:

1. Code changes to make it easier to site homeless shelters and associated services in various zones.
2. Implementation of a new community service use in the zoning code called "outdoor shelter." The new outdoor shelter adds to the types of shelters already addressed in the zoning code and allows public agencies and community-based nonprofits to open more shelters like the Kenton Women's Village or St Johns Village. Until the S2HC amendments were adopted, outdoor shelters required code exemptions from City Council. The adopted code provides a more routine path to permit these kinds of facilities, based on emerging alternative shelter models.

3. Increased housing flexibility by allowing group living configurations more broadly. The project further legalized single room occupancy units in some zoning districts, and removed the conditional use requirement, streamlining the review process for many regulated affordable housing projects that incorporate that format. This means that alternative types of housing such as senior care facilities, co-housing, and single-room occupancy apartments will be easier to build.
4. Allow occupancy of one recreational vehicle or a tiny house on wheels on lots with a house, attached house or manufactured home.

The ordinance also included a directive for City bureaus to examine surplus city property for suitability as transitional shelter accommodations and affordable housing.

Through a separate ordinance, City Council also extended the current housing emergency until March 2025.

In June of 2021, City Council passed the **Paving the Pathway from Streets to Stability** ordinance (Ordinance No.190478), which codified an approach to outdoor shelters and directed the construction of six **Safe Rest Villages**. Safe Rest Villages are outdoor shelters that provide a place for Portlanders to sleep, provide basic hygiene facilities, and provide access to case management and behavioral health services.

Proposed Zoning Code Amendments

This project proposes several amendments to the Portland Zoning Code.

1. **Outdoor shelter “sites.”** This amendment clarifies that outdoor shelters are allowed on large industrial sites.

The original S2HC project included language limiting the “site size” of an outdoor shelter in an industrial zone to 2 acres. The intent of the maximum size limitation was to limit the size of the outdoor shelter itself; however, as written it limits not just the shelter use, but the entire site where the outdoor shelter is located. The intent was not to exclude sites larger than 2 acres in size from hosting an outdoor shelter. The use of the words “site size” versus “site” in the adopted amendment changed the meaning of the limitation. In industrial zones, sites are often very large, much larger in some cases than 2 acres. The new code language clarifies that.

2. **Development standards.** These amendments exempt shelters from base zone, overlay zone, and plan district development standards while creating a limited set of development standards for outdoor shelters to meet.

The development standards for shelters are in Chapter 33.285. However, under the existing code shelters are also subject to the standards of applicable base zones (e.g.,

single-dwelling zones or commercial mixed-use zones), overlay zones, and plan districts, such as the Central City or Gateway plan districts.

Rather than exempting outdoor shelters from some of the standards, these amendments **exempt outdoor shelters from all base zone, overlay zone, and plan district development standards**, all of which are important for buildings, but are difficult to apply to individual outdoor shelters. Instead, the proposal is for outdoor shelters to meet a **limited set of development standards** that reflect the general scale and placement of structures for these uses while providing some level of consistency and expectation for outdoor shelter residents and neighbors. The development standards that would apply to outdoor shelters are as follows:

- **Setbacks.** This amendment requires an outdoor shelter to be set back 5 feet from all property lines.

The first S2HC project included a requirement for outdoor shelters to be setback at least 25 feet from adjacent residentially-zoned properties. The intent was to reduce impacts on neighboring residential areas; however, this poses a challenge for small-scale outdoor shelters on institutional sites, often churches in single-dwelling zones. An outdoor shelter with up to 20 individual beds is allowed on an institutional site in a single-dwelling zone. The 25-foot setback makes it impossible to accommodate an outdoor shelter on a small site surrounded by residential zoning. The code is being updated to recognize this challenge and bring the setbacks into alignment with a typical side or rear setback and is being expanded to include all property lines, not just those adjacent to residential zones.

- **Fence Standards.** This amendment reduces the fence requirement around an outdoor shelter from a 6-foot tall, totally sight-obscuring fence (e.g., solid wood fence) to a 6-foot tall, partially sight-obscuring fence (e.g., chain link fence with slats).

