



Land Division Code Update

November 2023 – Discussion Draft

portland.gov/bps/planning/land-division-code-update

You can submit comments on these draft proposals through December 31, 2023, at 5 pm. See Inside cover for details.

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How to Give Feedback

You may provide feedback on this Discussion Draft of the Land Division Code Update Project through December 31, 2023, at 5 p.m. This feedback will be used to refine a “Proposed Draft” for the Planning Commission’s review and additional public testimony in early 2024.

- **Through the Map App:** portlandmaps.com/bps/land-division-code-update click on or search for a property and use the comment tab to give your feedback. Comments do not need to be property specific.
- **By Email:** LandDivisionCodeUpdate@portlandoregon.gov
- **By U.S. Mail:** Portland Bureau of Planning and Sustainability, 1810 SW 5th Ave, Suite 7000, Portland, OR 97201, Attn: Land Division Code Update Project Discussion Draft

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Visit portland.gov/bps/planning/land-division-code-update to:

- Learn more about the project and view maps, reports and other documents.
- Sign up to receive future updates and notices of upcoming public hearings.

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Section I: Project Summary

Proposal

This project proposes zoning code changes to encourage new housing development, streamline and speed up the residential land division review process, and reduce regulatory barriers and uncertainty, while providing beneficial outcomes for the community.

The project includes many small and technical changes in addition to more substantive changes. Together, these changes carry out the following proposals:

1. Create a clear and objective set of standards
2. Update the Portland's Potential Landslide Hazard Area Map
3. Recalibrate standards, thresholds, and review procedures

Project Impetus

City Council resolution #37593 directs the Bureau of Planning and Sustainability to “collaborate with BDS and other infrastructure bureaus to bring a package of code amendments and operational improvements to Council in early 2024 to increase the clarity and efficiency of the residential land division process for small residential development.” The changes proposed by this project are intended to reduce unnecessary costs and delays in permitting housing.

Land divisions, by statutory definition are considered “limited land use decisions” (ORS 197.015) and must therefore follow established State procedures for review including notification, opportunity for comment, opportunities to appeal the decision, and potentially include a public hearing. Cities are also obligated to ensure its land division regulations comply with State rules and statutes that require clear and objective standards for residential development (Oregon Revised Statute 197.307: Approval Standards for Certain Housing in Urban Growth Areas, and Oregon Administrative Rule (OAR) 660-007-0015: Clear and Objective Approval Standards Required).

“a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay...a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria...if the alternative process authorizes a density at or above the density level authorized in the zone.”

This project is largely focused on creating a set of clear and objective standards for land divisions to facilitate the creation of more housing.

Overall Project Approach

The approach to these *Land Division Code Update* amendments is to largely maintain the existing flexibility provided through current approval criteria, and supplement those with an alternative set of clear and objective standards for housing development. These clear and objective standards will be available for land division applications in single-dwelling residential zones, and depending on the regulations, they may also be available for land divisions sited in other zones as well. The project also evaluates the utility and functionality of the current regulations to determine whether they should be expanded and improved or removed from the code. The project proposes to recalibrate applicability

thresholds and assigned review procedures to improve review times and reduce costs for residential development. The new standards and review thresholds are intended to facilitate land divisions, especially for smaller, less complicated sites.

The project prioritizes the availability of clear and objective standards in single-dwelling residential zones. New residential infill options expanded the types of housing allowed by right on a single-dwelling zoned lot, enabling up to 4 units in many cases, or 16 units in a cottage cluster without the need for a land division. However, a land division may be the only opportunity to “unlock” the planned density for large, oversized lots in these single-dwelling zones. Even smaller single-dwelling zoned parcels benefit from being divided since each new lot could potentially have multiple infill units.

Outside of single-dwelling residential zones, land divisions are not necessary to create more housing. This is because in the other zones where housing is allowed, multi dwelling development (like apartments, or multiple detached dwellings on a single lot) is allowed outright, and maximum density is controlled through floor area ratios (FAR) instead of through lots. In other words, in these other zones, development of needed housing at the densities contemplated by and allowed through the comprehensive plan is provided through a clear and objective development permit track that does not necessitate the dividing of land; whereas in single-dwelling zones the only way to achieve the planned density of an areas in some cases is through the land division process.

The project will not be changing base zones or overlay zones or modifying the basic parameters of when a lot is considered dividable. In other words, this project is focused on facilitating the *process* of land divisions and will not be changing already adopted zoning capacities for residential development.

See the next section for a summary of the key project proposals and changes.

Section II: Land Division Process Overview

A land division is the process of dividing property to create new parcels or lots, streets, or special-purpose tracts. There are two kinds of land divisions: a partition (2-3 parcels) and a subdivision (4 or more lots).

Land divisions result in a survey called a “plat”, either a subdivision plat or partition plat. State law (ORS Chapter 92) governs cities and counties’ reviews of land divisions to ensure compliance with local comprehensive plans, zoning, and engineering standards. After plats are approved by the City, they are also reviewed by the County Surveyor, and filed with the County Recorder. Property legal descriptions and deeds are prepared based on these permanent records.

Land division regulations include several functions:

- **Real estate**, establishing a consistent reference point for land ownership records.
- **Consumer protection**, ensuring that public improvements are made with new development, so that a buyer knows a new lot has the necessary services (e.g., water, sewer, electric) for future development.
- **Public infrastructure**, requiring that services will be available and adequate to meet the demand from additional development.
- **Comprehensive planning**, controlling development density and configurations.

The first major step in the development process is to divide a parcel of land into lots and streets. How land is divided can define the pattern of an area, which in turn shapes its character. Lot configurations, street design, and utility locations can all have significant impacts on the design of buildings, and how a place functions.



Land division regulations help to guide development of land consistent with the goals of Portland’s Comprehensive Plan. These regulations coordinate the City’s interests and responsibilities in a clear and efficient manner. Land division regulations also ensure that all lots can be served by utilities, and that public and private costs of development are not overly burdensome. The regulations ensure that stormwater runoff generated by a development can be managed on the site, and land uses can be matched with transportation needs for all modes, including pedestrian and bicycle travel. Regulations for land divisions can help minimize destruction caused by floods and landslides. Clear and flexible regulations can achieve all this, and foster a variety of housing, commercial, and/or industrial development.

The land division approval process occurs in two steps: preliminary plan review and final plat review. Review of the preliminary plan is a “limited land use process,” which under Oregon law requires public notification, a comment period, and opportunity to appeal. The preliminary plan approval conveys the basic planning permissions to move forward with the project and establishes the lot configuration of the project. The final plat process is a more technical review that is handled administratively. Detailed surveys and public improvement plans are finalized with the final plat process. The plat process is not an opportunity to re-open the more fundamental design questions that are set with the preliminary plan. Small changes to the approved plan are permissible within established clear tolerances, while larger changes require a new preliminary plan application.

The Structure of Portland's Land Division Code

Portland's land division regulations are found in Title 33 (Portland's Zoning Code). Other city Titles include a collection of different chapters that govern technical decision-making aspects of the land division process:

Title 33 (Zoning Code)

- Chapters 33.605 through 33.615 establish density¹ and lot dimension standards;
- Chapters 33.630 through 33.641 address land hazards and resource protection (for example, limitations on floodplain development, and tree preservation requirements);
- Chapter 33.651 through 33.654 address water, sanitary, stormwater management and transportation adequacy;
- Chapters 33.660 through 33.677 address City review procedures;

Title 17 (Public Improvements)

- Section 17.82 describes the procedures for review of public improvement plans related to land divisions; and other sections of Title 17 may also apply to many projects, depending on the nature of the proposal.

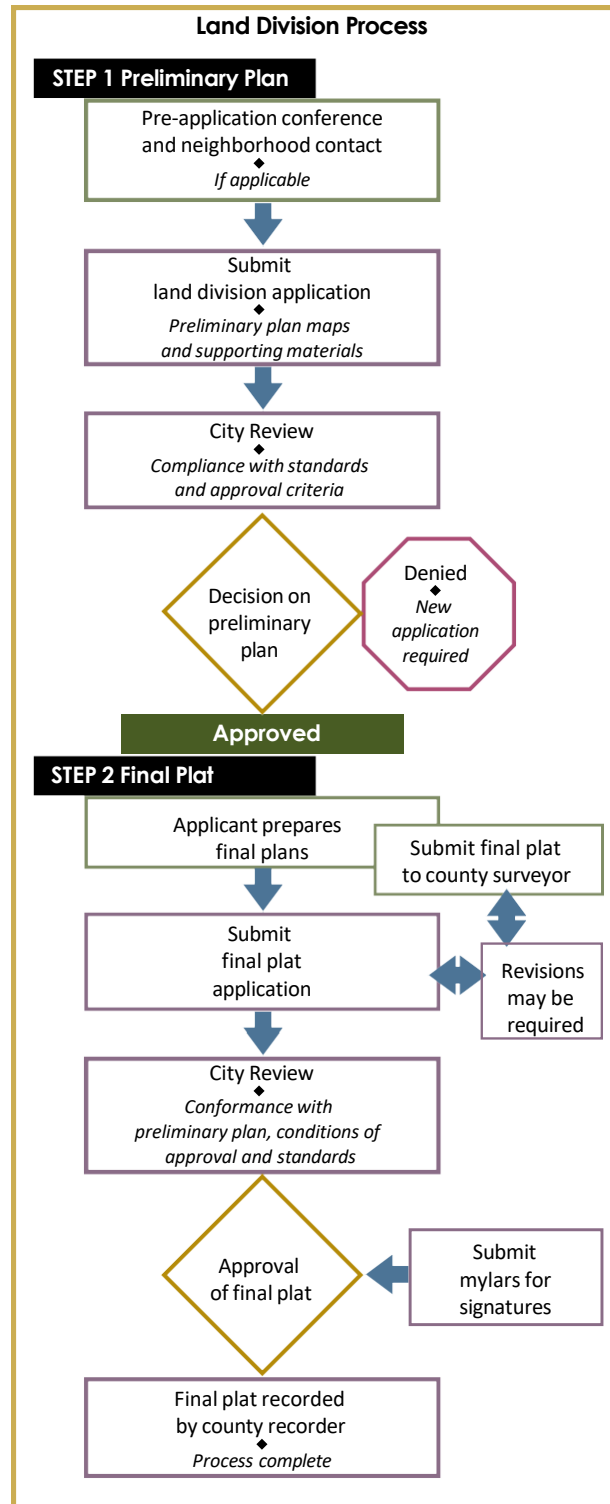
Title 21 (Water Code)

Title 24 (Building Code)

Title 31 (Fire Code)

The land division codes also reference a variety of other supporting technical standards and specifications:

- City Engineers standard plans and specifications;
- Administrative Rule for Private Rights-of-Way;
- Stormwater Management Manual;
- Sewer and Drainage Facilities Design Manual;
- Water System Developer's Manual



¹ Density in the single-dwelling zones is a measurement of how many lots may be created within a given site area. For example, the R5 zone allows 2 lots on a 10,000-square-foot site. The number of dwelling units allowed on each of those lots is determined by the base zone. For example, whether the lots are developed with a house or a fourplex.

Section III: Summary of Amendments

The project includes many small and technical changes in addition to substantive changes as noted throughout Section VII, Zoning Code Amendments. The commentary at the start of each chapter in Section VII summarizes the main changes that are proposed in each chapter. Together, these changes carry out the following proposals.

1. Create a clear and objective set of standards

The proposal

Create clear and objective standards as an alternative to existing discretionary approval criteria.

What is the intended benefit?

Currently, land division regulations include various combinations of technical verifications, discretionary approval criteria, and clear and objective standards. Applicants must navigate through all of these to obtain an approval.

For example, the lot dimension requirements establish numerical requirements for lot width, depth, area, and front lot line lengths. These clear and objective standards are easily verifiable, measurable, and subject to little disagreement:

Each lot must be at least 3,000 square feet in area. Each lot must be at least 36 feet wide.

On the other hand, the review also includes the application of discretionary criteria that can be harder to definitively meet, such as this flood hazard approval criterion:

Each lot must have adequate area outside the special flood hazard area to accommodate allowed or proposed uses.

While such discretion offers more flexibility for an applicant to propose measures that will effectively satisfy the criterion, it also introduces uncertainty when there is disagreement as to what those measures should include. How much area is “adequate”, especially when considering an unspecified, but allowed range of uses?

Discretionary criteria are also useful to respond to unique or challenging circumstances, whereas a measurable standard can be a blunt tool that is not well-calibrated for particular site conditions.

To achieve the goal of facilitating and streamlining residential land divisions, applicants will be able to select meeting either new clear standards, or when the site conditions warrant greater flexibility or the applicant is unable to meet a standard, the criteria remain an available alternative.

What else about the proposal should I know?

A “mix and match” system

This proposal is distinctly different than the City’s design, historic, or environmental review “two track” system. Those processes allow applications to meet standards with a development permit application outside of a land use review. When those standards cannot be met, or greater flexibility is desired, then the discretionary land use review process is an alternative. Because land divisions are, by the State’s definition, always a limited land use review, the application must always be processed with required notice, comment, staff report, and opportunity for appeal.

Some Oregon jurisdictions have opted to create a type of “two track” land division system – where applicants may either meet all the clear standards, or they choose to meet all the discretionary

criteria. But in both cases, the application moves through a land use review process. This project takes a different approach. By allowing an applicant to “mix and match” either meeting the standards or criteria, this reduces the risk of applications getting part or most way through a review before discovering that a standard cannot be met and having to restart the land use review under a different track. It also offers greater flexibility for applicants to use standards when they are able to do so or meet criteria when necessary.

It should be noted that the review procedure (e.g. Type Ix, IIx, III) will continue to be determined by characteristics of the proposal such as the number of lots being proposed, whether there is a concurrent land use review or whether there are environmental resources or land hazards present. In other words, similarly-situated land division proposals that use standards, criteria, or some of each will all be processed according to the same review procedure.

Focusing the standards on single-dwelling zoned land divisions.

In many cases, the use of standards may only be available to sites located in the single-dwelling zones, and are not an available option in other zones (e.g multi-dwelling, commercial/mixed use, employment, industrial). There are several reasons for this.

First is to limit code complexity. The standards have been developed with a limited range of possible site development options in mind, namely lots intended for a confined arrangement of small-scale residential structure types found in single-dwelling residential zones. Conversely, other zones introduce a mix of allowed uses, types of users, a broader range of housing and development intensities, and as such the potential for impacts depending on the specifics of those uses can vary widely. Developing standards that are anticipated to address an ever-increasing range of site situations and development arrangements presents an unnecessary diversification of requirements and “if-then” regulations.

Second, to achieve housing in all other zones, a land division is not necessary and does not increase the amount of housing or development entitlements that are already available through a clear and objective building permit review.

And finally, the small and decreasing share of land division applications in other zones does not warrant a need to overhaul the land division regulations for those zones. This is especially true in light of the potential for making the land division code more complicated when the same level of housing development is already allowed without the land division.

Nevertheless, in some land division chapters, standards are being proposed as an available option for non-single-dwelling zones where they can appropriately address and respond to those different site conditions.

The following table compares the current code with the proposed code. It illustrates where criteria (by themselves or used in conjunction with standards) apply, and where standards (highlighted by bold font and color) are available as a standalone option.

Chapter	Current Code						Proposed Code					
	Open Space	Single dwelling	Multi-dwelling	Commercial	Employment	Industrial	Open Space	Single dwelling	Multi-dwelling	Commercial	Employment	Industrial
33.605 Open Space Lots	C						C					
33.610/33.611 Single-dwelling Lots		S						S				
33.612 Multi Dwelling Lots			S						S			
33.613 Commercial Lots				C					C			
33.614 Employment Lots					C					C		
33.615 Industrial Lots						C					C	
33.630 Tree Preservation	C	C	C	C	C	C	S	S	S	S	S	S
33.631 Flood Hazard Areas	C	C	C	C	C	C	S	S	S	S	S	S
33.632 Landslide hazard Areas	C	C	C	C	C	C	C	S	C	C	C	C
33.633 Phased Plans/Plats		S						S				
33.634 Required Recreation Area		C	C					S	S			
33.635 Clearing/Grading Land Suitability	C	C	C	C	C	C	C	S	C	C	C	C
	C	C	C	C	C	C	C	S	C	C	C	C
33.636 Tracts and Easements	S	S	S	S	S	S	S	S	S	S	S	S
33.639 Solar Access		C	C	C								
33.640 Streams Springs, Seeps, Wetlands Allowed Crossings	S	S	S	S	S	S	S	S	S	S	S	S
	C	C	C	C	C	C	S	S	S	S	S	S
33.641 Transportation Impacts	C	C	C	C	C	C	C	S	C	C	C	C
33.642 Manufactured Dwelling LDs			S						S			
33.644 Middle Housing LDs		S	S	S				S	S			
33.651 Water	S	S	S	S	S	S	S	S	S	S	S	S
33.652 Sewer	S	S	S	S	S	S	S	S	S	S	S	S
33.653 Stormwater	C	C	C	C	C	C	S	S	S	S	S	S
33.654 Rights of Way, Connectivity Rights of Way, Design	C	C	C	C	C	C	S	S	S	S	S	C
	C	C	C	C	C	C	S	S	S	S	S	S
33.655 School Capacity	S	S	S	S	S	S						
<i>Total chapters with standards option</i>	5	8	8	6	5	5	10	18	14	11	10	9

- Chapter not applicable
- Approval standards available
- Only approval criteria available

2. Update Portland’s Potential Landslide Hazard Area Map

The Proposal

Replace the current map, created in 1997, with updated and more accurate landslide hazard mapping data.

What is the intended benefit?

The landslide hazard area delineated on the proposed map is significantly more accurate than the 1997 map. The 1997 map excludes some properties that have a real landslide hazard. These areas may include debris flow runout zones which, although not common, are a particularly high-risk type of landslide due to the speed of debris flows and their capacity for destruction.

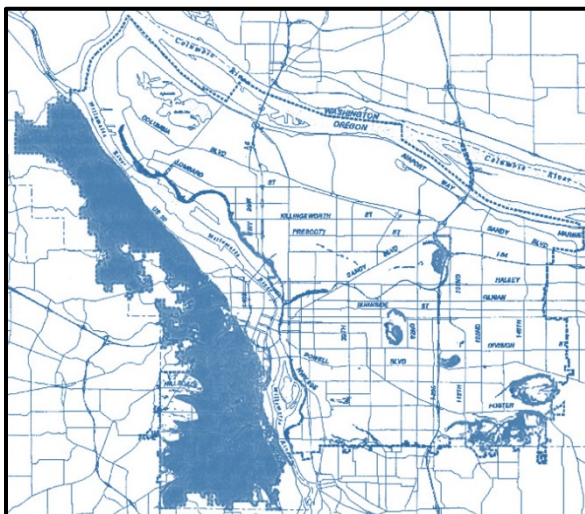
In addition, recent experience by planners and engineers reviewing landslide hazard studies submitted for land divisions indicate that in some areas, particularly in southwest Portland, the existing map is overly broad. Consequently, for some land division applications, a landslide hazard study provided no benefit to the property owner or public.

What else about the proposal should I know?