A screening standard—whether landscaping or a fence—serves the purpose of providing shelter residents privacy and reduces the impact of outdoor shelters on neighboring properties. The screening requirements are based on those found in Chapter 33.248, Landscaping and Screening. The standards adopted with the S2HC project required either landscaping or fences for screening. Fences must currently meet the F2 standard, which calls for a 6-foot totally sight-obscuring fence made of wood, metal, bricks, masonry, or other permanent materials.

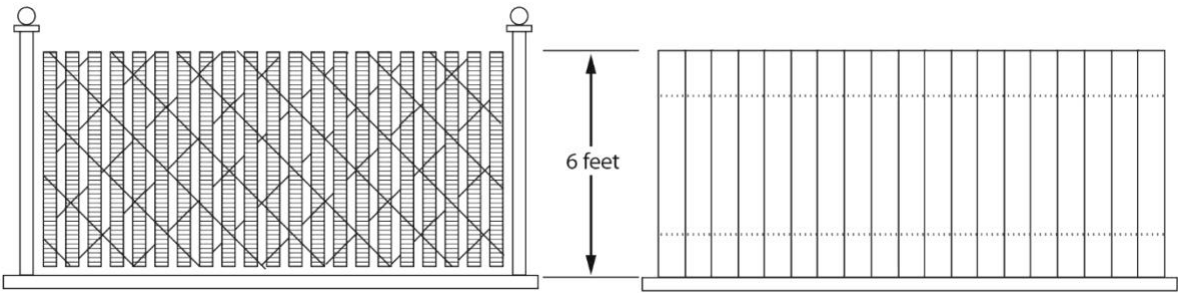
While in many instances, shelter operators have found a 6-foot tall wooden fence to be beneficial for both residents and neighbors, less susceptible to graffiti, easier to maintain, and providing greater security than a chain link fence, some flexibility for fence types is needed. At some locations there was an existing chain

link fence that could be used. Removing that fence or adding a wood fence in addition would be costly and redundant.

To address this issue, this project proposes to allow more flexibility by changing the fence standard from F2 to F1. The F1 standard requires fences to be at least 6 feet high, at least 50% sight-obscuring, and made of wood, metal, bricks, masonry, or other permanent materials. A typical example of this type of fence is a chain link fence with vertical plastic slats providing some sight obscuration.

Figure 248-1
F1 – Partially Sight-Obscuring

Figure 248-2
F2 – Totally Sight-Obscuring



- **Height.** This amendment sets a maximum height of 20 feet for all structures in an outdoor shelter.

In crafting development standards applicable to outdoor shelters, staff balanced the goal of requiring permanent outdoor shelters to be compatible with other development nearby while also not adding so many rules that shelter operators would be delayed or stymied in their efforts to open a new shelter quickly and efficiently. Setbacks and screening are key to that, as is ensuring that structures on outdoor shelter sites meet height standards. Since the structures that are part of an outdoor shelter – small, modular sleeping pods and small detached structures for showers and laundry – are most comparable to detached accessory structures, the 20 foot height limit for accessory structures in residential zones seemed appropriate.

In consideration of the need to protect some sensitive resources, an **amendment** was made at the February 8, 2023 City Council hearing for several code changes that would **maintain protections for some greenway, environmental, and archeological resources**. These changes are to:

- Prohibit outdoor shelters in the greenway and river setbacks of the Willamette River;

- Continue to apply the Johnson Creek Basin Plan District – South Subdistrict standards to outdoor shelters; and
 - Continue to apply standards for archeological resources in the Columbia South Shore and Portland International Airport Plan Districts and the River Overlay Zone.
3. **Temporary Activities Rules.** These amendments clarify the rules for shelters operating as a temporary activity.
- **Structures for temporary activities.** Generally, only temporary development or alterations are allowed with temporary activities. Permanent development or alterations are not allowed unless they meet all use and development standards and other applicable codes. Amendments clarify that new permanent structures or alterations are not allowed in conjunction with a temporary activity.
 - **Use of parking areas for temporary shelters.** Amendments allow an outdoor shelter to occupy a parking area on a site. This change would, for example, allow for a temporary outdoor shelter to locate in a church parking lot.
4. **Conditional Uses and Conditional Use Master Plans.** These amendments allow shelters to be added to a site with an already approved conditional use without triggering a modification to the existing conditional use approval.

The amendments to the conditional use and conditional use master plan chapters address instances when a shelter (an allowed use) is added to a site with a conditional use or a master plan, but the shelter would trigger a change to the existing conditional use land use review due to changes to development on the site.

A typical example would be a 20-bed outdoor shelter added on a portion of a church parking lot in a single dwelling zone. The church would be allowed as an existing conditional use and the outdoor shelter is an allowed use outright; however, section 33.815.040.B1.h would likely trigger a conditional use review due to the number of parking spaces removed.

Conditional use master plans are plans that guide future development on a larger site. Similarly, outdoor shelters may trigger a conditional use land use review on a conditional use master plan site, creating an unwanted hurdle to the development of outdoor shelters.

Staff Proposal

Staff proposes that City Council:

- Adopt this report.
- Amend Title 33, Planning and Zoning, as reflected in this report.

Section II: Zoning Code Amendments

This section presents staff proposed 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 facing left-hand pages.

Commentary

33.285.050 Standards

This section lays out the development and operational standards for the three types of shelters. It has become clear that some zoning and plan district development standards such as minimum FAR, main entrance, and street-facing facades are difficult to apply to individual outdoor shelters since outdoor shelters can be comprised of small, individual sleeping structures or even tents pitched on platforms on the ground. Instead, outdoor shelters must meet a limited set of development standards that address the most relevant aspects of the outdoor shelter type and provides some level of consistency and expectation for outdoor shelter residents and neighbors. It is worth noting that shelters are prohibited in most areas with sensitive resources or hazards, such as environmental zones and floodplain areas, and in fact that prohibition was extended to the greenway and river setbacks, so the blanket exemption to standards does not expose those areas to new impacts.

33.285.050.C.1.f and g

The exemption from development standards would exempt outdoor shelters from the Greenway and River overlay setback requirements for development along the banks of the Willamette River. Typically, the only development allowed within the Greenway and River setbacks is river-dependent development. Since there are no conceivable reasons why an outdoor shelter would need to include river-dependent development and due to the sensitive nature of the riparian resources along the river, a prohibition was added to keep outdoor shelters out of these setbacks.

33.285.050.C.2.b

This amendment brings the size limitation for outdoor shelters in industrial zones into alignment with the original intent of the standard as described in the commentary for the S2HC project: "A maximum outdoor shelter size is proposed for industrial zones to help preserve the City's limited supply of industrial land for industrial use." The intent of the maximum size limitation was to limit the size of the outdoor shelter itself, not to exclude sites larger than 2 acres in size from hosting an outdoor shelter. The use of the words "site size" versus "size" in the adopted amendment changed the meaning of the limitation. In industrial zones, sites are often very large, much larger in some cases than 2 acres.

33.285.050.C.5

This standard is intended to reduce impacts of outdoor shelters on adjacent residential areas by requiring a 25-foot setback from any adjacent site. In practice, this standard is posing a challenge to small-scale outdoor shelters on institutional sites, often churches, in single-dwelling zones. An outdoor shelter with up to 20 individual shelters is allowed on an institutional site in a single-dwelling zone. The 25-foot setback makes it impossible to accommodate a small-scale outdoor shelter on a site surrounded by residential zoning. The code is being updated to recognize this challenge and bring the setbacks into alignment with a typical side or rear setback in a residential zone.