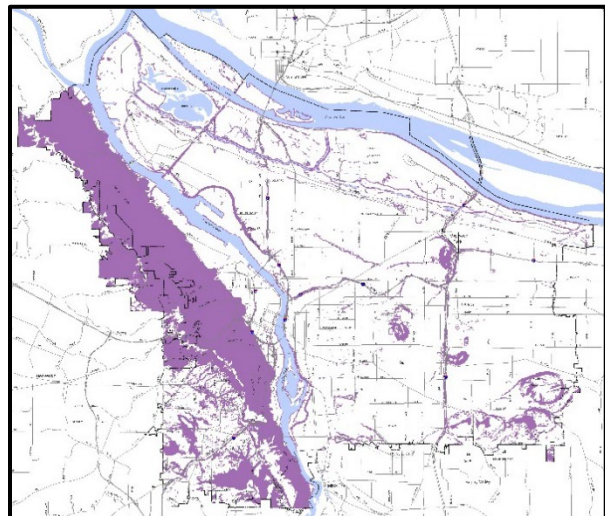
The 1997 landslide hazard map affects about 35,000 lots. The proposed map removes the hazard designation from 10,500 lots while adding about 8,000 lots, for a net total of around 32,500 affected lots. The updated map reduces the amount of area affected on approximately 8,600 lots while 2,700 lots have a larger hazard area identified. 13,150 lots have no change. In single dwelling zones 9,400 lots will be removed, while 3,800 lots will be added to the map.

In order to obtain approval for a land division, properties within the updated potential landslide hazard areas must either meet the proposed standards or meet criteria in Chapter 33.632. If no land division is being proposed, the landslide hazard map does not directly impact other proposed development, as these conditions are already reviewed as part of the building permit process.

The new landslide hazard potential maps do not mean lots are any more or less prone to landslides than they were previously. Rather, the maps just reflect a better understanding of landslide risk, and the application of better modeling and updated data.



1997 Potential Landslide Hazard Map



2023 Proposed Potential Landslide Hazard Map

3. Recalibrate standards, thresholds, and review procedures

The Proposal

Adjust thresholds and simplify or eliminate unnecessary procedures to facilitate housing production, especially for smaller land divisions.

What is the intended benefit?

The vast majority (~80 percent) of land divisions since 2002 have been small 2 and 3 lot partitions, with 11 and more lot land divisions accounting for just 3.5 percent of reviews. However, some current land division regulations were created during an era when larger greenfield development was more common. By better calibrating when particular regulations apply, adjusting the assigned review procedures, and creating mechanisms in the code to reduce the need for costly requirements, application costs and review times can be reduced.

What else about the proposal should I know?

There are several proposed changes to better calibrate the regulations to the level of proposed development and reduce regulatory complexity and cost:

- Simplify the requirements to separate pre-existing lots in multi dwelling zones (Chapter 33.120)

Currently, when several legal lots are under a single ownership in a tax lot in the multi-dwelling zones, separating those lots into individual development sites can be challenging, especially when there is existing development on one or more of those lots. Minimum density standards can mean for example that when there is an existing house on a lot, the other lot cannot be separated since the net minimum density requirement for the larger site can no longer be assured. The proposed changes simplify the rules and allow the minimum density standard to be deferred until the lots are further developed. This better enables new infill development to occur while reducing pressure to demolish existing development.

- Consolidate the single dwelling zone lot dimension/density standards (Chapters 33.610 and 33.611)

When the R2.5 zone was first created, it was designed to be the “attached house” zone. Lot width and area requirements were set to better accommodate townhouses and other attached homes. Other requirements of the zone (such as minimum density and lot width for detached houses) were the same as the R5 zone. Over time and with subsequent code projects, there are fewer differences between the R2.5 zone and other single-dwelling zones. Most recently, with the House Bill 2001 (2019) requirement to allow attached houses in all residential zones, the R2.5 zone is nearly indistinguishable from the remaining single-dwelling zones (apart from maximum density requirements, which are not changing). These changes consolidate, simplify and ensure better consistency when applying the lot dimension and density requirements for single-dwelling zoned land divisions.

- Adjust the recreation area threshold to better relate to size of the land division (Chapter 33.634)

The current threshold for requiring designated recreational area is when 40 dwelling units are proposed. With much more variety in allowed housing types in single dwelling zones, and the removal of maximum dwelling unit density caps in multi dwelling zones, a threshold that relates to the number of proposed dwelling units may unnecessarily confine development on future lots. The proposed threshold will be 40 or more lots instead of dwelling units, which is better scaled to larger land division sites and retains greater development options for those future lots.

- Remove the solar lot orientation regulations (Chapter 33.639).

The current solar regulations apply to all land divisions in any zone that propose lots for detached houses. Application of these requirements is especially challenging with smaller land division sites, smaller and more dense residential lots, and other competing requirements such as street connectivity, tree preservation, minimum density and utility service standards. Even when applications are not exempt for these reasons, the solar access outcomes may not be meaningful based on the presence of taller offsite buildings or trees that shade the site, or they are in areas with unfavorable topography. Instead of expanding the list of exemptions and narrowing the types of land division sites that these rules would apply to, the chapter is being deleted.

- Calibrate traffic impact study requirements for residential land divisions with limited expected trips (Chapter 33.641)

The current submittal requirement in support of the transportation impact evaluation treats all land divisions the same, regardless of the potential trip generation impact. Transportation impact studies are also required for land divisions, when similar or larger traffic generating development is not required to submit such studies. Single dwelling zoned land divisions that propose 10 or fewer lots, will generally no longer be required to submit a separate transportation impact study.

- Remove requirement for school district approval for all land divisions (Chapter 33.655)

Currently, applicants for land divisions of 11 or more lots located in the David Douglas School District must receive a sign-off from the district, an unnecessary and time-consuming step in the land division process.

- Reduce the review procedure type for two and three lot partitions with concurrent environmental review (Chapter 33.660 and 33.662)

Land divisions that include a concurrent environmental review are automatically a Type III land use review, even for 2 and 3 lot partitions. By comparison, 2 to 3 lot land division sites where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area are a Type IIx review. A Type III versus a Type IIx review requires a preapplication conference in addition to higher review fees, adding roughly \$17,000 to the application costs, in addition to having a required public hearing. The proposed change will enable 2 and 3 lot partitions with concurrent environmental review to be reviewed using a Type IIx procedure.

- Simplify application material submittal requirements and allow for electronic submittals (Chapters 33.670, 33.671, 33.675, 33.676, 33.677, and 33.730)

In March 2020, COVID-19 forced the Bureau of Development Services (BDS) permit center to close and required that land use applications be submitted electronically. A positive aspect of this disruption was a significant reduction in paper waste and a more expedited dissemination of application materials to city review staff. However, the code still specifies various numbers of copies of reports and plans that must be submitted with an application and does not reflect current BDS practice. The proposed changes specifically allow for electronic submittals. When applicants do not have access to a computer or the software to create plans digitally, a paper copy may still be submitted, but now only a single copy of all materials will be required, since the application will be scanned into the permit database system for distribution.

Section IV: Land Division Data and Analysis

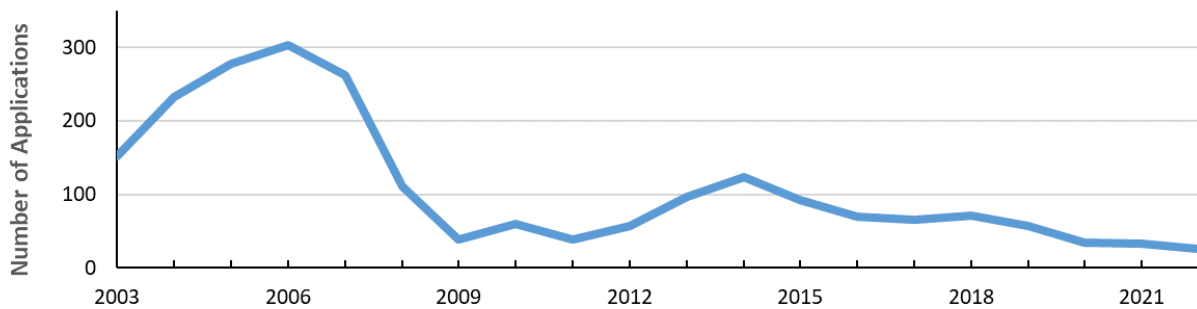
Data and Analysis – Introduction

This section identifies trends in the applications for land divisions since the Land Division Code Rewrite Project became effective on July 1, 2002. Over this 20-year period, there have been noticeable changes in the frequency of applications and the total number of lots created by land divisions throughout the city. There are also noteworthy trends in the typical characteristics of land divisions, including their location in the city, how many lots are proposed, the size of the property being subdivided, and the property’s zoning.

Land Division Activity Over Time

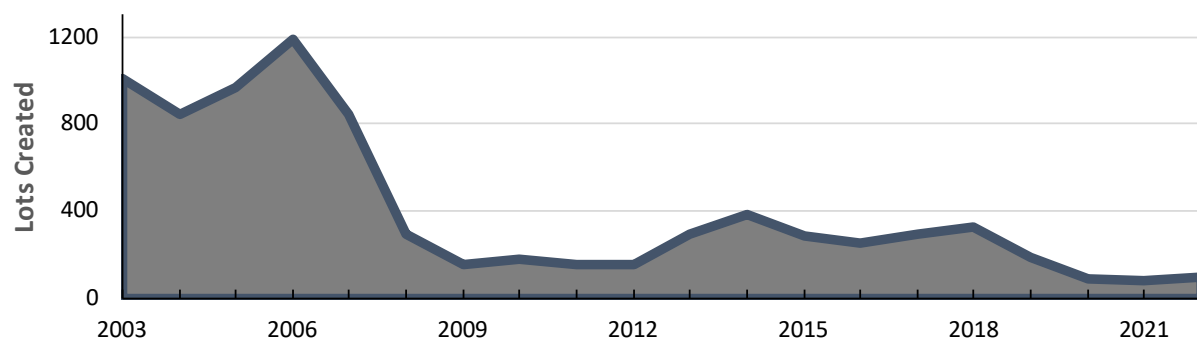
The rate of applications for land divisions has fluctuated over the past 20 years, largely following region-wide housing construction trends. Since 2002 there have been 2,202 applications that proposed 8,060 lots. There was a peak in the number of applications submitted for land divisions in 2006, which then steeply fell until 2009. Following 2009, the number of applications has fluctuated until present day, with a minor rise in 2014.

Figure 1 | Land Divisions Applications, 2003 - 2022



Correspondingly, the total number of lots created by these land divisions follows the same trend.

Figure 2 | Number of Lots Created by Land Divisions, 2003 - 2022



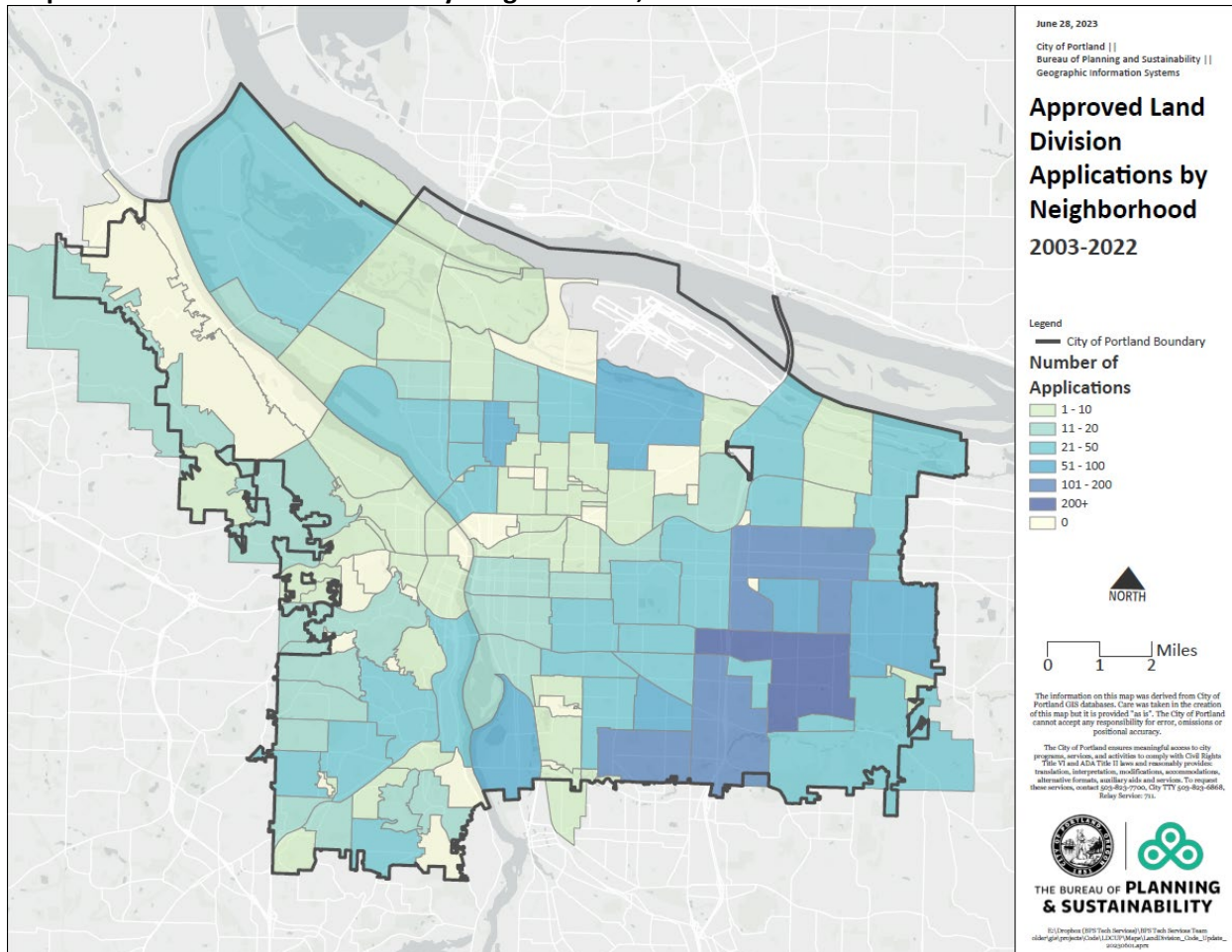
Land Division Location and Context

Within Portland, land divisions over the past two decades have been most common in southeast, in neighborhoods such as Powellhurst-Gilbert, Brentwood-Darlington, and Pleasant Valley. Larger parcels,

and thus more readily subdividable, are more common in these areas than elsewhere in the city. Much of land in this area is zoned as single-dwelling residential, where land divisions are the most common method to achieve the maximum allowed residential density. These areas also lack the topographic, environmental, and infrastructure issues prevalent in the northwest and southwest residential areas, which make it more complicated and costly to divide and develop in those areas.

The Powellhurst-Gilbert neighborhood, located in East Portland, is where the greatest portion of land divisions were approved. Between 2003 and 2022, 14 percent of the lots (roughly 1,100) created by land division applications are in this neighborhood, which is nearly double the amount of the next highest land division frequency neighborhood.

Map 1 – Number of Land Divisions by Neighborhood, 2003 – 2022

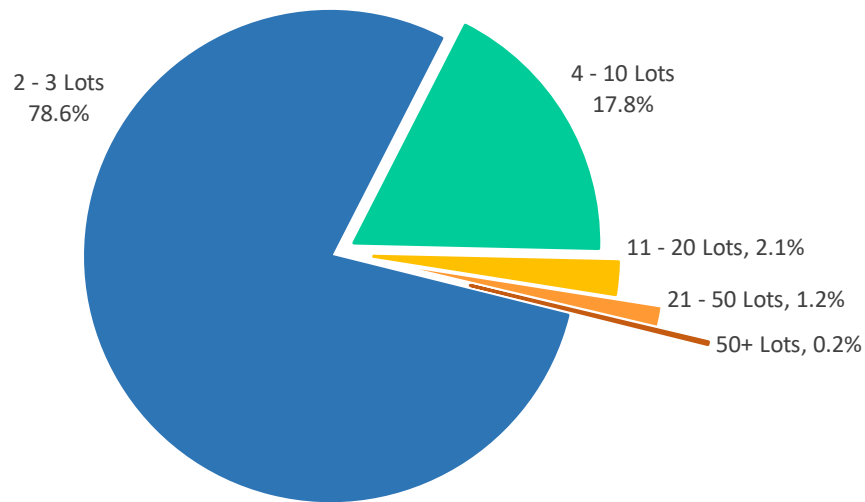


Characteristics of Land Divisions

Number of Lots

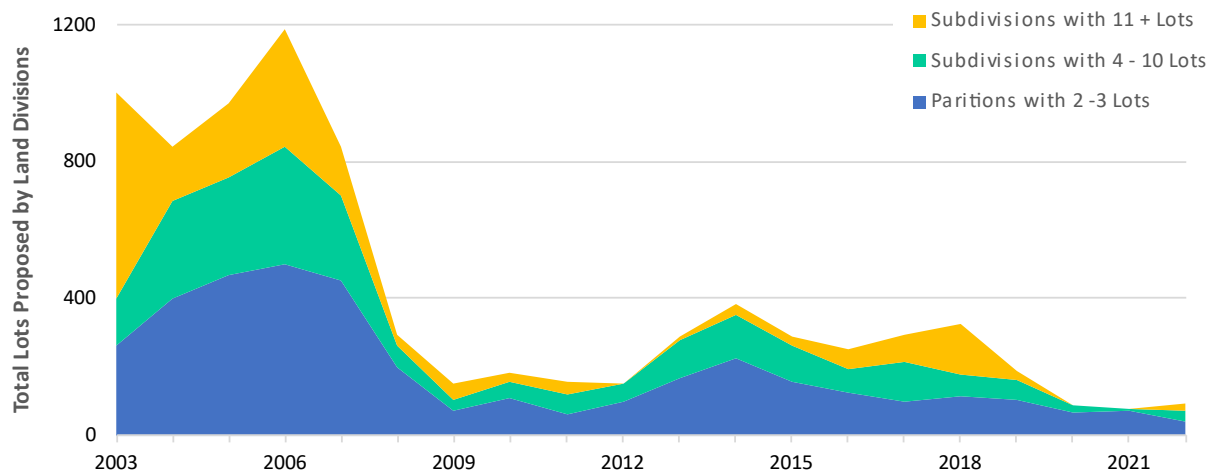
Since the adoption of the Land Division Code Rewrite Project, land divisions with a small number of lots comprise the majority of applications submitted. Partitions (land divisions that create either 2 or 3 lots) are the most common type of land division proposed, making up nearly 80 percent of all applications between 2003 and 2022. Mid-size subdivisions of between 4 and 10 lots are about 18 percent of applications.

Figure 3 | Number of Land Division Applications by Number of Lots Proposed (2003 – 2022)



While subdivisions which propose 11 or more lots have been approximately only 3.5 percent of the applications submitted, these larger subdivisions have accounted for nearly 25 percent all new lots approved since 2003. However, the number of lots created by these larger subdivisions has significantly decreased since 2006.