33.285 Short Term, Mass, and Outdoor Shelters

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33.285.050 Standards

A.-B. [No change]

C. **Outdoor shelters.** Outdoor shelters are exempt from development standards in base zones, overlay zones, and plan districts. Outdoor shelters are subject to the following standards:

1. An outdoor shelter is prohibited in:
 - a. Environmental overlay zones;
 - b. Pleasant Valley Natural Resource overlay zone;
 - c. River Natural overlay zones;
 - d. River Environmental overlay zones;
 - e. Scenic overlay zones; ~~and~~
 - f. Within and riverward of the greenway setback;
 - g. Within and riverward of the river setback; and
 - fh. The special flood hazard area.
2. Minimum and maximum site size.
 - a. The minimum required site size for an outdoor shelter is 3,000 square feet. Institutional uses are exempt from this standard. Adjustments are prohibited.
 - b. In I zones, the maximum ~~site~~ size for an outdoor shelter is 2 acres. Adjustments are prohibited.
3. The facility must operate 24 hours a day.
4. The facility must have a designated supervisor.
5. ~~All~~ Development associated with the outdoor shelter, other than screening required by Paragraph C.6., must be setback at least 5 feet from ~~street~~ all lot lines and at least 25 feet from the lot line of any abutting R-zoned property that is not part of the outdoor shelter site.

Commentary

33.285.050.C.6

The S2HC project added a provision that requires outdoor shelters to be screened from adjacent properties with landscaping or fencing. Currently, fences are required to meet the F2 standard, which calls for a fully sight-obscuring fence made of wood, metal, bricks, masonry, or other permanent materials. While in many instances, shelter operators have found a 6-foot-tall 100% sight-obscuring fence (such as a wooden fence) to be more beneficial for both residents and neighbors than a chain link fence, this has not been the case universally. At some locations, utilizing an existing chain link fence is preferable. Removing that fence or adding a wood fence in addition to that is costly and redundant. To address this issue, this project proposes to allow more flexibility by changing the fence standard from the F2 to standard to F1. Like the F2 standard, the F1 standard requires fences to be at least 6 feet high and made of permanent materials. However, the F1 standard only requires the fence to be 50% sight-obscuring. A typical example of this type of fence is a chain link fence with vertical plastic slats providing some sight obscuration.

33.285.050.C.7

Since most outdoor shelter development is modular and small-scale and permanent, stick-built structures on the site are essentially accessory structures, it seemed appropriate to set a maximum height standard of 20 feet, which aligns with the height maximum for other accessory structures.

33.285.050.C.9

The JCBPDSS standards protect the watershed health of Johnson Creek. by capturing or slowing down runoff into the creek. The impermeable clay soils of the steep-sided Boring Lava hills to the south of the creek contains numerous small streams that can quickly carry stormwater runoff to Johnson Creek. The limitations on tree removal and impervious surfaces help to capture or slow runoff into the creek. Removal of these standards for outdoor shelters through the blanket exemption could put the health of this sensitive watershed at risk.

33.285.050.C.10

Archaeological and historical evidence shows that Native Americans lived along the rivers in the Portland region prior to European American contact and settlement. Pre-contact archaeological resources have historic, cultural, and scientific value to the general public and associated Native American tribes. The archeological resource protection standards in the River Overlay Zone, Columbia South Shore Plan District, and the Portland International Airport Plan District provide a process to survey areas with a high probability of having archeological resources prior to development to protect any identified archeological resources. Given the value of the resources and the importance of identifying and preserving them, these standards should continue to apply to outdoor shelters to protect these irreplaceable resources.

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6. The outdoor shelter ~~site~~ must be screened from the street and any adjacent properties. Screening from the street must comply with at least the L2 or F12 standards of Chapter 33.248, Landscaping and Screening, with the exception that a fence can be a minimum of 3-feet high. Screening from adjacent properties must comply with at least the L3 or F12 standards of Chapter 33.248, Landscaping and Screening.
7. The maximum height for structures associated with the outdoor shelter is 20 feet.~~The outdoor shelter is exempt from all pedestrian standards required by other chapters in this code.~~
8. No motor vehicle parking is required.
9. An outdoor shelter located in the South Subdistrict of the Johnson Creek Basin Plan District is subject to the development standards in section 33.537.140.
10. An outdoor shelter located in a River overlay zone, the Columbia South Shore plan district, or the Portland International Airport plan district is subject to the respective archeological resource protection standards of the overlay zones or plan districts.

Commentary

33.296.040.A

Temporary activities are described at the beginning of this chapter as being "characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site." Temporary structures, such as booths for farmers markets and fairs, construction staging, and temporary shelters, are intended to be allowed. However, the use of the terms "new development or alterations to existing development" make that unclear.

33.296.040.B

This language clarifies that an outdoor shelter can occupy a parking area on a site. The existing language prohibited a temporary outdoor shelter from occupying a parking area.

33.296 Temporary Activities

296

33.296.040 General Regulations.

All temporary activities are subject to the regulations listed below.

- A. Permanent~~New~~ development or alterations to existing development are prohibited, unless consistent with the development standards for uses allowed by right in the underlying zone or required by applicable building, fire, health, or safety codes.
- B. Temporary activities may not cause the elimination of required off-street parking, except ~~for Farmers Markets. Required parking may be temporarily occupied by a Farmers Market as follows:~~
 - 1. Farmers Markets. Required parking may be temporarily occupied by a Farmers Market, as follows:
 - a1. The market may occupy up to 3 required spaces or 30 percent of the required spaces, whichever is more; or
 - b2. If the market occurs at a time other than a peak time for the primary use on the site, the market may occupy all of the required spaces. If this option is used, the operator of the market must keep an analysis on file. The analysis must document when the peak times are for the primary use, and the hours of operation (including set-up and take-down) for the market.
 - 2. Outdoor shelters. All required parking may be temporarily occupied by an outdoor shelter.
- C.-E. [No change]

Commentary

33.815.040.B

Outdoor shelters are an allowed use on institutional sites in a single dwelling zone. In these instances, and potentially in other cases, the site with the proposed outdoor shelter may have an existing conditional use approval. While the outdoor shelter use by itself would not trigger a conditional use approval, since it is an allowed use, in some instances, new structures, exterior use areas, removal of parking, or other changes associated with the proposed outdoor shelter would trigger a new conditional use land use review. For example, removal of parking spaces on a church site in a single dwelling zone would typically trigger a Type II Conditional Use Review under section 33.815.040.B.1.h. The intent of the S2HC2 is to streamline the process to allow more needed shelters in the City and removing the conditional use triggers for outdoor shelters on sites with existing conditional use approvals accomplishes that.

33.815 Conditional Uses

815

33.815.040 Review Procedures

The procedure for reviewing conditional uses depends on how the proposal affects the use of, or the development on, the site. Subsection A, below, outlines the procedures for proposals that affect the use of the site while Subsection B outlines the procedures for proposals that affect the development or reduce the conditional use site boundary. Proposals may be subject to Subsection A or B or both. The review procedures of this section apply unless specifically stated otherwise in this Title. Proposals may also be subject to the provisions of 33.700.040, Reconsideration of Land Use Approvals.

- A. [No Change]
- B. **Proposals that alter the development of an existing conditional use.** Alterations to the development on a site with an existing conditional use and reducing the boundary of a conditional use site may be allowed, require an adjustment, modification, or require a conditional use review, as follows:
 - 1. Conditional use review not required. A conditional use review is not required for alterations to the site and reductions to the conditional use site boundary that comply with Subparagraphs a through h. All other alterations and boundary changes are subject to Paragraph 2, below. Alterations to development and reductions to the site boundary are allowed by right provided the proposal:
 - a-d. [No change]
 - e. Does not increase the floor area by more than 2,000 square feet. Floor area for an outdoor shelter and for housing that is affordable is exempt from this limitation. For the purposes of this subparagraph, housing that is affordable means that at least 50 percent of the dwelling units in the additional floor area are participating in the Title 30 System Development Charges Exemption Program. See 30.01.095. If the additional floor area is in multiple buildings with multiple dwelling units, then the affordable units must be distributed among the multiple buildings. To qualify for this exemption, the applicant must provide a letter from the Portland Housing Bureau certifying which units are approved for the System Development Charges Exemption Program;