Figure 4 | Number of Lots Proposed Per Year Categorized by Subdivision Size



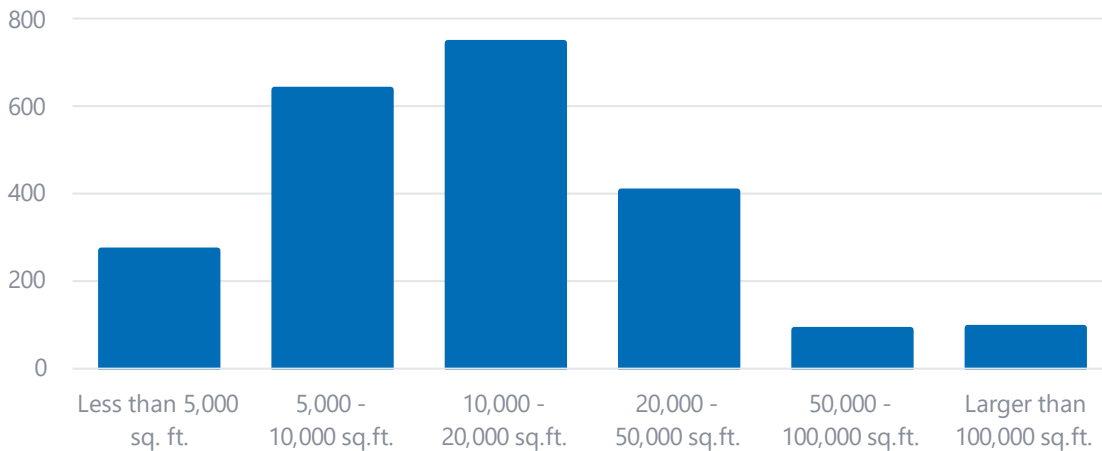
Size of Land Division Sites

There are also notable patterns in the property sizes that are common in land division applications. The Zoning Code determines how many lots can be obtained in a land division, through requirements such as density, lot sizes, widths and depths, and other site requirements.

Land divisions of sites less than 20,000 square feet comprise almost three-quarters of land division cases between 2003 and 2022. Land divisions are most common on lots that are between 10,000 and 20,000 square feet. Lots of this size in single-dwelling zones can typically support a land division of 2 – 8 lots, depending on the property’s base zone. These have remained the most common size of subdivided properties since 2003.

The subdivision of larger pieces of land, those greater than 20,000 square feet, is consistently rarer, fluctuating between 15 to 38 percent of applications per year, or 26 percent of all applications over the past 20 years.

Figure 5 | Size of Land Division Sites (2003 – 2022)



Zoning

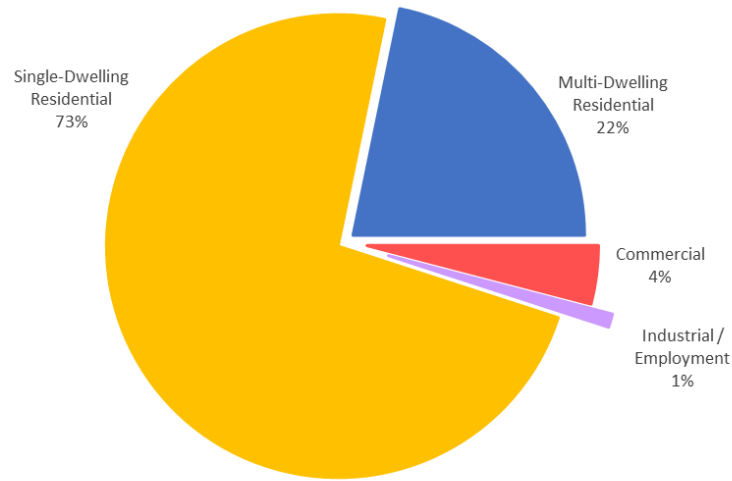
Land divisions are most common within residential zones, especially single-dwelling residential zones, as they are the main mechanism to achieve greater density on a larger site.

Another reason for the higher number of land divisions in single-dwelling residential zones is the amount of land area in these zones compared to other base zones. For example, single-dwelling zones account for about 43 percent of the city’s zoning. Multi dwelling zones comprise only 7 percent, and commercial/mixed-use zones, roughly 8 percent. Industrial/employment zones and open space zones (generally where housing is not allowed) each make up 21 percent of the city.

Since 2003, single-dwelling residential subdivisions have remained the most common type of application (73 percent). Multi-dwelling subdivision applications have become less common especially after the Better Housing by Design Project (2020) which eliminated maximum densities in favor of using floor area ratios, decreasing from roughly 20 percent of applications to 10 percent. The rate of commercial subdivisions has also nominally decreased since that time (from 4 percent to 3 percent) while

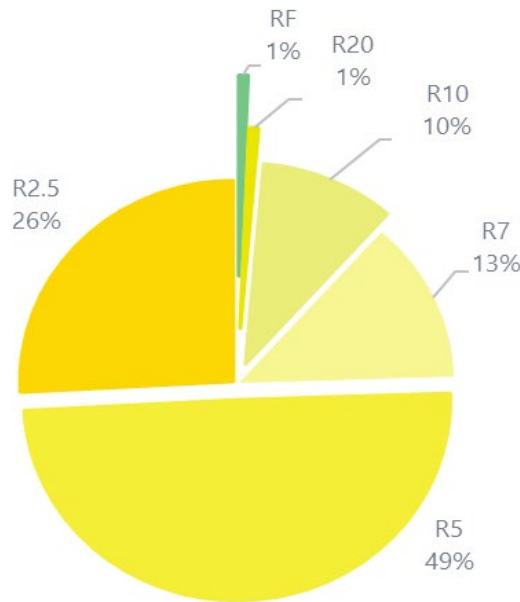
applications for subdivisions in Industrial and Employment zones have increased from 1 percent to 4 percent, but continue to account for a very small number of land division cases.

Figure 6 | Zoning of Land Division Sites (2003 – 2022)



Looking more closely at the single-dwelling residential areas, land divisions were most common in the R5 and R2.5 zones, which allow for a higher density of units. These two zones account for nearly 45 percent of the land area and 67 percent of lots in the single-dwelling base zones. R7 zones make up about 24 percent of the single-dwelling zone land area and 22 percent of the lots. R10 encompasses 18 percent of the single-dwelling zone area and only 9 percent of the lots. While R20 and RF (an agricultural zone) occupy 14 percent of the single-dwelling base zone area and just 3 percent of the lots.

Figure 7 | Land Divisions by Base Zone within Single-Dwelling Areas



Level of Review

Land Divisions are typically processed through a Type Ix, Type Iix, or Type III procedure. The procedure type for a proposal depends on the number of lots proposed and other characteristics such as the presence of flood or landslide hazard areas on the site. With higher levels of review, come additional requirements, like neighborhood contact or preapplication requirements, expanded notification areas, and potential public hearings.

There is also the “Expedited Land Division” process, which is technically not a land use review. An Expedited Land Division (ELD) is an administrative process in state law that prescribes an alternative streamlined procedure for some land division applications. While the ELD process has been available since 1995, due to the prerequisite requirements (and the fact that the timeline often exceeded the standard land division timeline) it hasn’t been used until more recently in conjunction with Middle Housing Land Divisions, which were authorized by the state and codified by the City in 2022.

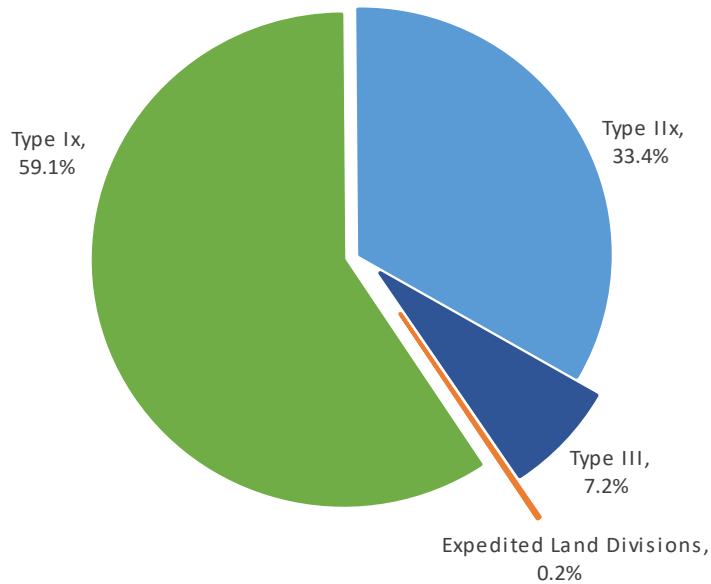
Summary of current land division review procedure types

Land Division Review Procedure
Type III (Hearings Officer decision, Council appeal, Pre-app is required)
11+ lots
4+ lots in potential landslide hazard area
2+ lots with environmental review
2+ lots with any portion in OS zone
Phased land divisions (only on sites that will ultimately have 40+ lots)
Type Iix (Staff decision, Hearings Officer appeal)
4-10 lots
2-3 lots with any portion in potential landslide hazard area
2+ lots with any portion in special flood hazard area
Has concurrent review (Type I, Type Ix, Type II, Type Iix) except environmental review (see Type III).
Type Ix (Staff decision, LUBA appeal)
Manufactured Dwelling Park Land Division
Everything that is not a Type III or Type Iix review
Expedited Land Division (Staff decision, Hearings Officer appeal)
2+ lots
Middle Housing Land Division

Over time, subdivisions using the Type Ix procedure have become slightly more common, while Type III cases have become less common. Since July 2022, Expedited Land Divisions have begun to take up a

greater share of the total application types. This may increase over time as more applications seek approval for Middle Housing Land Divisions.

Figure 8 | Land Divisions by Type of Review (2002 – 2022)



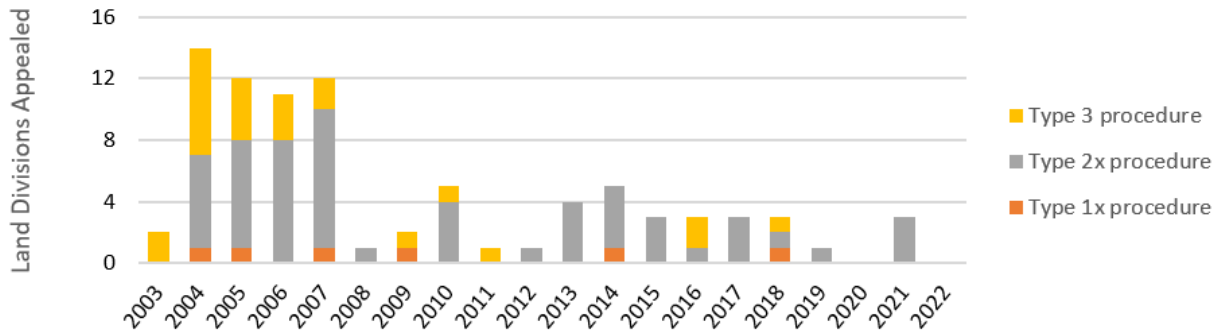
Land Division Appeals

The appeal process gives community members and applicants the opportunity to challenge the City’s decision regarding a project’s compliance with the land division codes. Depending on the level of review for the land division, it may first be appealed to the City’s Hearing Office, or City Council, before being appealed to the Oregon Land Use Board of Appeals.

Of the roughly 8,000 land division applications between 2003 and 2022, 86 (1%) were appealed, an average of 4.3 per year. Six of these were Type Ix applications, 56 of these were Type IIx applications, and 24 were Type III applications.

Many of the appeals cited issues that are not regulated by the approval criteria for land divisions. These issues include increased neighborhood noise, construction dust and air pollution, and incompatibility with surrounding land uses. The most common issues raised by appellants are the removal of on-site trees, increased traffic, decreased street parking availability, and concerns regarding erosion and hillside stability. The decision-making bodies reviewing these appeals often found that the stated concerns fell outside of the requirements for land divisions or were referring to specific building requirements under the Tree Code (Title 11) or Building Regulations contained in Title 24, which were not applicable at the time of the land division.

Figure 9 | Appeals of Land Divisions by Procedure Type (2003-2022)



Section V: Relationship to the Comprehensive Plan

Comprehensive Plan Guiding Principles

The Land Division Code Update project helps implement the 2035 Comprehensive Plan in the following ways.

Economic Prosperity. *Support a low-carbon economy and foster employment growth, competitiveness, and equitably-distributed household prosperity.*

While this project is focused primarily on increasing homeownership opportunities through residential land divisions, the project supports this guiding principle by streamlining and simplifying the land division process, keeping Portland competitive in terms of the residential development sector. Some of the amendments also clarify rules that affect industrial and employment zone land divisions and property line adjustments. The amendments contribute to more equitably distributed household prosperity by reducing the time and associated costs of land division reviews which, in turn, helps increase the supply of lots available for “fee-simple” home ownership. They also do this by supporting the development of compact housing close to services, which helps people spend less on transportation and utilities.

Human Health. *Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.*

This project furthers this guiding principle by supporting the development of a wide range of housing that can meet the diverse needs, abilities, and economic conditions of Portlanders. The land division regulations also include requirements for recreation areas and pedestrian connectivity that support healthy living and social interaction and facilitate active mobility by creating or extending pedestrian and bicycle networks that connect to schools and services. Land suitability standards and criteria ensure that land division sites are remediated of potential health or safety hazards prior to subsequent development. Moreover, tree preservation standards can help reduce urban heat islands, the impacts of which can be detrimental to human health.

Environmental Health. *Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and fish and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland’s air, water and land.*

This project helps implement this guiding principle by including requirements for tree preservation, protection of streams and wetlands, and limiting topographical changes from excessive grading. The land division rules complement environmental overlay zone regulations and provide added protection to areas subject to flooding. The project also facilitates options for the development of compact housing in locations supportive of low-carbon modes of transportation (such as transit, walking, and bicycling).

Equity. *Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and underrepresented populations in decisions that affect them. Specifically recognize, address and prevent repetition of the injustices suffered by communities of color throughout Portland’s history.*

This project advances this guiding principle by facilitating and streamlining land division processes, especially for smaller, less complicated land division sites. These are frequently associated with non-professional landowners who are attempting to obtain additional value from their land, but who may not be positioned to afford extensive engineering or land use consulting services in order to fulfill the application requirements.

Recognizing Portland’s History of Land Ownership

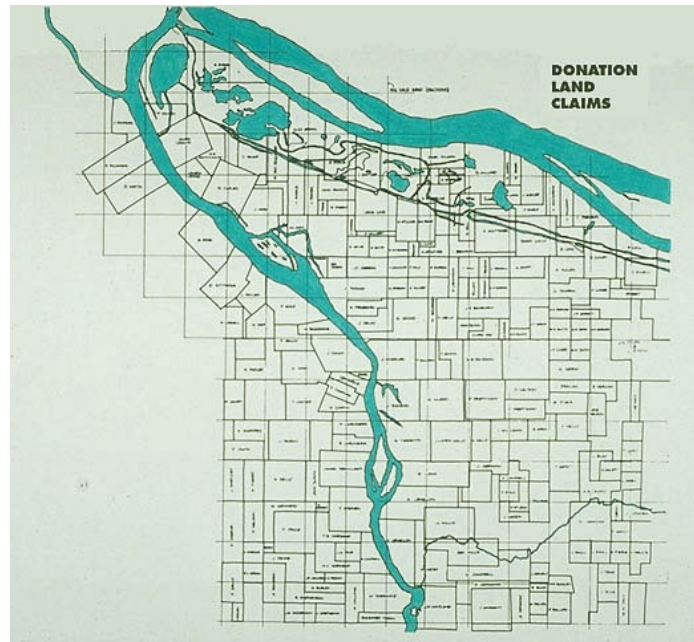
It is important to recognize the pattern and history of land ownership within the state and the Portland area more specifically. Some historical accounts of Portland begin with descriptions like “...the area began in the mid-1840s when immigrants arrived over the Oregon Trail and established Donation Land Claims. The initial settlers engaged in business in fruit nurseries, logging and general farming...”

But we know this to be false. It may be convenient to ignore that these lands were already inhabited when European and other immigrants began to arrive.

Prior to European settlement, the Willamette Valley was populated by various Native peoples who camped, fished, hunted, and gathered foods along the Willamette River. Other Native peoples from the Pacific Northwest, also traveled to, through, lived in and carried out customary activities in the Willamette Valley. The Willamette River was a primary transportation corridor since it was easier to navigate in canoes rather than traversing through dense forests.

Treaties between the tribes and U.S. government executed in the 1850s resulted in the resettlement of many tribes to remote reservations. According to the 2021 American Community Survey, Portland has approximately 5,000 Native Americans today. Some are descendants of northwest tribes, others are affiliated with tribes from around the country.

The Donation Land Claim Act of 1850 was intended to promote homestead settlements in the Oregon Territory but was initially employed as an aggressive action to take the lands away from the Native people who already resided here. The law brought thousands of settlers into the new territory, swelling their ranks along the Oregon Trail. 7,437 land patents were issued under the law, which expired in late 1855. The Donation Land Claim Act allowed white men or partial Native Americans (mixed with white) who had arrived in Oregon before 1850 to work on a piece of land for four years and legally claim up to 640 acres for themselves. After the 1855 cut-off date, the designated land in Oregon was no longer free but was still available, selling at \$1.25 an acre (roughly \$40 in today's dollars). An acre of Portland real estate may be worth well over \$2 million today. Along with other US land grant legislation, the Donation Land Claim Act discriminated against nonwhite settlers and had the effect of dispossessing land from Native Americans.



Equity Considerations

This history is important to acknowledge as we consider the equity outcomes from this project. The land division process as it exists today is altogether different from the Donation Land Claim Act, since it is now about dividing an existing ownership to provide others the opportunity to own a portion of the former property, as opposed to appropriating already inhabited land. Nevertheless, the early benefactors of the Act and their heirs who may still have original land holdings as well as other property owners with larger parcel holdings who may have benefitted from subsequent inequitable lending or real estate practices are better positioned to benefit directly from the ability to more easily divide their property. So, on one hand, these streamlining efforts benefit those fortunate enough to already own property, especially property that is large enough to divide. Much of the land division activity has occurred in areas of east Portland. This is largely due to a combination of oversized lots that generally tend to have small existing homes and large yards.

On the other hand, this creates additional opportunities to create more housing for others who seek to own a home. These changes can simplify the approval process for homeowners who are not professional land developers, and who may be otherwise unable or disinclined to divide their property due to these complexities.

Another indirect benefit of these process improvements is the increased ability to create smaller properties not only for additional housing, but housing that can be owned as opposed to rented. This increase in supply, helps alleviate upward pricing pressures resulting from competition for scarce resources (home listings). In turn, greater opportunity is created for more homebuyers to enter the market at lower prices, lowering the bar for entry.

Resilience. *Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.*

As part of the updates to the land division regulations, updated landslide hazard risk maps are being adopted with this project. These new maps reflect the most accurate landslide risk data available and ensure that sites where landslide potential exists are properly designed to reduce such risk. New clear and objective standards for land divisions are being proposed, including in areas with streams, springs, seeps and wetlands, flood hazard areas, and areas with potential landslide hazards as well as for tree preservation requirements. These objective requirements seek to balance the state requirements for clear standards while optimizing environmental health and reducing risk to public safety. The tree preservation standards ensure a baseline of tree preservation which can reduce the effects of urban heat islands that will be an increasing threat in a warming climate. A wider portfolio of housing types, sizes, and ownership mechanisms also helps Portlanders to adapt to economic shifts and changing household needs.

Section VI: Public Involvement

The Discussion Draft is an opportunity for community members to review the detailed code amendments before a formal proposal is formulated for the Planning Commission’s public hearing and consideration. This allows for both additional time to understand the draft changes before the public hearing is scheduled, as well as submit comments to project staff to highlight potential clarifications to the code language, remove ambiguity, or otherwise improve the effectiveness of the proposed changes.

The Land Division Code Update project map app (www.portlandmaps.com/bps/land-division-code-update) can be used to view more detailed versions of the potential landslide hazard risk map changes as well as submit both general comments about the proposed code or map changes or geographically specific comments. These comments will then be considered during revisions to the draft amendments and help sharpen the Proposed Draft.

Section VII: 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. Underlined formatting indicates added text, while ~~strikethrough~~ formatting shows what text is deleted.



Commentary

How to Use This Document

The "How to Use this Document" is a preface to the zoning code. It does not contain regulations but serves as an orientation to the structure and format of the zoning code.

The amendments to the preface reflect amendments to land division regulations as part of this project, and/or as part of previous projects.

Summary of changes:

- Removed references to planned developments
- Other minor corrections and clarifications

Planned developments used to be contained in the 600 series of chapters, but were previously moved to other parts of the code (see 33.270 and 33.854)

Other changes on this page reflect that the land division chapters also include property line adjustments and replats which may not further divide property but ultimately serve to reconfigure lot lines, and reflecting that chapter 33.641 is about addressing transportation impacts, not just traffic impact studies.

How To Use This Document

Organization of Title 33

General layout. The zoning code is organized as a reference document. It is not intended to be read from cover to cover. Instead, it is organized so you may look up only the parts you need. The list of chapters in the table of contents is, therefore, very important, as are the section listings at the beginning of each chapter. Later portions of this introduction explain two different methods to use the code for commonly asked questions. There are many other ways to use this code, depending on your objectives.

Chapters that cover related information have been grouped together. There are nine groups, or series of chapters. The first series, called the Introduction, contains some basic information on the legal framework of the code and this guide on how to use the code. The eight remaining series are summarized below.

This code is used in conjunction with other City Titles; many service and technical requirements are contained in other Titles.

The Base Zones (100 series). The 100 series contains the base zone chapters. These chapters state which uses are allowed in each zone. They also state which uses are allowed in limited situations, which are conditional uses, and which are prohibited. The general development standards for each base zone are also included. The development standards include requirements such as maximum heights and required setbacks.

Additional Use and Development Regulations (200 series). The 200 series contains regulations for specific uses and development types that apply in many base zones. The chapters in this series also state the development standards that apply across many zones such as the parking and landscaping regulations. This grouping provides consolidated information and less repetition in code language. There are references in the base zones to the requirements in the 200 series, when applicable. The regulations in the 200s generally supplement the regulations in the base zones.

Overlay Zones (400 series) and Plan Districts (500 series). Overlay zones consist of regulations that address specific subjects that may be applicable in a variety of areas in the ~~C~~city. Plan districts consist of regulations that have been tailored to a specific area of the ~~c~~city. Both overlay zones and plan districts are applied in conjunction with a base zone and modify the regulations of the base zone.

The Official Zoning Maps identify overlay zones and plan districts as well as the base zones and other information.

Land Divisions and Planned Developments (600 series). The 600 series contains the regulations for dividing and reconfiguring land ~~and for Planned Developments~~. Within this series are ~~four~~ five groups of chapters:

Chapters 33.605 through 33.615 address lot dimensions for all zones, and density for the single-dwelling zones and for the multi-dwelling zones when single-dwelling development is proposed.

Chapters 33.630 through 33.641 contain special regulations for lands subject to flood or landslide; the regulations for tree preservation, solar access, clearing and grading, phased plans and staged Final Plats, required recreation area, seeps and springs, ~~traffic impact studies~~ transportation impacts, and tracts and easements.

Commentary

Changes on this page reflect the broader range of land division chapters that address the review process and adding more description for the chapters related to lot/site reconfigurations.

The reference to the final plat chapter is updated to reflect a change in this chapter's sequencing.

Chapters 33.651 through 33.654 are the regulations for services and utilities. These chapters are intended to tie together all of the requirements for services and utilities, many of which are found in other City Titles, manuals, and guides.

Chapters 33.660 through ~~33.664~~ 33.673 include the information on reviews of each phase of a Land Division, including the procedure types and approval criteria. ~~Chapter 33.667 contains the regulations for Property Line Adjustments and~~ Chapter 33.668 contains the regulations for amending an approved PUD. Chapters 33.675 through 33.677 include the information on reviews for reconfiguring properties and confirming lots.

Administration and Procedures (700 series). The 700 series provides information on the City's administrative framework and procedures that relate to land use. Information on application requirements, staff-level processing, review bodies, public hearings, and appeals is included along with other provisions on administering the zoning code.

Land Use Reviews (800 series). The 800 series describes most of the various land use reviews. Some reviews may be applied for at the discretion of the applicant, such as a conditional use or adjustment request. Other reviews are mandatory in certain situations such as design review. The 800 series contains the thresholds that state when a review is required, and the approval criteria for the land use review.

General Terms (900 series). The 900 series contains the description of the use categories, which include all the uses regulated by the zoning code. The series also contains the definitions chapter and a chapter on methods of measurement.

Reserved Series (300s). The 300 series of chapters has been reserved for future amendments or additions to Title 33.

Determining the Zoning Regulations for a Specific Site

To determine the zoning regulations applicable to a site, you must first find the site on the Official Zoning Maps. The appropriate map will show the base zone that is applied to the site. It will also show if the site is subject to any overlay zones or plan districts, and if the site contains a historical landmark or recreational trail. You then look up all the corresponding regulations. Start with the base zones (the 100 series of chapters). The base zones state whether a use is allowed by right, allowed with limitations, a conditional use, or prohibited. The base zones also contain most of the development standards that apply to the uses that are allowed or limited. The base zones will indicate if certain reviews are necessary, such as conditional use review. In these cases look up the appropriate chapter.

Some uses and types of development have specific regulations stated in the 200 series of chapters. Although such instances are referenced in the base zones, it is a good idea to check over the 200 series to confirm if any of the chapters apply to your situation. Next, look up any overlay zones or plan districts that may apply to your site. These are listed in the 400 and 500 series of chapters.

Finally, if the Official Zoning Maps indicate that the site has a historic landmark or recreational trail designation, look up those chapters for the corresponding regulations.

Commentary

Changes on this page correct references to certain chapter subject matter; include reference to alternative review processes for middle housing and manufactured park land divisions; and correct the numerical reference to chapters involved in property reconfigurations. The reference to chapter 33.655 for services is being deleted as the School Enrollment chapter is being deleted. Also, with the changes to delete Chapter 33.639, solar access, this sentence is being deleted.

Chapters 33.910, Definitions and 33.930, Measurements may be helpful in understanding how to apply the regulations to a specific site.

Determining Where a Specific Use May Locate

To determine in what zones a specific use may be located, you must first determine what land use category it is in. Use Chapter 33.920, Descriptions of the Use Categories, to classify the specific use. Then look at the primary use tables in the base zone chapters to see the status of that category.

Categories are either allowed, allowed with special limitations, may be allowed through a conditional use review, or are prohibited. You should also check the list of the 200s chapters, because some uses are subject to additional regulations. Finally, although a base zone might allow a use, a specific site may be subject to additional regulations from an overlay zone or plan district.

The regulations of the overlay zone or plan district supersede the regulations of the base zone and may affect the status of the use, so those regulations should be considered.

Determining the Land Division Regulations for a Specific Site

To determine the Land Division regulations applicable to a site, you must first find the site on the Official Zoning Maps. The appropriate map will show the base zone that is applied to the site. This will tell you which chapters to look at in this Title; the 100s and 600s are organized by zone. The Zoning Map will also show if the site is subject to any overlay zones or plan districts, and if the site contains a historical landmark or recreational trail. You then look up all the corresponding regulations. All of these regulations will tell you what uses are allowed, what housing types may be considered, and what development regulations affect your site. Some of these development regulations will help you determine how to design your Land Division.

In the 600 series of chapters, you should first look in Chapters 33.605 through 33.615 for the zone of your site; these chapters contain the regulations on density and lot dimensions. Then review Chapters 33.630 through 33.641: Chapters 33.630, Tree Preservation, 33.635, Clearing, Grading, and Land Suitability, 33.636, Tracts and Easements, and 33.640, Streams, Springs, ~~and Seeps, and Wetlands~~ apply to all Land Divisions. ~~Chapter 33.639, Solar Access applies to land divisions where single-dwelling detached development is proposed.~~ Chapters 33.631 and 33.632 apply only to sites that may be subject to flood or landslide; City maps can help you determine if your land may be subject to these hazards. Chapters 33.633, Phased Land Divisions Plans and Staged Final Plats apply to proposals that include those elements, while Chapter 33.634 only applies to sites where a recreation area is required. A traffic transportation impact study may be required as per 33.641. ~~Chapter 33.638 includes the regulations for Planned Developments.~~ Certain types of development, such as manufactured dwelling parks or middle housing, may be eligible to use alternative land division rules.

Chapters 33.651 through ~~33.655~~ 33.654 contain the regulations for services that apply to land divisions. Finally, Chapters 33.660 through ~~33.675~~ 33.677 will tell you what reviews are needed for your Land Division or Property Line Adjustment, and what standards and approval criteria must be met for your request to be approved.

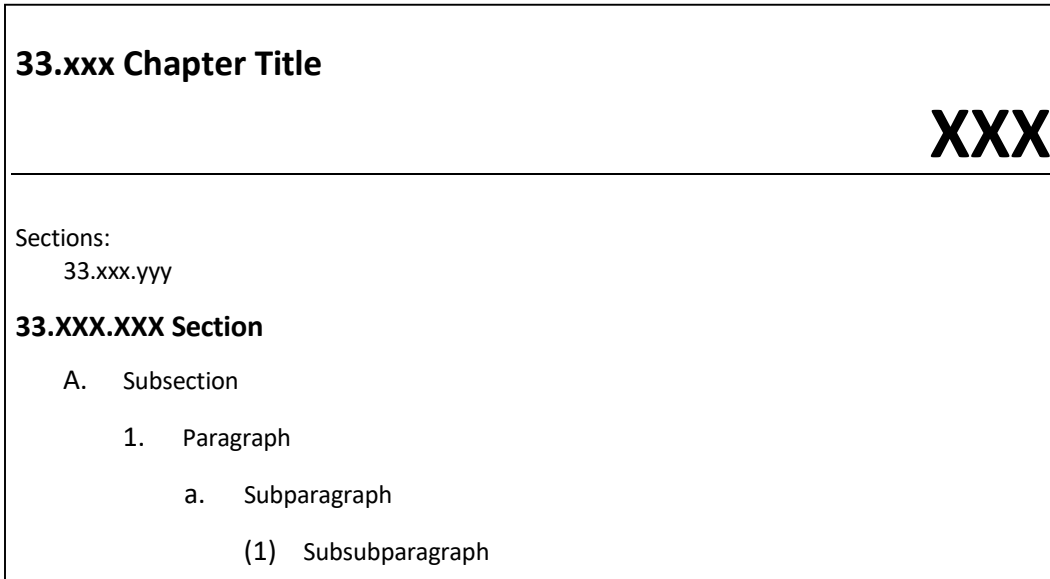
Chapters 33.910, Definitions and 33.930, Measurements may be helpful in understanding how to apply the land division regulations to a specific site.

Commentary

No changes are proposed on this page.

Format of Title 33

Outline. The format of Title 33 follows the layout of all revised Titles in the City Code. The chapter and section numbers use an expandable decimal numbering system adopted by the City in 1969. Major divisions within the Title are called chapters. Major divisions within chapters are called sections. The format of the divisions in the Title are shown below.



Referencing Within Title 33. References within Title 33 are made as follows:

Outside of the same section. When a reference is to text outside of the same section, the reference number starts with the Title number (i.e. 33), and continues to the appropriate level for the reference. For example, 33.110.050.B. refers to Subsection B. of Section 050, of Chapter 110, of Title 33. The names "Title" and "Chapter" are used if the reference is to an entire Title or Chapter.

Within the same section. When a reference is to text within the same section, the name of the division level is used (i.e. Subsection, Paragraph, Subparagraph, etc.), and the reference "number" starts with the appropriate subsection letter. For example, "See Paragraph D.2., below" refers to Paragraph 2., of Subsection D., of the same section.

Referencing Other Documents. When a reference is to a document outside of the Portland City Code, the referenced document's name is in italicized text, such as *Balch Creek Watershed Protection Plan*.

Terms

The code has been written in a "plain English" style and the meaning is intended to be clear as read. However, because it is also a legal document and because of the need for terms with specific meanings, the code also provides guidance on how specific terms are used. Chapter 33.910, Definitions, defines words that have a specific meaning in this code. 33.700.070, General Rules for Application of the Code Language, contains other information on how terms are used in this code.

Commentary

List of Chapters

Summary of changes to this list:

- The list of land division chapters is amended to reflect corrections to chapter titles, name changes, and chapter renumbering

The changes to the list are being made for the following reasons:

- 33.610 - This chapter now incorporates the R2.5 zone.
- 33.611 - This chapter is being deleted. The R2.5 zone is being combined with 33.610
- 33.612 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.613 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.633 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.635 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.639 - This chapter is being deleted with this project.
- 33.640 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.644 - This chapter appears erroneously as 33.643. This is being corrected.
- 33.655 - This chapter is being deleted with this project.
- 33.660 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.663 - This chapter is being renumbered to 33.673 with this project to follow the land division review chapters, as it is the final step in the land division process.
- 33.664 - This correction reflects an update to the name of this chapter which had been amended previously.

List of Chapters

[No changes to remainder of list of chapters]

Land Divisions and Planned Developments

- 605 Lots in the Open Space Zone
- 610 Lots in RF through ~~R5~~R2.5 Zones
- ~~611~~ ~~Lots in the R2.5 Zone~~
- 612 Lots in Multi-Dwelling and IR Zones
- 613 Lots in Commercial/Mixed Use and CI Zones
- 614 Lots in Employment Zones
- 615 Lots in Industrial Zones
- 630 Tree Preservation
- 631 Sites in Special Flood Hazard Areas
- 632 Sites in Potential Landslide Hazard Areas
- 633 Phased Land Divisions Plans and Staged Final Plats
- 634 Required Recreation Area
- 635 Clearing, ~~and~~ Grading and Land Suitability
- 636 Tracts and Easements
- ~~639~~ ~~Solar Access~~
- 640 Streams, Springs, ~~and Seeps~~, and Wetlands
- 641 Transportation Impacts
- 642 Land Divisions of Manufactured Dwelling Parks
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- 653 Stormwater Management
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- 664 Review of Land Divisions on Large Sites in Industrial Zones
- 668 Review of Changes to an Approved Planned Unit Development
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- 670 Review of Land Divisions of Manufactured Dwelling Parks
- 671 Review of Middle Housing Land Divisions
- ~~673~~ ~~Final Plats~~
- 675 Replat
- 676 Lot Confirmation
- 677 Property Line Adjustments

Commentary

33.110 Single-dwelling Zones

Summary of changes to this chapter:

- Clarified prohibited development for plots of land that were not legally created
- Removed required attached housing type on narrow (less than 26 feet wide) lots
- Added standards for development on shared courts, common greens, and private alleys
- Made FAR calculation for attached houses consistent with detached houses
- Added FAR incentive for attached houses on narrow R5 zoned lots

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
- 33.110.110 Accessory Uses

Development Standards

- 33.110.200 Housing Types Allowed
- 33.110.202 When Primary Structures are Allowed
- 33.110.205 Minimum Dwelling Unit Density
- 33.110.210 Floor Area Ratio
- 33.110.215 Height
- 33.110.220 Setbacks
- 33.110.225 Building Coverage
- 33.110.227 Trees
- 33.110.230 Main Entrances
- 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
- 33.110.263 Additional Development Standards for Development Accessed by a Shared Court,
Common Green, or Private Alley.
- 33.110.265 Residential Infill Options
- 33.110.270 Institutional Development Standards
- 33.110.275 Fences
- 33.110.280 Retaining Walls
- 33.110.285 Demolitions
- 33.110.290 Nonconforming Situations
- 33.110.292 Parking and Loading
- 33.110.295 Signs
- 33.110.296 Recycling Areas

Commentary

33.110.202 When Primary Structures are Allowed

Primary structures generally refer to where the primary use (e.g. household living) is carried out. Accessory structures are secondary in importance (e.g. shed, garage). However, for plots that are not legitimately established, development more broadly (including structures and other site improvements) should be prohibited, not just primary structures.

A minor correction is included to incorporate the Pleasant Valley Natural Resources overlay zone, which had been omitted from the list of resource overlays.

33.110.210 Floor Area Ratios

The term "site" is changed to "lot" for better clarity and to reflect the original intent of the exception from the FAR regulation. A site can be multiple lots that are under one ownership.

33.110.202 When Primary Structures are Allowed

A.-B. [No change]

C. **Primary structures allowed.** Development of a primary structure is allowed as follows:

1. - 3. [No change]

4. On a lot or adjusted lot or combination thereof that either:

- a. Meets the minimum lot size requirements stated in Table 110-3; 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, River Environmental, or Pleasant Valley Natural Resources 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.

5. [No change].

D. **Plots.** ~~Development is Primary structures are~~ prohibited on plots that are not lots, adjusted lots, lots of record, ~~or lot remnants,~~ or tracts.

33.110.210 Floor Area Ratios

A. [No change]

B. **Maximum FAR.** Maximum floor area ratios are stated in Table 110-4. Maximum FAR applies to all buildings on the lotsite, however the maximum allowed is based on the total number of dwelling units on the lotsite and whether a bonus option is chosen. In the R10 and R20 zones, the maximum FAR only applies to ~~lotsites~~ that are less than 10,000 square feet in area. The maximum FAR for a lotsite with a congregate housing facility is the same as shown in Table 110-4 for a lotsite 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.-D. [No change]

Commentary

33.110.260 Additional Development Standards for Narrow Lots

The required housing type regulation is being deleted. This standard was difficult to enforce, since an applicant could apply for a detached house on one half of a "site" comprised of two narrow lots, and subsequently apply for a detached house on the other half based on there now being primary structures on the adjacent lots. Another implementation issue was when two adjacent vacant narrow lots were owned by different parties. This required the two parties to develop their lots together. Differentiating by ownership is also ineffective, since lots can be owned by separate Limited Liability Corporations (LLCs) with the same managing member.

The floor area ratio for attached houses on narrow lots is increased for R5 narrow lots to match the FAR that applies in the R2.5 zone, since these lots are typically smaller than what the R5 FAR limits were initially designed for. A similar provision had been adopted with RIP part 1, but was later deleted as it was redundant with the attached house FAR provisions that were added with RIP part 2. However, those provisions have been confusing to implement (see 33.110.265.C, below). Replacing the floor area provision here functions to incentivize rather than mandate attached house development on narrow lots. Note that an attached house that is on a lot that allows ADUs would also be eligible for the increased FAR available for additional units.

33.110.263 Additional Development Standards for Development Accessed by a Shared Court, Common Green or Private Alley

Shared courts were previously not allowed in single dwelling zones. Now that they will be allowed (see amendments in 33.654), additional development standards based on those embedded in the multi dwelling zones (new 33.120.282) are added to the single dwelling zone regulations.

These standards limit the housing types to a maximum of two dwelling units per lot, address setbacks and heights for accessory structures built in the shared court or common green, provide additional building coverage and reduced outdoor area on lots in recognition of the shared space provided by the shared court or common green, provide for reduced garage and front setbacks from shared courts, and allow 12 foot wide garages on narrow house façades where they would otherwise not be allowed (see 33.110.250).

33.110.260 Additional Development Standards for Narrow Lots

A.-B. [No change]

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.~~

1. Floor area ratio. In the R5 zone, the maximum floor area ratio for attached houses is the same as the maximum floor area ratio in the R2.5 zone stated in Table 110-4.