Commentary

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- f. Does not increase the exterior improvement area by more than 2,000 square feet. Exterior improvements associated with an outdoor shelter, ~~F~~ences, handicap access ramps, ~~and~~ on-site pedestrian circulation systems, ground mounted solar panels, Community Gardens, Market Gardens, bicycle parking, and parking space increases allowed by 33.815.040.B.1.h, below, are exempt from this limitation;
- g. [No change]
- h. Will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:
- (1) Remove parking spaces is allowed as follows:
- On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; parking spaces removed to create accessible spaces as specified in the Oregon Specialty Code are exempt from this limitation; or
 - Up to 50 percent of the total number of existing parking spaces may be removed when the removal is for an outdoor shelter or housing that is affordable as defined by Subparagraph B.1.e;
- (2)-(3) [No change]
2. Conditional use required. Conditional use review is required for the following:
- a. Minor alterations. Except as provided in Paragraph B.1 above, conditional use review through a Type II procedure is required for the following:
- (1)-(3) [No change]
- (4) When there will be additional floor area on the site and the floor area is for an outdoor shelter area or housing that is affordable as defined by Subparagraph B.1.e;
- (5) When the individual or cumulative alterations will not increase the floor area on the site by more than 25 percent, up to a maximum of 25,000 square feet. Floor area for an outdoor shelter or housing that is affordable as defined by Subparagraph B.1.e. is exempt from this limitation;
- (6) [No change]
- (7) When the individual or cumulative alterations will not increase the floor area and the exterior improvement area on the site by more than 25 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by 33.815.040.B.2.a (3) and floor area for an outdoor shelter or housing that is affordable as defined by Subparagraph B.1.e. are exempt from this limitation; or
- (8) [No change]
- b. [No change]

Commentary

33.820.080 and 33.820.090

A conditional use master plan is a plan for the future development of an area that is subject to the conditional use regulations. The issues raised are like those raised for conditional uses in chapter 33.815 and the remedy is also similar. For uses that City wants to encourage more of, such as outdoor shelters or affordable housing, the code is streamlined to simplify implementation and development.

33.820 Conditional Use Master Plans

820

33.820.080 Implementation

- A. [No Change]
- B. **Not conforming to the plan.** Uses that are not in conformance with the master plan require an amendment to the plan. Development that is not in conformance with the plan and does not meet the following requires an amendment to the plan. Development that is not in conformance with the plan and does meet all of the following is allowed:
- 1-4. [No change]
 5. Does not increase new floor area by more than 2,000 square feet. Floor area for an outdoor shelter and for housing that is affordable is exempt from this limitation. For the purposes of this paragraph, housing that is affordable means that at least 50 percent of the dwelling units in the additional floor area are participating in the Title 30 System Development Charges Exemption Program. See 30.01.095. If the additional floor area is in multiple buildings with multiple dwelling units, then the affordable units must be distributed among the multiple buildings. To qualify for this exemption, the applicant must provide a letter from the Portland Housing Bureau certifying which units are approved for the System Development Charges Exemption Program;
 6. Does not increase the exterior improvement area by more than 2,000 square feet, except that exterior improvements associated with an outdoor shelter, fences, handicap access ramps, on-site pedestrian circulation systems, ground mounted solar panels, and parking space increases allowed by 33.820.080.B.8 below, are exempt from this limitation;
 7. [No change]
 8. Will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:
 - a. Will not result in a net loss in the number of parking spaces except as follows:
 - (1) [No change]
 - (2) Up to 50 percent of the total number of existing parking spaces may be removed when the removal is for an outdoor shelter or housing that is affordable as defined by Paragraph B.5;
 - (3)-(4) [No change]
 - b-c. [No change]

Commentary

33.820.090 Amendments to Master Plans

Amendments to the master plan are required for any use or development that is not in conformance with the plan, except as stated in 33.820.080, above. The approval criteria of 33.820.050 apply. The thresholds and procedures for amendments are stated below.

- A. Type III procedure.** Unless the master plan specifically provides differently, amendments to a master plan that require a Type III procedure are:

1-4. [No change]

5. Increases in the overall floor area of development on the site over 25 percent. Floor area for an outdoor shelter or housing that is affordable as defined by Paragraph B.5. is exempt from this limitation;

6. Increases or decreases greater than 10 percent in the amount of approved or required parking. Decreases for an outdoor shelter or housing that is affordable as defined by Paragraph B.5. are exempt from this limitation; and

7. [No change]

- B.** [No change]