2.-3. [No change]

33.110.263 Additional Development Standards for Development Accessed by a Shared Court, Common Green or Private Alley

A. Purpose. These standards:

- Promote courtyard-oriented housing by facilitating the use of common greens and shared courts as part of housing projects;
- Allow a greater sense of enclosure within common greens and shared courts;
- Ensure adequate open area within shared courts and common greens;
- Promote pedestrian-oriented street frontages by facilitating the creation of rear alleys;
- Allow the shared court, common green, or alley to be utilized as a shared yard; and
- Limit the potential traffic impacts from development on shared courts.

B. When these standards apply. These standards apply to:

1. Development on lots with a front lot line on a common green or shared court; and
2. Development in a common green, shared court, or private alley;

C. Standards.

1. Housing types allowed. Only a house, house with an ADU, attached house, attached house with an ADU, or duplex is allowed on a lot with a front lot line on a shared court .

2. Setbacks.

- a. The front and side minimum building setbacks from common greens and shared courts are reduced to 3 feet. Eaves, awnings, and trellises are allowed in this setback; and
- b. The garage entrance setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building.

Commentary

33.110.265 Residential Infill Options

C. Attached housing

This provision was intended as an incentive to enable multiple attached houses to calculate FAR the same as if it were a duplex (2 attached houses), triplex (3 attached houses), or fourplex (four attached houses) being built on the site. However, this did not adequately address situations when ADU's were proposed in conjunction with attached houses, or when multiple pairs of attached houses are proposed in a project.

Instead, floor area for attached houses will be calculated the same as floor area for lots with detached houses, except for attached houses on R5 narrow lots (see changes in 33.110.260). If additional ADU's are proposed in conjunction with an attached house, the FAR will respectively be increased.

3. Building coverage. The building coverage on lots with a front lot line on a shared court or common green is 5 percent greater than the building coverage of the base zone.
4. Minimum outdoor area and dimensions. An outdoor area of 48 square feet with a minimum dimension of 6 feet is required per dwelling unit. The remaining outdoor area requirements in 33.110.240 Required Outdoor Areas apply.
5. Length of shared court facing garage walls. For garages accessory to houses or attached houses that are less than 22 feet wide and that front onto shared courts, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.
6. Accessory structures in common greens, shared courts, and private alleys.
 - a. Covered accessory structures for the common use of residents are allowed within common greens and shared courts. Covered accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas;
 - b. Structures for recycling or waste disposal are allowed within common greens, shared courts, or private alleys;
 - c. Maximum height. Accessory structures in common greens, shared courts, or private alleys may be up to 15 feet high;
 - d. Setbacks. The minimum setback from a public street is 10 feet. The minimum setback from all other lot lines is 3 feet; and
 - e. Building coverage. The combined building coverage of all accessory structures in common greens or shared courts may not exceed 15 percent of the total area of the common greens or shared courts. In shared courts, at least 250 square feet must remain uncovered. In common greens, at least 400 square feet must remain uncovered.

33.110.265 Residential ~~infill~~ Options

A–B. [No change]

- 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:

1–4. [No change]

5. ~~Floor area. The maximum floor area ratio allowed may be based on the total number of dwelling units in the attached house project.~~ The maximum floor area ratio may be ~~calculated,~~ combined, and shared among the attached house lots. However, no lot can exceed .05 more than the base zone maximum allows for the site.

Commentary

33.120 Multi-Dwelling zones

Summary of changes to this chapter:

- Added "adjusted lots" and "lot remnants" throughout Section 33.120.205
- Removed the requirement to evaluate whether sites have existing development, meet minimum density or minimum parking when ownerships are being separated into different lots or lots of record.
- Added a new lot dimension table for development on existing lots
- Minor changes to shared court standards and moved to a new section and for consistency with 33.110.263

Table of Contents

Revised the name of section 33.120.205 to align with the single dwelling zone chapter.

Added a new section 33.120.282 for development on shared courts, common greens and private alleys.

33.120 Multi-Dwelling Zones

120

Sections:

General

- 33.120.010 Purpose
- 33.120.020 List of the Multi-Dwelling Zones
- 33.120.030 Characteristics of the Zones
- 33.120.040 Other Zoning Regulations
- 33.120.050 Neighborhood Contact

Use Regulations

- 33.120.100 Primary Uses

Development Standards

- 33.120.200 Housing Types Allowed
- 33.120.205 When Primary Structures are Allowed Development on Lots and Lots of Record
- 33.120.206 Minimum Required Site Frontage for Development
- 33.120.210 Floor Area Ratio
- 33.120.211 Floor Area Bonus Options
- 33.120.212 Maximum Density
- 33.120.213 Minimum Density
- 33.120.215 Height
- 33.120.220 Setbacks
- 33.120.225 Building Coverage
- 33.120.230 Building Length and Façade Articulation
- 33.120.231 Main Entrances
- 33.120.232 Street-Facing Facades
- 33.120.235 Landscaped Areas
- 33.120.237 Trees
- 33.120.240 Required Outdoor and Common Areas
- 33.120.250 Screening
- 33.120.255 Pedestrian Standards
- 33.120.260 Recycling Areas
- 33.120.270 Alternative Development Options
- 33.120.275 Development Standards for Institutions
- 33.120.280 Detached Accessory Structures
- 33.120.282 Additional standards for Development Accessed by a Shared Court, Common Green, or Private Alley.
- 33.120.283 Additional Development Standards for Structured Parking and Garages
- 33.120.284 Additional Development Standards for Flag Lots
- 33.120.285 Fences
- 33.120.290 Demolitions
- 33.120.300 Nonconforming Development
- 33.120.305 Parking, Loading, and Transportation Demand Management
- 33.120.310 Signs
- 33.120.320 Inclusionary Housing
- 33.120.330 Street and Pedestrian Connections

Commentary

33.120.205 When Primary Structures are Allowed.

This section is renamed "When Primary Structures are Allowed" to match similar provisions in the single-dwelling zones.

Changes made with the Residential Infill Project clarified distinctions between lots, adjusted lots and lot remnants. Adjusted lots are platted lots that have been reconfigured and are now larger in area than the original lot. Lot remnants are platted lots that have been reconfigured and are now smaller than the original lot. This section is changed to clarify how adjusted lots and lot remnants are reviewed.

Additionally, changes with SB534 (2019) requires local governments to allow the development of at least one dwelling unit on platted lots, except under certain conditions (environmental zone, flood, or steep slope).

With these changes, previous provisions that sought to maintain ownerships in common when larger sites were vacant have been largely rendered invalid, (except for lots of record and lot remnants, or lots in constrained locations).

The larger lot sizes for lots of record, lot remnants and lots/adjusted lots in constrained locations continue to provide for better cohesive development in sites that were either never contemplated for higher density development or are more challenging to develop.

These amendments also align "when primary structures are allowed" more closely with the standards in single-dwelling zones (33.110.202).

The addition of a lot size table eliminates the need to refer to the land division table in 33.612, which has been confusing regarding how or what lot size standards should be applied. These changes also address the challenge with the 10,000 sq ft minimum lot size for multi dwelling development requirement in 33.612. For example, a five unit multi dwelling apartment on a site comprised of two 5,000 sq ft lots in the RM2 zone would meet the lot size for multi dwelling development, but not when it was on a 5,000 sq ft lot. Yet a multi dwelling development could be proposed on a single 5,000 sq ft RM2 zoned vacant lot.

The new standards recognize the following as lots that are eligible for development:

1. Any lot or adjusted lot (lots that have been increased in size) created after July 26, 1979 (when the city began implementing land division reviews)
2. Lots created through an alternative PD or PUD process
3. Pre-1979 standalone lots that have not been owned in common with an abutting lot
4. Lots or adjusted lots that were legally platted prior to 1979 that meet certain lot size standards or don't meet those lot size standards but are not constrained - per SB 534 (2019)
5. lots of record (created through deed transfer) and lot remnants (lots that have been reduced in size) that meet certain lot size standards.

Supplemental Information

- Map 120-1 Civic and Neighborhood Corridors
- Map 120-2 Minimum Required Site Frontage Areas
- Map 120-3 Pattern Areas

33.120.205 When Primary Structures are Allowed Development on Lots, Adjusted Lots, Lot Remnants, and Lots of Record

- A. Purpose.** The regulations of this section require lots, adjusted lots, lot remnants, and lots of record to be an adequate size so that new development on a site will in most cases be able to comply with all site development standards, including density. ~~Where more than one lot is in the same ownership, these standards prevent breaking up large vacant ownerships into small lots, which are difficult to develop in conformance with the development standards. However, where more than one lot is in the same ownership, and there is existing development,~~ allowing the ownership to be separated may increase opportunities for residential infill while preserving existing housing.
- B. Where these regulations apply.** These regulations apply to existing lots, adjusted lots, lot remnants, and lots of record in the multi-dwelling zones. The creation of new lots is subject to the lot size standards listed in Chapter 33.612, Lots in Multi-Dwelling Zones.
- C. Primary structures allowed.** Development of a primary structure is allowed as follows:
1. On a lot or adjusted 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, adjusted lot, lot remnant or lot of record that did not abut a lot, adjusted lot, lot remnant, or lot of record, under the same ownership on July 26, 1979, and has not abutted a lot, adjusted lot, lot remnant, or lot of record 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 in Table 120-3; or
 - b. Does not meet the lot size requirements in Table 120-3, but meets all of the following:
 - (1) No portion of the lot, adjusted lot or combination is in an Environmental, River Environmental, or Pleasant Valley Natural Resources 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.
 5. On a lot of record or lot remnant or combination thereof that meets the minimum lot size requirements of Table 120-3.

Commentary

33.120.205 When Primary Structures are Allowed (continued)

In the former code, to separate ownerships, staff had to evaluate whether the lots would meet minimum parking and minimum density after the separation, among other development requirements.

Since the adoption of the Parking Compliance Amendment Project, there is no longer a minimum vehicle parking requirement.

Minimum densities are generally an issue when there is existing non-conforming density, since minimum density is met at time of new development on vacant sites. This was particularly an issue on sites with multiple lots where there was a pre-existing house. For example, a 10,000 sq ft site, comprised of two 50x100' lots in the RM2 zone has a minimum density of 7 units. By separating the house lot, the remaining 5,000 square foot lot would have a minimum density of 3 units. With the existing house, this makes up a total of 4 units or 3 less than would have been required had additional development been proposed on the combined site.

However, by not allowing the site to be separated, it either means that the house is more likely to be demolished (in order to enable the separation) or that development is unlikely to occur (since the owner of the lot is not intending to develop the whole site, but rather sell the vacant portion to a developer).

Minimum density is not being circumvented by this change, rather it will be ensured over the course of a longer period of time, when the lot with the existing house site is eventually redeveloped in the future. And in the interim, the lot with the house by itself is coming closer to conformance with minimum density (since the size of the site, and thus number of required units is reduced)

Table 120-3

In the RM1 through RM4 zones, the minimum lot area and width are consistent with the lot size requirement for multi-dwelling development in the RM1 zone. The RX zone (the highest density multi-dwelling zone) is the most flexible, requiring only that the lot have 10 feet of street frontage. The RMP zone is intended to preserve lots for manufactured home parks, so it has the least flexible lot size standards, though it should be noted that the lot size standards for land divisions of existing manufactured home parks are very flexible.

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

Table 120-3	
Minimum Lot Size Requirements	
RM1 through RM4 Zones	
<u>Lot</u>	<u>33 feet wide and</u>
<u>Adjusted Lot</u>	<u>4,000 sq. ft.</u>
<u>Lot Remnant</u>	
<u>Lot of Record</u>	
RX Zone	
<u>Lot</u>	<u>10 foot front lot line</u>
<u>Adjusted Lot</u>	
<u>Lot Remnants</u>	
<u>Lots of Record</u>	
RMP Zone	
<u>Lot</u>	<u>70 feet wide and</u>
<u>Adjusted Lot</u>	<u>10,000 sq. ft.</u>
<u>Lot Remnants</u>	
<u>Lots of Record</u>	

Table 120-3 through Table 120-7 [renumber to Table 120-4 through Table 120-8]

D. Plots. Development is prohibited on plots that are not lots, adjusted lots, lots of record, lot remnants, or tracts.

~~C. Ownership of multiple lots and lots of record.~~ ~~Where more than one abutting lot or lot of record is in the same ownership, the ownership may be separated as follows:~~

- ~~1. If all requirements of this Title will be met after the separation, including lot dimensions, minimum density, and parking, the ownership may be separated; or~~
- ~~2. If one or more of the lots or lots of record does not meet the lot dimension standards in Chapter 33.612, Lots in Multi-Dwelling Zones, the ownership may be separated if all requirements of this paragraph are met. Such lots and lots of record are legal.

 - ~~a. There is a primary use on at least one of the lots or lots of record, and the use has existed since December 31, 1980. If none of the lots or lots of record have a primary use, they may not be separated; and~~
 - ~~b. Lots or lots of record with a primary use on at least one of them may be separated as follows:

 - ~~(1) The separation must occur along the original lot lines;~~
 - ~~(2) Lots or lots of record with primary uses on them may be separated from lots or lots of record with other primary uses; and~~
 - ~~(3) Lots or lots of record with primary uses on them may be separated from lots or lots of record without primary uses.~~~~~~

Commentary

33.120.205 When Primary Structures are Allowed (continued)

The following provides an estimate of RM1-RM4 sites that may be separated in the future. It does not differentiate sites that are vacant, partially or fully developed (e.g. an apartment built across several platted lots), nor account for lot lines that may not be legal (as established through a recorded plat or deed), or that otherwise did not meet prior code or would not meet the proposed regulations.

Zone	Total Taxlots	Taxlots Containing Plat Lines	Share of Taxlots with Plat Lines to Total Taxlots
RM1	14,374	3,320	23%
RM2	8,049	2,468	31%
RM3	1,450	521	36%
RM4	510	194	38%

33.120.270 Alternative Development Options

With the introduction of shared courts being allowed in single dwelling zones (see 33.654), development standards like those in 33.120 are adapted for the single dwelling zones. As part of that adaptation, the common green/shared court standards in this section are moved into a new section of "additional development standards." Consequently, the corresponding purpose statements are removed and incorporated into that new section.

E. Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys.

These standards are moved to a new section, 33.120.282 Additional standards for development accessed by common greens, shared courts, or private alleys.

~~D. **New development on standard lots and lots of record.** New development on lots and lots of record that comply with the lot dimension standards in Chapter 33.612, Lots in Multi-Dwelling Zones, is allowed by right subject to the development standards.~~

~~E. **New development on substandard lots and lots of record.** New development is allowed on lots and lots of record which do not conform to the lot dimension standards in Chapter 33.612, Lots in Multi-Dwelling Zones, if both of the following are met:~~

- ~~1. The development is proposed for a lot or lot of record. Development on plots that are not lots or lots of record is prohibited; and~~
- ~~2. The lot or lot of record did not abut any property owned by the same family or business on July 26, 1979, or any time since that date, unless the ownership was separated as allowed in Subsection C, above.~~

33.120.270 Alternative Development Options

A. **Purpose.** The alternative development options provide increased variety in development while maintaining the residential neighborhood character. The options are intended to:

- Accommodate a diversity of housing types and tenures;
- Encourage development which is more sensitive to the environment, especially in hilly areas;
- Encourage the preservation of open and natural areas;
- Promote better site layout and opportunities for private recreational areas;
- Allow for greater flexibility within a development site while limiting impacts to the surrounding neighborhood;
- Promote more opportunities for affordable housing;
- Allow more energy-efficient development; and
- Reduce the impact that new development may have on surrounding residential development;
- ~~• Allow a greater sense of enclosure within common greens and shared courts; and~~
- ~~• Ensure adequate open area within common greens.~~

B-D. [No change]

~~E. **Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys.** These standards promote courtyard-oriented housing by facilitating the use of common greens and shared courts as part of housing projects on small sites. Standards within this section also promote pedestrian-oriented street frontages by facilitating the creation of rear alleys and allowing more efficient use of space above rear vehicle areas.~~

- ~~1. When these standards apply. These standards apply when the proposal includes a common green, shared court, or alley;~~
- ~~2. Minimum density in RM1 and RM2 zones. The minimum density in the RM1 zone is 1 unit per 3,000 square feet. The minimum density in the RM2 zone is 1 unit per 2,000 square feet;~~

Commentary

3. ~~Accessory structures.~~

- a. ~~Covered accessory structures for the common use of residents are allowed within common greens and shared courts. Covered accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas;~~
- b. ~~Structures for recycling or waste disposal are allowed within common greens, shared courts, private alleys, or parked tracts;~~

4. ~~Setbacks.~~

- a. ~~The front and side minimum building setbacks from common greens and shared courts are reduced to 3 feet; and~~
 - (1) ~~Minor architectural features such as eaves, awnings, and trellises are allowed in this setback; and~~
 - (2) ~~On corner lots where there is one street lot line on a public street and one street lot line is on the common green or shared court, up to 30 percent of the area of the building facade facing the common green or shared court may extend into this setback. At least 30 percent of the area extending into this setback must include windows or glass block. Porches are exempt from the window standard.~~
- b. ~~The setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building.~~
- c. ~~For accessory structures in common greens, shared courts, private alleys, or parking tracts, the setbacks are:~~
 - (1) ~~Adjacent to a public street. The minimum setback from a public street is 10 feet;~~
 - (2) ~~Setback from project perimeter. If the common green, shared court, private alley, or parking tract abuts the perimeter property line of the project, the minimum setback for the accessory structure is 5 feet. The perimeter property line of the project is the boundary of the site before development;~~
 - (3) ~~Setback from all other lot lines. The minimum setback from all other lot lines is 3 feet;~~

5. ~~Maximum height. Accessory structures in common greens, shared courts, private alleys, or parking tracts may be up to 15 feet high.~~

6. ~~Building coverage.~~

- a. ~~When a land division proposal includes common greens, shared courts, or private alleys, maximum building coverage is calculated based on the entire land division site, rather than for each lot.~~

Commentary

33.120.282 Additional Standards for Development Accessed by Common Greens, Shared Courts, or Private Alleys.

These standards are adapted from the regulations in 33.120.270.E. and have been revised to improve consistency between the standards in the multi dwelling zones and single dwelling zones.

The revisions from the regulations previously in 33.120.270.E. include:

- A new and expanded purpose statement, for when adjustments are requested
- Inclusion of maximum density limits that have been moved from the private street design standards in 33.654.
- Removing the provision that allowed the street setback on corner lots to be reduced from 3 feet to 0 feet for a portion of the façade area when a portion of that façade had window openings. This was overly cumbersome and conflicted with building code requirements.
- Removing the provision that increased the setback for accessory structures located in common greens and shared courts from 3 feet to 5 feet for the portion of the street tract that abuts an adjacent property. In addition to the added complexity, the regular setbacks that apply to detached accessory structures located on *lots* in these zones can be 0 feet when those structures are not taller than 15 feet.
- Replacing a series of complicated building coverage standards that allowed the area within the shared court or common green to be calculated and divided amongst the lots that shared access. Instead, the building coverage standard has been increased by 5 percent for these lots.
- A commensurate 5 percent reduction in required landscaped area has been added.
- The various standards pertaining to accessory structures have also been combined.

- ~~(1) Buildings or structures in common greens, shared courts, private alleys, or parking tracts are included in the calculation for building coverage for the land division site;~~
 - ~~(2) The combined building coverage of all buildings and structures in common greens or shared courts may not exceed 15 percent of the total area of the common greens or shared courts.~~
 - ~~(3) Any amount of building coverage remaining from the calculation for the area of the common green, shared court, alley, or parking tract will be allocated evenly to all of the lots within the land division, unless a different allocation of the building is approved through the land division decision. The building coverage allocated to the lots will be in addition to the maximum allowed for each lot.~~
- b. ~~For attached houses, uncovered rear balconies that extend over an alley or vehicle maneuvering area between the house and rear lot line do not count toward maximum building coverage calculations.~~

7. ~~Garages fronting onto shared courts. For garages accessory to houses or detached houses that are less than 24 feet wide that front onto shared courts, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.~~

F. - H. [Renumber E. through G.]

33.120.282 Additional Development Standards for Development Accessed by a Shared Court, Common Green, or Private Alley.

A. Purpose. These standards:

- Promote courtyard-oriented housing by facilitating the use of common greens and shared courts as part of housing projects;
- Allow a greater sense of enclosure within common greens and shared courts;
- Ensure adequate open area within shared courts and common greens;
- Promote pedestrian-oriented street frontages by facilitating the creation of rear alleys;
- Allow the shared court, common green, or alley to be utilized as a shared yard; and
- Limit the potential traffic impacts from development on shared courts.

B. When these standards apply. These standards apply to:

1. Development on lots with a front lot line on a common green or shared court; and
2. Development in a common green, shared court, or private alley;

C. Standards

1. Maximum density. The maximum density allowed on lots with a front lot line on a shared court is 2 dwelling units.
2. Minimum density in RM1 and RM2 zones. The minimum density in the RM1 zone is 1 unit per 3,000 square feet. The minimum density in the RM2 zone is 1 unit per 2,000 square feet;

Commentary

3. Setbacks.

- a. The front and side minimum building setbacks from common greens and shared courts are reduced to 3 feet. Eaves, awnings, and trellises are allowed in this setback; and
 - b. The garage entrance setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building.
4. Building coverage. The building coverage on lots with a front lot line on a shared court or common green is 5 percent greater than the building coverage of the base zone.
5. Minimum landscaped area The minimum landscape area on lots with a front lot line on a shared court or common green is 5 percent less than the minimum landscape area of the base zone.
6. Length of shared court facing garage walls. For garages accessory to houses or attached houses that are less than 22 feet wide and that front onto shared courts, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.
7. Accessory structures in common greens, shared courts, and private alleys.
- a. Covered accessory structures for the common use of residents are allowed within common greens and shared courts. Covered accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas;
 - b. Structures for recycling or waste disposal are allowed within common greens, shared courts, or private alleys;
 - c. Maximum height. Accessory structures in common greens, shared courts, or private alleys may be up to 15 feet high;
 - d. Setbacks. The minimum setback from a public street is 10 feet. The minimum setback from all other lot lines is 3 feet; and
 - e. Building coverage. The combined building coverage of all accessory structures in common greens or shared courts may not exceed 15 percent of the total area of the common greens or shared courts. In shared courts, at least 250 square feet must remain uncovered. In common greens, at least 400 square feet must remain uncovered.

Commentary

33.270 Planned Developments

Summary of changes to this chapter:

- Updated cross references, other technical clarifications.
- Combined the R2.5 density regulations with other single-dwelling zones

33.270.020.B. Density

With the merger of 33.610 and 33.611, separate density standards for R2.5 are no longer necessary.

33.270 Planned Development

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33.270.020 Relationship to Other Regulations

A. **Flexibility.** No change]

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

~~1.~~ Density

~~1.a.~~ Maximum dwelling unit density.

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

~~b.(2)~~ R20 through ~~R5~~R2.5. In the R20 through ~~R5~~R2.5 zones, maximum density is calculated as follows:

~~(1)~~ (1) 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:

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

x 2

= Maximum number of dwelling units allowed.

~~(2)~~ (2) For all other Planned Developments, maximum density is calculated as follows:

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

x 4

= Maximum number of dwelling units allowed.

~~(3)~~ R2.5. In ~~R2.5~~ R2.5 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:~~

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

~~x 2~~

~~= Maximum number of dwelling units allowed.~~

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

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

~~x 4~~

~~= Maximum number of dwelling units allowed.~~

Commentary

33.270.020.B.2. FAR

The reference to FAR for the single-dwelling zones was intended to provide a reference, not stand as a separate regulation. However, this reference has created some confusion, especially since this section is addressing density. The reference is being deleted.

33.270.100 Additional Allowed Uses and Development

I. Alternative residential dimensions.

PDs can vary maximum lot dimension regulations, so the term "minimum" is being removed for greater accuracy.

- ~~2.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 33.610.100 and ~~33.611.100~~. Minimum density for all other zones is stated in the base zone chapters.

~~2.~~ **FAR**

~~a.~~ **Maximum FAR**

- (1) ~~R20 through R2.5. The maximum FAR in the R20 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. Land Divisions.** A Planned Development may be the only land use review requested for a site, or may be part of a proposal for a Land Division. Certain site conditions or aspects of a proposal require a Land Division, including situations where a tract is required (such as when there is floodway on the site), or where rights-of-way are requested or required. Maximum dwelling unit density in a Planned Development does not equate to maximum lot density in a Land Division.

33.270.100 Additional Allowed Uses and Development

In addition to the housing types and uses allowed by other chapters of this Title, the following uses and development may be requested through Planned Development Review. More than one of these elements may be requested:

A-H. [No change]

I. Alternative residential dimensions. Proposals for lots that do not meet the ~~minimum~~-lot dimension regulations for land divisions may be requested in the RF through RM4 zones.

J-L. [No change]

Commentary

33.270.100.M. Transfer of development within a site

Subparagraphs have been added to more clearly differentiate dwelling unit (density) transfer from floor area (scale) transfer. The intent of these provisions is to allow either dwelling units or floor area to be calculated by their respective base zones in each portion of the site, and then aggregated and redistributed throughout the site irrespective of the base zone boundary.

The phrase "the total amount of dwelling units/floor area allowed on the site is calculated by..." is being modified to remove reference to "the site". This is intended to clarify that the amount of floor area or dwelling units is calculated based on the combined amount of what is allowed for each lot. Areas of the site that are excluded for streets or tracts are not included in the calculation of dwelling units or floor area.

M. Transfer of development within a site. Transfer of development rights across zoning lines within the site may be proposed as follows.:

1. RF through R2.5 zones.
 - a. Dwelling units. If the site is located in more than one zone, and all the zones are RF through R2.5, the total number of dwelling units allowed ~~on the site~~ is calculated by adding up the number of dwelling units allowed by each zone. The dwelling units may be placed without regard to zone boundaries.
 - b. Floor area. ~~In addition, if the site is located in more than one zone, and~~ all the zones are R7 through R2.5, the total amount of floor area allowed ~~on the site~~ is calculated by adding up the amount of floor area allowed by each zone. The floor area may be placed without regard to zone boundaries.
2. RM1 through RX zones. If the site is located in more than one zone, and the zones are RM1 through RX, the total amount of floor area allowed ~~on the site~~ is calculated by adding up the amount of floor area allowed by each zone. The floor area may be placed without regard to zone boundaries.
3. C, E, I, CI, and IR zones. If the site is located in more than one zone, and all the zones are C, E, I, CI, and IR zones, the total amount of floor area allowed ~~on the site~~ is calculated by adding up the amount of floor area allowed by each zone. The floor area may be placed without regard to zone boundaries.
4. All zones. If the site is located in more than one zone, and at least one of the zones is RF through R2.5, and at least one of the zones is RM1 through RX, C, or EX, then the total number of dwelling units allowed ~~on the site~~ is calculated as follows:
 - a. The number of units allowed on the RF through R2.5 portion of the site is calculated in terms of dwelling units;
 - b. The number of units allowed on the other portion of the site is calculated in terms of floor area; The floor area calculation is converted to dwelling units at the rate of 1 dwelling unit per 1,000 square feet of floor area;
 - c. The two dwelling unit numbers are added together, and may be placed without regard to zone boundaries.

N. Transfer of development between sites. Sites that are eligible to transfer development rights to another site are designated in other chapters of this Title. Where such transfers require a Planned Development, both the sending and receiving sites must be part of a Planned Development.

Commentary

33.418 Constrained Sites Overlay Zone

Summary of changes to this chapter:

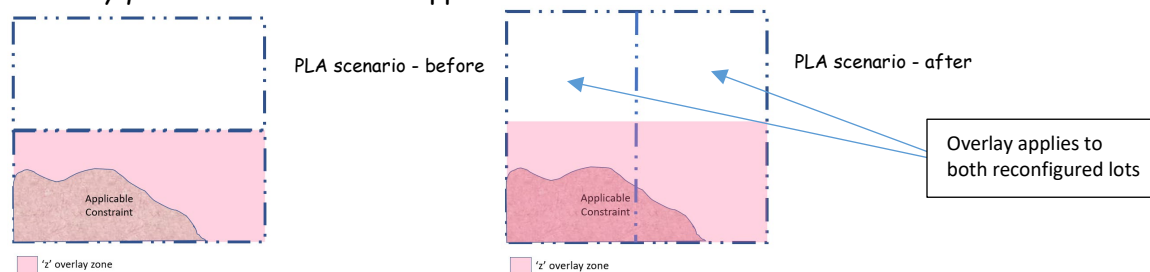
- Clarified application of the 'z' overlay when only portions of the lot are mapped with the overlay zone.

33.418.040 Housing Type Limitations

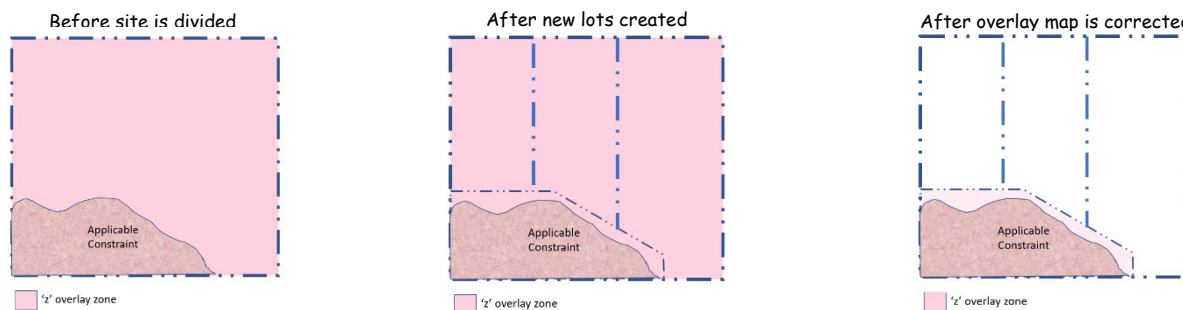
The 'z' overlay is applied to single dwelling zoned sites when any portion of the site has one of the applicable constraints present: Environmental or Pleasant Valley Natural Resource overlay; flood hazard area; certain types of landslide hazards; wildfire risk in the R10 and R20 zones; industrial sanctuary designation; or portions of the Portland International Airport Noise Impact overlay.

Land use actions such as land divisions, replats, property line adjustments or lot confirmations can reconfigure parcels in a way that a constraint that had been on the parcel is no longer associated with that parcel. Conversely, a parcel that previously had no associated constraints could be reconfigured in such a way that the constraint is now associated with one or more parcels.

There is a variable period between when the city approves one of these land use actions and when the decision is recorded with the county and property lines are changed. To prevent inadvertent permit approval of middle housing on sites that should be mapped with the 'z' in the interim, the change to 33.418.040 Housing Type Limitations, will restrict these housing types when any portion of the lot is mapped with the 'z'.



In the opposite scenario, when lots are created or configured in such a way that the constraint is no longer located on the lot, the overlay zone map can be corrected via the map correction process in Title 1.01.037 Planning Director Authority to Correct Portland Comprehensive Plan and Zoning Code Maps, since the legislative intent of the application of the 'z' overlay is that it apply to sites that contain the constraint. When the constraint is not present, the 'z' should not apply to that site/lot.



Chapter 33.418 Constrained Sites Overlay Zone

418

33.418.040 Housing Type Limitations

The following residential infill and accessory dwelling unit options do not apply to lots where any portion of the lot is 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;
- B. 33.110.265.E which allows triplexes and fourplexes in the R20 through R2.5 zones;
- C. 33.110.265.F which allows fourplexes and multi-dwelling structures with up to six dwelling units in the R20 through R2.5 zones;
- D. 33.110.265.G which allows cottage clusters in the R10 through R2.5 zones;
- E. 33.205.020.B.1.c which allows an accessory dwelling unit on a site with a duplex in the R20 through R.25 zones; and
- F. 33.205.020.B.2 which allows two accessory dwelling units on a site with a house, attached house, or manufactured home in the R20 through R2.5 zones.

Commentary

33.526 Gateway Plan District

Summary of changes to this chapter:

- Added clarification for open area requirements for land division sites in the Gateway Plan District Area

33.526.240 Open Area

Subsections A through D are included here for reference. No changes are made to these subsections.

33.526 Gateway Plan District

526

33.526.240 Open Area

- A. Purpose.** The open area requirement ensures provision of adequate amounts of open area, including light and air, for those who live, work and visit the Gateway plan district. Open area can provide passive or active recreational opportunities, and help to soften the built environment. In order to provide flexibility, this provision allows the requirement to be met by phasing the open area, locating it off site, or paying into a fund.
- B. Calculations.** For purposes of this section, site area dedicated for public right-of-way is subtracted from the total site or lot area;
- C. Where these regulations apply.** The requirements of this section apply to sites 5 acres or more in area.
- D. Additions of floor area to the site.** The requirements of this subsection apply to sites where the proposal will result in an increase of at least 10,000 square feet of floor area on the site. The applicant may choose from the three options below:
1. On-site option. If the open area will be on-site, the following standards must be met:
 - a. At least 0.5 square foot of open area is required for each square foot of floor area proposed for the site, up to a maximum requirement of 15 percent of the site area. Adjustments to this standard are prohibited.
 - b. Open areas are parks; plazas; or other similar areas approved through design review. These areas may include improvements such as children’s play equipment, picnic areas, landscaping, benches, paved walkways or trails, gardens, organized sport fields or courts, or other outdoor amenities. Open areas do not include areas used for parking or loading, or landscaping within parking areas.
 - c. Existing open areas on the site may be used to meet this requirement. Open areas used for stormwater management or required recreation area may also be used to meet the requirements of this section. Open areas used to earn bonus floor area may not be used to meet the requirements of this section.
 - d. The open area must be located outdoors on the site and abut either the public sidewalk or the site’s pedestrian circulation system.
 - e. Open area may be provided in a variety of sizes, but each open area must measure at least 20 feet in all directions.
 - f. The application must identify the location, proposed improvements, and timing of the improvements.

Commentary

2. Off-site option. If the open area will be off-site, the following standards must be met:
 - a. The area that will be used to meet this requirement must be:
 - (1) Identified as proposed open space on the Gateway urban design concept or approved by Portland Parks and Recreation;
 - (2) Under the applicant's control; and
 - (3) Vacant or used for surface parking.
 - b. At least 0.5 square foot of open area is required for each square foot of floor area proposed for the site, up to a maximum requirement of 15 percent of the site area. Adjustments to this standard are prohibited.
 - c. The application must identify when the proposed open area site will be transferred into the ownership of the Portland Bureau of Parks and Recreation.
3. Gateway Regional Center Public Open Area Fund option. As an alternative to developing open area, the applicant may pay \$30.00 per required square foot of open area into the Gateway Regional Center Public Open Area Fund (Open Area Fund). The Open Area Fund is collected and administered by the Portland Bureau of Parks and Recreation. The funds collected must be used within the Gateway plan district, either for acquisition or improvement of public open areas. If using this option, the following must be met:
 - a. The required square footage of open area is calculated as 0.5 square foot of open area for each square foot of floor area proposed for the site, up to a maximum requirement of 15 percent of the site area;
 - b. When applying for building permits or land use reviews on the site, the applicant must submit with the application a letter from the Portland Bureau of Parks and Recreation documenting the amount that has been contributed to the Open Area Fund.

Commentary

33.526.240 Open Area

E. Land Divisions

The specific location requirements for onsite open area in a land division were not clear, referring broadly to the standards of "this section", i.e. all of 33.526.240. This was especially confusing when D.1.a describes a different calculation of required open area based on proposed floor area, which is not typically identified at the time of a land division. This change clarifies the applicable location standards.

- E. Land Divisions.** The standards and approval criteria of this subsection apply to sites where a land division is proposed:
1. The regulations of this subsection do not apply to proposed lots that are 5 acres or more in area. The regulations will apply if such lots are divided further.
 2. The regulations of this ~~paragraph~~ subsection apply to proposed lots less than 5 acres in area.
 - a. For each lot, an area equal to at least 15 percent of the area of the lot must be in open area.
 - b. For each lot, the applicant may choose to locate the required amount of open area on the lot, elsewhere on the land division site, or off-site. The applicant may also choose to make a contribution to the Open Area Fund. The application must specify which of these options, or combination of options, will be used to meet the requirements of this subsection.
 - (1) If the open area requirement will be met on the lot, the applicant must specify the location.
 - (2) If the open area requirement will be met elsewhere on the land division site, the required area must be in a tract.
 - (3) If the open area requirement will be met off-site or through a contribution to the Open Area Fund, the requirements of Paragraphs D.2 or D.3 must be met.
 - c. If the requirements of this subsection will be met on the land division site or on the lot, the applicant must indicate when improvements will be made to the open area, what the extent of the improvements will be, and who will be responsible for the improvements and maintenance of the improvements. The following additional approval criteria must also be met:
 - (1) Location. Each open area must be located on a part of the site that can be reasonably developed to meet the requirements of Subparagraphs D.1.b. through D.1.e ~~standards of this section~~;
 - (2) Improvements. The proposed improvements must be consistent with the purpose of this section; and
 - (3) Timing. The timing of the improvements must be reasonably related to the timing of other development on the site.

Commentary

33.563 Northwest Hills Plan District

Summary of changes to this chapter:

- Updated cross references

33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea

Update reference to R2.5 zone lot dimension requirements which have now been incorporated into 33.610.

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 only allowed if one of the requirements in A. through D. are met:

- A. The lot of record, lot remnant, or combination thereof:
 - 1. Is at least 36 feet wide; and
 - 2. Meets the minimum area standard of Table 563-1;
- B. The lot of record, lot remnant, or combination thereof:
 - 1. 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; and
 - 3. Did not abut 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 lot of record, lot remnant, or combination thereof:
 - 1. Does not meet the minimum area standard of Table 610-2 ~~or Chapter 33.611~~; and
 - 2. Did not abut 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 a lot of record, lot remnant, or combination 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. Additional regulations for property line adjustments.
 - 1. The lot of record, lot remnant, or combination thereof described in Subsection A may not be reduced in area below the standards of Table 563-1;
 - 2. The lot of record, lot remnant, or combination 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 lot of record, lot remnant, or combination thereof described in Subsection C;

Commentary

Land Division Table of Contents

Summary of changes to this section:

- The list of land division chapters is amended to reflect corrections to chapter titles, name changes, and chapter renumbering and deletions

Header - Planned Developments are now addressed in 33.270 and 33.854, so the reference is being deleted

33.610 and 33.611 - change to reflect consolidation of Chapter 33.610 and Chapter 33.611

33.639 - this chapter is deleted.

33.633, 33.635, 33.640, 33.641 - Minor technical edits to the names of chapters so that they match the chapter name

33.655 - this chapter is deleted.

Land Divisions ~~and Planned Developments~~

Lots

33.605 Lots in the Open Space Zone

33.610 Lots in RF through ~~R5~~ R2.5 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 Land Divisions 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, and Wetlands

33.641 Transportation Impacts

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

33.660 and 33.664 - Minor technical edits to the names of chapters so that they match the chapter name

33.663 and 33.673 - Renumbering the Final Plat chapter so that it follows the review chapters.

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

Reviews

33.660 Review of Land Divisions in Open Space, Residential, and 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 of Land Divisions on Large Sites in Industrial 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

33.673 Final Plats

33.675 Replat

33.676 Lot Confirmation

33.677 Property Line Adjustments

Commentary

33.610 Lots in the RF through R2.5 Zones

Summary of changes to this chapter:

- Combined the R2.5 lot requirements from 33.611 into this chapter
- Added purpose statement to evaluate oversized, but dividable lots
- Added maximum lot area standard for cottage clusters
- Removed criteria to reduce lot width
- Created alternative flag lot access standards to supplement existing access criteria
- Created standards for regular lot line requirements

33.610 Lots in RF through ~~R5~~R2.5 Zones

610

Sections:

- 33.610.010 Purpose
- 33.610.020 Where These Regulations Apply
- 33.610.100 Density Standards
- 33.610.200 Lot Dimension Regulations
- 33.610.300 Through Lots
- 33.610.400 Flag Lots
- 33.610.500 Split Zoned Lots

33.610.010 Purpose

This chapter contains the density and lot dimension requirements for approval of a Preliminary Plan for a land division in the RF through ~~R5~~R2.5 zones. These requirements ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate uses and development.

33.610.020 Where These Regulations Apply

The regulations of this chapter apply to land divisions in the RF through ~~R5~~R2.5 zones.

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.

Commentary

33.610.100. C.2 and D.2. Density Standards

Minimum density is calculated by subtracting area within environmental or river environmental overlays, as well as the flood hazard area. The previous landslide hazard map was at too low a resolution to accurately calculate the area inside or outside the affected landslide hazard. Consequently, sites where any portion was in the potential landslide hazard area were entirely exempt from minimum density. The new updated map is more accurate and at a resolution that allows specific site area to be calculated. So minimum densities will now be calculated by subtracting the specific landslide potential hazard area shown in Map 631-1

Calculating minimum density in the R2.5 zone.

While there are no specific text changes relating to how density is calculated in these subsections, merging the R2.5 zone with 33.610, effectively results in a change in how the minimum density in the R2.5 zone is calculated:

In 33.611, when minimum density is calculated for the R2.5 zone, rather than dividing by the lot size density (i.e. 2,500 sq ft), the denominator uses a 5,000 sq ft figure. See current 33.611.100.C.2 and D.2.

With the consolidation of these two chapters, the R2.5 zone will now be treated the same as the other single-dwelling base zones for calculating minimum density, i.e. dividing by the lot size density for the zone, which in the R2.5 zones is 2,500 sq ft. The net effect of this change is that minimum densities for R2.5 zones are doubled, i.e. one lot per 2,500 sq ft versus one lot per 5,000 sq ft. This change does not affect the maximum allowed density in this zone.

Minor changes were made to include the Pleasant Valley Natural Resources overlay zone to the areas that may be subtracted for minimum density.

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:

1. 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;

$$\div \text{Maximum density A or B from Table 610-1;} \\ = \text{Maximum number of lots allowed.}$$

2. 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, River Environmental, or Pleasant Valley Natural Resources ~~environmental or River Environmental~~ overlay zone, potential landslide hazard area, or special flood hazard area;

x 0.80;

$$\div \text{Maximum density B from Table 610-1;} \\ = \text{Minimum number of lots required.}$$

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;

$$\div \text{Maximum density A or B from Table 610-1;} \\ = \text{Maximum number of lots allowed.}$$

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, River Environmental, or Pleasant Valley Natural Resources ~~environmental or River Environmental~~ overlay zone, potential landslide hazard area, or special flood hazard area;

x 0.68

$$\div \text{Maximum density B from Table 610-1} \\ = \text{Minimum number of lots required.}$$

Commentary

Table 610-1 Maximum Density Standards

Maximum lot density for the R2.5 zone has been added to Table 610-1

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

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.

Table 610-1 Maximum Density Standards						
	RF	R20	R10	R7	R5	<u>R2.5</u>
Maximum Density A: Maximum density for lots that <ul style="list-style-type: none"> • Will be developed with attached houses; • Will be located entirely outside the Constrained Sites overlay zone; and • 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. 	NA	1 lot per 5,000 sq. ft.	1 lot per 2,500 sq. ft.	1 lot per 1,750 sq. ft.	1 lot per 1,500 sq. ft.	<u>1 lot per 1,500 sq. ft.</u>
Maximum Density B: Maximum 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.	<u>1 lot per 2,500 sq. ft.</u>

Commentary

33.610.200 Lot Dimensions

The purpose statement is revised to respond to several changes.

First, the reference to garages is removed since on-site parking is no longer required. Therefore, if there is not enough room for a garage, then a garage would not be built.

Second, since increases above maximum lot sizes may be requested through an adjustment, the purpose statements need to address two situations: One situation is already addressed by the statement "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" For example a site with a maximum density of four lots has three small lots and one lot that appears large enough to divide but could not be without exceeding maximum density. The other situation is land divisions that result in fewer lots than allowed by maximum density. For example, a site with a maximum density of four lots has two small lots and one large lot that could be divided in the future. Allowing this oversize lot should occur in a way that allows for the future division of the lot, considering access and services.

Third, the statement that the regulations ensure "lots are compatible with existing lots" is being amended. As areas of large lots urbanize as envisioned by the Comprehensive Plan and land division regulations, these newer smaller lots will inevitably be different and perceived as "incompatible" with oversized lots, creating a potentially inherent conflict between the purpose statement and the regulations. This also can have an inequitable effect by facilitating land divisions in areas with already smaller lots, and potentially preventing land divisions in areas with larger lots. Instead, the purpose statement reflects that lots be compatible with the planned intensity of the zone.

33.610.200 Lot Dimension Regulations

Lots in the RF through R2.5 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;
- Lots that are large enough to be further divided when maximum allowed density of the site is not exceeded are of a size and shape to reasonably be divided in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with the planned intensity of the zone ~~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

Commentary

Table 610-2

Cottage clusters were added as an allowed housing type to R10 through R2.5 (and RM1 multi-dwelling) zones with the Residential Infill Project, Part 2. That project did not adopt lot dimension standards for land divisions in those zones. These changes rectify that.

Note that the R2.5 zone standards shown as added in Table 610-2 are mostly unchanged from the standards that were in 33.611, except for the minimum lot width and minimum front lot line standards for "all other lots". These changes reflect the higher intensity anticipated for the R2.5 zone, and further distinguish this zone from the R5 zone:

Lot Dimension Standard	Prior 33.611 (R2.5 zone)	New R2.5 zone Standard	R5 zone
Minimum Lot Width			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	36 ft.	<u>25 ft.</u>	36 ft.
Minimum Front Lot Line			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	30 ft.	<u>20 ft.</u>	30 ft.

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

Table 610-2 Lot Dimension Standards						
	RF	R20	R10	R7	R5	<u>R2.5</u>
Minimum Lot Area Attached house lots [1]	NA	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.	<u>1,500 sq. ft.</u>
All other lots	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.	<u>1,500 sq. ft.</u>
Maximum Lot Area <u>Cottage cluster lots [2]</u>	<u>NA</u>	<u>43,560 sq. ft.</u>	<u>43,560 sq. ft.</u>	<u>43,560 sq. ft.</u>	<u>43,560 sq. ft.</u>	<u>43,560 sq. ft.</u>
<u>All other lots</u>	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.	<u>NA</u>
Minimum Lot Width [32]						
Attached house lots [1]	NA	15 ft.	15 ft.	15 ft.	15 ft.	<u>15 ft.</u>
All other lots	60 ft.	60 ft.	50 ft.	40 ft.	36 ft.	<u>25 ft.</u>
Minimum Front Lot Line Attached house lots [1]	NA	15 ft.	15 ft.	15 ft.	15 ft.	<u>15 ft.</u>
All other lots	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	<u>20 ft.</u>
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.	<u>40 ft.</u>

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.

[2] 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 cottage clusters.

[~~32~~] 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~~ the maximum lot area standard;

Commentary

33.610.200.D Minimum Lot Width

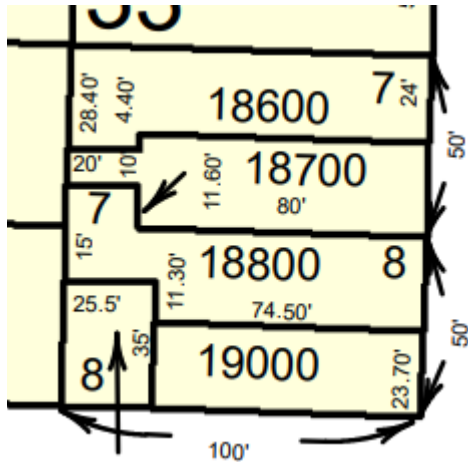
Minimum lot width standards are clear and objective, but previously lot widths could be further reduced by meeting additional approval criteria. With the introduction of attached house lots, which enable lots as narrow as 15 feet in any zone (other than RF), there is less of a need to allow this added flexibility. Moreover, previous changes within the base zone development standards (33.110.260 Additional Development Standards for Narrow Lots) incorporated many of these additional requirements for narrow lots. Consequently, these criteria are deleted. Instead, if further lot width reductions are proposed beyond the standards in Table 610-2, they can be requested through the Planned Development process which can assess how the future development on that lot will function and fit.

- D. Minimum lot width.** Each lot must meet the minimum lot width standard stated in Table 610-2 ~~one of the following regulations~~. Lots that do not meet this standard ~~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 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 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.C 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. 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.

Commentary

33.610.200.G. Regular Lot Lines

Having predictable boundaries is important for future property owners who may make minor improvements to their property without the benefit of property surveys or when permits are not required like adding sheds or making landscape changes. Oddly configured lots create confusion for future owners and residents. These regulations prevent oddly configured lots from being proposed.



The current requirement for regular lot lines is not clear and objective. These changes create clear standards but retain discretion when the standard cannot be met.

It is unrealistic for all lot lines to be perfectly straight given the challenges of small infill land divisions, and issues like topography, site configuration, or existing development may require some amount of reasonable line "jogging". The criteria enable these deviations, but also speak to there being "clearly identifiable markers like fences". So this may be included as a condition of the land division approval when necessary.

The standard is being revised so that it is no longer applicable to the R20 or RF zones. These zones are likely to have much larger, irregular lot shapes making it difficult to establish straight lot lines. But also due to the larger lot sizes, inadvertent encroachments are less likely to occur.

The language in 33.610.200.G. also exempts lot lines that follow zoning lines (to avoid split zoned lots), rights of way (which may not be straight, but are more clearly identifiable), or the edge of any tract, which could be for access, natural resource protection, restricted land hazard area, or open space, among other purposes.

- 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.~~ The regular lot line standards stated in G.1. apply to proposals for land divisions in the R10 through R2.5 zones. Adjustments are prohibited. For proposals that cannot meet all of the standards, the approval criterion stated in G.2. applies.
1. Regular lot line standards. All lot lines must be straight, and traverse in a single uniform direction except for lot lines that follow a zoning line, right of way, or boundary of a tract.
 2. Regular lot line approval criterion: As far as is practical, all lot lines must be straight and traverse in a uniform direction, considering topography and other natural features, existing development, zoning, or other clearly identifiable boundary markers such as fences or hedgerows.

33.610.300 Through Lots

- A. Purpose.** This standard ensures that lots are configured in a way that development can be oriented toward streets to increase the safety and enjoyment of pedestrians and bicyclists. The standard also ensures that development does not “turn its back” on a collector or major city traffic street.
- B. Standard.** Through lots are allowed only where both front lot lines are on local service streets. The minimum front lot line and minimum width standards apply to one frontage of the through lot.

Commentary

33.610.400 Flag Lots

The applicability statement is being removed because this chapter already applies to land divisions in the RF through R2.5 zones, and the regulations apply to the creation of flag lots, not specifically to existing flag lots.

A change to exclude the flagpole portion of a lot from the maximum lot area is made. There have been cases that required an adjustment to the maximum lot area standard because the area of the flag lot pole made the lot too large. The pole doesn't count toward *minimum* lot area, to ensure that the flag portion of the lot is not unreasonably small. But the pole portion cannot be built on and shouldn't count toward maximum lot area either. That way, the flag portion is treated equally as other lots with regard to measuring minimum and maximum lot area.

33.610.400 Flag Lots

The following regulations apply to flag lots in the ~~RF through R5~~ zones:

- A. Purpose.** These regulations allow the creation of flag lots in limited circumstances. The limitations minimize the negative impacts of flag lots and additional driveways on an area while allowing land to be divided when other options are not achievable.
- B. When a flag lot is allowed.** A flag lot is allowed only when the following are met:
 - 1. One of the following are met:
 - a. An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standard of Paragraph 33.610.200.D.1. The dwelling unit and attached garage must have been on the site for at least five years; or
 - b. The site has dimensions that preclude a land division that meets the minimum lot width standard of Paragraph 33.610.200.D.1.;
 - 2. Up to three lots are proposed, only one of which is a flag lot; and
 - 3. Minimum density requirements for the site will be met.
- C. Flag lot access pole.** The pole portion of the flag lot must meet the following standards. Adjustments are prohibited:
 - 1. The pole must connect to a street;
 - 2. The pole must be at least 12 feet wide for its entire length; and
 - 3. The pole must be part of the flag lot and must be under the same ownership as the flag portion.
- D. ~~Minimum~~ Lot area.** Only the area of the flag portion is included when calculating the minimum and maximum lot area. The area of the pole portion of the lot is not included.

Commentary

33.610.400.F. Vehicle Access

The requirements for vehicle access for flag lots is not clear and objective. By removing discretionary determinations such as "where it is practical" this is converted to a standard. As amended, the standard requires that access between the flag lot and front lot share a common access point to the street.

To afford greater flexibility, approval criteria allow for a more site-specific evaluation and determination and are adapted from the previous consideration factors. Compliance with the criteria is determined through the land division review and does not require a separate adjustment.

33.610.500. Split zoned lots

This minor change clarifies that the standard is referring to base (as opposed to overlay) zones.

E. Minimum lot dimensions.

1. Flag lots are exempt from the minimum front lot line standard.
2. The minimum lot width and minimum lot depth required for each flag lot is 40 feet.
3. For the purposes of this subsection width and depth are measured at the midpoints of the opposite lot lines of the flag portion of the lot. All other lot dimension standards must be met.

F. Vehicle access. Flag lot vehicle access must meet one of the following regulations:

1. Vehicle access standard. Where it is practical, ~~Vehicle~~ vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Access easements may be used. Adjustments are prohibited. For proposals that cannot meet this standard, the approval criterion stated in Paragraph F.2. applies.
2. Vehicle access approval criterion. Separate access may be allowed when ~~Factors that may be considered include~~ the location of existing garages, driveways including driveways on abutting lots, alleys, and curb cuts, stormwater management needs, and or tree preservation make shared access impractical. ~~Access easements may be used.~~

33.610.500 Split Zoned Lots

- A. Purpose.** This standard ensures that lots do not have more than one base zone. Lots that are split by more than one zone present practical problems related to the applicability of use and development standards.
- B. Standard.** On sites with more than one base zone, each lot must be entirely within one zone. The creation of lots that are in more than one zone is not allowed.

Commentary

33.611 Lots in the R2.5 Zone

Summary of changes to this chapter:

- This chapter is deleted. The regulations for the R2.5 zone are being combined with Chapter 33.610.

33.611 Lots in R2.5

611

Sections:

- 33.611.010 Purpose
- 33.611.020 ~~Where These Regulations Apply~~
- 33.611.100 Density Standards
- 33.611.200 Lot Dimension Regulations
- 33.611.300 Through Lots
- 33.611.400 Flag Lots
- 33.611.500 ~~Split Zoned Lots~~

33.611.010 Purpose

This chapter contains the density and lot dimension requirements for approval of a Preliminary Plan for a land division in the R2.5 zone. These requirements ensure that lots are consistent with the desired character of the zone while allowing lots to vary in size and shape provided the planned intensity of the zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate structures in accordance with the planned intensity of the R2.5 zone.

33.611.020 Where These Regulations Apply

The regulations of this chapter apply to land divisions in the R2.5 zone.

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.~~

Commentary

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.~~

1. ~~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:~~

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad \div \text{Maximum density A or B from Table 611-1;} \\ &\quad = \text{Maximum number of lots allowed.} \end{aligned}$$

2. ~~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:~~

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad - \text{Square footage of site within an environmental or River Environmental overlay zone,} \\ &\quad \text{landslide hazard area, or special flood hazard area;} \\ &\quad \times 0.80; \\ &\quad \div 5,000; \\ &\quad = \text{Minimum number of lots required.} \end{aligned}$$

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:~~

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad \times 0.85; \text{————} \\ &\quad \div \text{Maximum density A or B from Table 611-1;} \\ &\quad = \text{Maximum number of lots allowed.} \end{aligned}$$

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:~~

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

Commentary

Table 611-1	
Maximum Density Standards	
	R2.5
Maximum Density A: Maximum density for lots that: <ul style="list-style-type: none"> • Will be developed with attached houses; • Will be located outside the Constrained Sites overlay zone; and • 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. 	1 lot per 1,500 sq. ft.
Maximum Density B: Maximum density for all other lots	1 lot per 2,500 sq. ft.

E. ~~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;~~
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;~~
- ~~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 1,500 square feet in area.~~

Commentary

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 15 feet for a lot if the lot will be developed with an attached house.~~

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 C.3., 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.

33.611.300 Through Lots

A. ~~Purpose.~~ This standard ensures that lots are configured in a way that development can be oriented toward streets, including local, collector and traffic streets, to increase the safety and enjoyment of pedestrians and bicyclists. The standard also ensures that development does not turn its back on a collector or traffic street.

B. ~~Standard.~~ Through lots are allowed only where both front lot lines are on local service streets. The minimum front lot line and minimum width standards apply to one frontage of the through lot.

33.611.400 Flag Lots

The following regulations apply to flag lots in the R2.5 zones:

A. ~~Purpose.~~ These regulations allow the creation of flag lots in limited circumstances. The limitations minimize the negative impacts of flag lots and additional driveways on an area while allowing land to be divided when other options are not achievable.

B. ~~When a flag lot is allowed.~~ A flag lot is allowed only when the following are met:

1. ~~One of the following is met:~~
 - a. ~~An existing dwelling unit or attached garage on the site is located so that it precludes a land division that meets the minimum lot width standard of Paragraph 33.611.200.C.1. The dwelling unit and attached garage must have been on the site for at least five years; or~~
 - b. ~~The site has a width of less than 50 feet if two lots are proposed and a width of less than 75 feet if three lots are proposed.~~

Commentary

- ~~2.— Up to three lots are proposed, only one of which is a flag lot; and~~
- ~~3.— Minimum density requirements for the site will be met.~~
- C. Flag lot access pole.** The pole portion of the flag lot must meet the following standards. Adjustments are prohibited:
 - ~~1.— The pole must connect to a street;~~
 - ~~2.— The pole must be at least 12 feet wide for its entire length; and~~
 - ~~3.— The pole must be part of the flag lot and must be under the same ownership as the flag portion.~~
- D. Minimum lot area.** Only the area of the flag portion is included when calculating the minimum lot area. The area of the pole portion of the lot is not included.
- E. Lot dimensions.**
 - ~~1.— Flag lots are exempt from the minimum front lot line standard.~~
 - ~~2.— The minimum lot width and minimum lot depth required for each flag lot is 40 feet.~~
 - ~~3.— For the purposes of this subsection, width and depth are measured at the midpoints of the opposite lot lines of the flag portion of the lot. All other lot dimension standards must be met.~~
- F. Vehicle access.** Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, alleys, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

33.611.500 Split Zoned Lots

- A. Purpose.** This standard ensures that lots do not have more than one zone. Lots that are split by more than one zone present practical problems related to the applicability of use and development standards.
- B. Standard.** On sites with more than one base zone, each lot must be entirely within one zone. The creation of lots that are in more than one zone is not allowed.

Commentary

33.612 Lots in multi-dwelling and IR zones

Summary of changes to this chapter:

- Added cottage clusters to the lot dimension standards in Table 612-1
- Consolidated lot dimension standards for houses, duplexes, triplexes, fourplexes and attached duplexes
- Made lot dimensions more internally consistent
- Added minimum lot width standards to RM3 and RM4 lots for more regular lots and to promote a better relationship between development and the street.

33.612.100 Density:

Added a housing type (attached duplexes) that had been previously omitted.

For non-conforming development, the lot size standard is the same as for a "detached house." However, the term "house" in the zoning code means a detached house, and is distinguished from an attached house. The word "detached" here is superfluous and is deleted.

33.612.200 Lot Dimension Standards

B. The reference to Table 612-1 is redundant with B.2.

B.1. Because the table now also includes maximum dimensions (maximum cottage cluster lot size), the term "minimum has been deleted.

33.612 Lots in Multi-Dwelling and IR Zones

612

Sections:

- 33.612.010 Purpose
- 33.612.020 Where These Standards Apply
- 33.612.100 Density
- 33.612.200 Lot Dimension Standards

33.612.010 Purpose

This chapter contains the density and lot dimension standards for approval of a Preliminary Plan for a land division in the multi-dwelling and IR zones. These standards ensure that lots are consistent with the desired character of each zone. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate development and uses in accordance with the planned intensity of the zone.

33.612.020 Where These Standards Apply

The standards of this chapter apply to land divisions in the multi-dwelling and IR zones.

33.612.100 Density

- A. **Single-dwelling development.** When a house, attached house, duplex, attached duplex, triplex, or fourplex 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 a house, attached houses, duplex, attached duplex, triplex, or fourplex is proposed, minimum density must be met at the time of development.

33.612.200 Lot Dimension Standards

- A. **Purpose.** These standards ensure that:
 - Each lot has enough room for development that meets all the requirements of the zoning code;
 - Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible.
 - The multi-dwelling zones can be developed to full potential; and
 - Housing goals for the City are met.
- 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 depth standards for multi dwelling development lots in the RM3, RM4, RMP, and IR zones have been reduced consistent with lot depth standards in the RM2 zone. This acknowledges that lots may be slightly less than 100 feet either by original platting or through right of way dedications. This reduced depth provides greater flexibility.

Cottage clusters were added as an allowed housing type to RM1 zones with the Residential Infill Project, Part 2. That project did not adopt lot dimension standards for land divisions in the RM1 multi dwelling zones. These changes rectify that.

Attached house lots can be very narrow, but attempting to configure attached duplexes to be street-oriented on 10 to 15 foot wide lots is impractical. Therefore, attached duplexes have been combined with detached houses and other middle housing types (duplex, triplex, fourplex) on slightly wider (20 to 25 foot wide) lots.

Lot area minimums have been made consistent between RM1 and RM2 attached houses (1,000 sq ft) and detached houses, duplexes, attached duplexes, triplexes and fourplexes (1,500 sq ft). Lot width minimums have also been added to RM3 and RM4 lots to promote rectangular lots with sufficient widths for attached houses (10 ft., no side setbacks) and detached houses, etc (20 ft., 5' side setbacks)

Triplexes and Fourplexes have been merged with detached houses and duplexes to reduce complexity. The previous distinctions were very minor and did not ensure lots that could be reasonably developed with those housing types.

Attached duplexes were likewise moved from attached house lot size standards to detached house lot size standards to provide better opportunities for the duplex units to be both street oriented (wider and larger lots)

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

Table 612-1							
Minimum Lot Dimensions Standards							
	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 <u>70</u> ft.	100 <u>70</u> ft.	None	100 <u>70</u> ft.	100 <u>70</u> ft.
Minimum Front Lot Line	30 ft.	70 ft.	70 ft.	70 ft.	10 ft.	70 ft.	70 ft.
<u>Cottage Clusters</u>							
<u>Minimum Lot Area</u>	<u>5,000 sq. ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Maximum Lot Area</u>	<u>40,000 sq. ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Lot Width</u>	<u>36 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Lot Depth</u>	<u>70 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Front Lot Line</u>	<u>30 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Attached Houses and Attached Duplexes</u>							
Minimum Lot Area	<u>1,000 sq. ft.</u> 1,500 sq. ft.	<u>1,000 sq. ft.</u> None	None	None	None	NA	None
Minimum Lot Width	15 ft.	15 ft.	<u>10 ft.</u> None	<u>10 ft.</u> 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.
<u>Detached Houses, Duplexes, and Attached Duplexes, Triplexes, and Fourplexes</u>							
Minimum Lot Area	1,500 sq. ft.	<u>1,500 sq. ft.</u> None	None	None	None	NA	None
Minimum Lot Width	25 ft.	25 ft.	<u>20 ft.</u> None	<u>20 ft.</u> 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.
<u>Triplexes and Fourplexes</u>							
Minimum Lot Area	<u>2,000 sq. ft.</u>	None	None	None	None	NA	<u>2,000 sq. ft.</u>
Minimum Lot Width	<u>33 ft.</u>	None	None	None	None	NA	None
Minimum Lot Depth	<u>50 ft.</u>	None	None	None	None	NA	None
Minimum Front Lot Line	<u>30 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	NA	<u>30 ft.</u>

Notes:

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

Commentary

33.614 Lots in Employment Zones

Summary of changes to this chapter:

- Clarified an exception

33.614.200 Exception

This change clarifies that the exception is only applicable to land divisions where a building is being divided into separate ownerships and is not intended to apply to sites with multiple buildings where each building will be separated onto an individual lot.

33.614 Lots in Employment Zones

614

33.614.200 Exception

Land under an existing buildings may be divided when the ownership of the existing building is also being divided. There are no minimum lot sizes in these cases. However, all zoning code development standards must be met.

Commentary

33.615 Lots in Industrial Zones

Summary of changes to this chapter:

- Clarified an exception

33.615.200 Exception

This change clarifies that the exception is only applicable to land divisions where a building is being divided into separate ownerships and is not intended to apply to sites with multiple buildings where each building will be separated onto an individual lot.

33.615 Lots in Industrial Zones

615

33.615.200 Exception

Land under an existing buildings may be divided when the ownership of the existing building is also being divided. There are no minimum lot sizes in these cases. However, all zoning code development standards must be met.

Commentary

33.630 Tree Preservation

Summary of changes to this chapter:

- Separated the preservation standards from the preservation approval criteria

Tree preservation considerations during land division review are important for establishing a more successful long-term urban tree canopy. They are very different from tree preservation considerations at the building permit phase. During a land division, decisions about lot configuration, size and location, along with decisions about where roads, services and open space tracts will be located are more flexible than when contemplating building on an already established lot. This enables trees to be preserved at perimeters of future lots, or for roads to be located to avoid impacting trees. Consequently, the requirements between Title 33 tree preservation during a land division and Title 11 tree preservation at the time of development vary considerably.

The standards of this chapter have been developed to recognize the need for flexibility, while also offering alternatives to promote the most significant attributes of canopy function.

Tree groves often serve as visible landmarks within a neighborhood, and the potential to retain them is much higher at a land division site size, than incrementally on separate lots.

Large, established trees serve as the workhorses in absorbing carbon per Nathan Stephenson, Scientist Emeritus: "The results showed that for most tree species, mass growth rate increases continuously with tree size — in some cases, large trees appear to be adding the carbon mass equivalent of an entire smaller tree each year." *Stephenson, N., Das, A., Condit, R. et al. Rate of tree carbon accumulation increases continuously with tree size. Nature 507, 90-93 (2014). <https://doi.org/10.1038/nature12914>*

33.630.020 Where these regulations apply

Added the River Environmental overlay zone that had previously been omitted.

33.630 Tree Preservation

630

Sections:

- 33.630.010 Purpose
- 33.630.020 Where These Regulations Apply
- 33.630.030 Exempt From These Regulations
- 33.630.100 ~~Minimum~~ Tree Preservation Standards
- 33.630.200 Tree Preservation Approval Criteria
- 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
- 33.630.500 Tree Preservation Credit
- 33.630.600 Recording Tree Preservation Plans and Related Conditions
- ~~33.630.700 Relationship To Other Tree Regulations~~

33.630.020 Where These Regulations Apply

- A. Generally. The regulations of this chapter apply to all proposals for land divisions on sites outside the Central City plan district that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under 33.630.030. Where a tree trunk is partially on the land division site, it is considered part of the site.
- B. Sites in C, E, I, and CI zones where all of the proposed lots are currently developed with commercial, employment, industrial, or institutional development may defer tree preservation review to the time of any future development or redevelopment of the site. Sites that use this option are subject to the standards of Title 11, Trees at the time of development. Sites in the IH, IG1, EX, and CX zones are not eligible to use this provision.
- C. Proposals to divide sites that are partially within an ~~environmental overlay zone~~ Environmental, River Environmental, or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review, River Review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.100. However, the tree preservation approval criteria in 33.630.200 apply to these proposals.

33.630.030 Exempt From These Regulations

The following trees are exempt from the regulations of this chapter:

- A. Trees that are on the Nuisance Plants List;
- B. Trees that are less than 6 inches in diameter;
- C. Trees that are dead, dying, or dangerous as determined by an arborist. The review body may require additional analysis or documentation to confirm the condition of the tree;
- D. Trees where the trunk is within 10 feet of an existing building that will remain on the site;

Commentary

33.630.100 Tree Preservation Standards

This section has been revised to be a stand-alone set of preservation standards for land divisions, independent of the tree preservation criteria.

Preservation criteria allow decisions that favor healthier trees, or more significant trees, potentially over larger but less stately or lesser ecologically-valued trees. The criteria are also better able to balance sometimes competing goals for tree preservation and development. When baseline preservation is not achievable, the criteria also offer guidance and flexibility for determining appropriate mitigation for the trees that are removed.

However, balancing tree preservation in the context of development can be as much art as it is science, with frequent disagreement over which trees are the best or most appropriate to preserve. The application of clear and objective standards enables greater certainty for applicants, since changes to the tree plan can have significant repercussions on other aspects of the land division design, such as stormwater drainage and facility location, roads, access and other services, and future building footprints.

Given the variety of conditions that may be present on a land division site, several options are provided to retain flexibility while still emphasizing the importance of large (20" diameter and larger) trees, while also offering an alternative path to preserve and protect tree groves.

The option to utilize tree canopy area, in lieu of specific tree diameter, has been deleted due to its lack of use, and difficulty attributing particular canopy area with specific trees that are proposed to be removed or retained.

- E. Trees where the trunk is located completely or partially within an existing right-of-way that is not part of the land division site;
- F. Trees where the trunk is located completely or partially within Environmental, River Environmental or Pleasant Valley Natural Resources Overlay zones. Those trees are instead subject to the regulations of Chapter 33.430, Environmental Zones, 33.475.400, River Environmental Overlay Zone, or 33.465, Pleasant Valley Natural Resources Overlay Zones.

33.630.100 ~~Minimum~~ Tree Preservation Standards

- A. ~~The applicant must show how existing trees will be preserved.~~ The options listed below represent minimum tree preservation standards. At least one of the following tree preservation standards must be met. Adjustments to the standards are prohibited. For proposals that cannot meet a standard, the approval criteria stated in 33.630.200 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criteria stated in 33.630.200 instead of the standards. Additional tree preservation may be required to meet the approval criteria of Section 33.630.200. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Section 33.630.030, Trees exempt from these regulations. ~~The applicant must choose one of the following options:~~
 - 1. ~~Option 1:~~ Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site;
 - 2. ~~Option 2:~~ Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site;
 - 3. ~~Option 3:~~ Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site;
 - 4. ~~Option 4:~~ Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site; or
 - 5. ~~Option 5:~~ If one or more tree groves are located ~~completely or partially~~ on the site, preserve all of the grove trees located on the site and at least 20 percent of the total tree diameter or canopy area on the site. ~~or~~
 - 6. ~~Option 6:~~ If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.

Commentary

33.630.100.B. Heritage Trees

Title 11 regulates Heritage Tree removal, which is currently overseen by the Urban Forestry Commission which advise the Urban Forestry division within the Portland Parks and Recreation bureau. This change makes the reference to the specific approval authority more generally the Portland Parks and Recreation bureau, which follows the requirements laid out in Title 11, Trees.

33.630.100.C Calculations

Due to the infrequency of being utilized, BDS recommended that the statistical sampling method in C.1.b, be deleted. The tree inventory (C.1.a.) is the default method that is described in 33.730, application submittal requirements, so it does not need to be repeated here. C.2. speaks to how to measure tree canopy area. The former preservation option that was associated with tree canopy has been deleted, so this provision is no longer needed. Therefore, this subsection is being deleted.

33.630.100.D. Location of preserved trees

Tree groves are groups of trees with contiguous canopy that may have mutually reinforcing root and branch structures. It is important for groves to be preserved within a tract to restrict development encroachments into critical root zones as well as have them be managed as a single unit (as opposed to removal decisions being made by separate owners of different lots).

B. Heritage Trees. Heritage Trees located on the land division site may be counted toward meeting preservation standards. Heritage Trees must be preserved unless removal has been approved by Portland Parks and Recreation ~~by the Urban Forestry Commission~~.

~~C.~~ CD. Calculations.

~~1.~~ 1. Tree diameter and number of trees. ~~When calculating the amount of tree diameter and the number of 20 inch diameter and larger trees on the site, the applicant may choose one of the following methods of measurement:~~

~~a.~~ a. Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or

~~b.~~ b. Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of trees at least 20 inches in diameter present. Sampling must be carried out by a professional forester based on standard methodologies.

~~2.~~ 2. Tree canopy. ~~When calculating the amount of tree canopy on the site, the total canopy area must be based on the most recent aerial photograph available. The aerial photograph used must be no more than 5 years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate.~~

CD. Location of preserved trees. ~~Trees may~~ Grove trees preserved to meet 33.630.100.A.5. must be preserved ~~on lots,~~ within tree preservation tracts, or within other privately managed tracts, such as flood hazard, recreation area, or stream, spring, seep, and wetlands tracts. Proposed tree preservation within tracts that are to be managed by the City of Portland or a service district, must be approved by the City or service district. Other trees may be preserved on the lots or in tracts.

Commentary

33.630.200 Tree Preservation Approval Criteria

Subsections were reordered to put maximizing tree preservation as the first criterion, followed by the prioritization of preservation, the suitability and condition of trees proposed for preservation, and finally mitigation.

33.630.200.D. Mitigation

The tree preservation standards previously were used in conjunction with the criteria. When the criteria found that preservation of alternate or fewer trees than what was required by the preservation standards, mitigation was required. The standards continue to be the basis for determining required mitigation, through a comparison of the quantity of trees required to be preserved via standards against the quantity and quality of trees proposed to be preserved under the criteria.

Minor corrections were made to include Pleasant Valley Natural Resource review and River Review along with environmental reviews.

33.630.200 Tree Preservation Approval Criteria

The following tree preservation approval criteria apply to land divisions that cannot, or choose not to, meet 33.630.100, Tree Preservation Standards. Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

- AC.** Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:
1. The specific development proposed;
 2. The uses and intensity of development expected in the zone and the area in which the site is located;
 3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;
 4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and
 5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.
- BA.** To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the *Portland Plant List*, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;
- CB.** Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;
- D.** Mitigation. Where the minimum tree preservation standards of 33.630.100 can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent environmental review, River Review or Pleasant Valley Resource review ~~Environmental Review~~ and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

Commentary

33.630.400.B.1. Correcting an erroneous cross reference to a section in the multi dwelling base zones that had been renumbered with the Better Housing by Design project.

33.630.500 Tree Preservation Credit

These regulations allow applicants to count trees that are preserved in tree preservation tracts toward individual lot tree density requirements (applied at time of building permit). However, the rules still require that at least one tree be planted on each lot as a base minimum. With the passage of the Residential Infill Project, more types of residential structure types may be allowed on individual lots. Rather than limit this baseline to single-dwelling or duplex development, or triplex and fourplex development, this change ensures that each lot in the land division site will be required to plant or retain one tree on each lot, regardless of the type of development proposed (when trees are being retained elsewhere in tree preservation tracts).

Minor corrections were made to include the River Environmental overlay zone.

33.630.700 Relationship to other Tree Regulations

This section is deleted. It was a practice in some cases for chapters of the zoning code to refer to other regulations, especially if the regulations in the zoning code either modified, superseded or were superseded by those other regulations.

The reference in this case is superfluous. Deleting this section does not affect how other regulations of this or other titles relate to trees on land division sites.

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

- A. Site-related development standards.** The review body may consider modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word “prohibited,” or a regulation that is a qualifying situation or threshold is prohibited.

In order to approve the modification, the review body must find that the modification will result in improved tree preservation, considering the tree preservation priorities for the site, and will, on balance, be consistent with the purpose of the regulation being modified.

B. Minimum Density.

1. In multi-dwelling zones, minimum density may be reduced to preserve trees as stated in Paragraph 33.120.213205.B.3. This provision may be used to reduce minimum density during the land division process. Sites that reduce minimum density at the time of the land division are not eligible to further reduce minimum density at the time of development on the lots.
2. A reduction in minimum density in single-dwelling zones may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.
 - a. Minimum density may be reduced by 20 percent or one lot, whichever is more, up to a maximum reduction of 4 lots. Reductions greater than those listed in this paragraph are prohibited.
 - b. The review body will approve the reduction in minimum density if the following are met:
 - (1) The reduction in minimum density will result in improved tree preservation, considering the tree preservation priorities for the site; and
 - (2) The lot or lots where trees are proposed to be preserved are not large enough to be further divided under the current zoning. Trees proposed for preservation may be placed in a tree preservation tract to reduce lot sizes and provide better protection for the trees to be preserved.

33.630.500 Tree Preservation Credit

Trees that are preserved in a tree preservation tract that is outside of an Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zone may count toward meeting the tree density standards for individual lots in Chapter 11.50, Trees in Development Situations. If this option is chosen, at least one tree must be planted or preserved on each lot ~~created for single-dwelling or duplex development~~. The preliminary plan must indicate the lots where the credit from the preserved trees will be used.

33.630.600 Recording Tree Preservation Plans and Related Conditions

Tree preservation plans approved as part of the preliminary plan and related conditions of approval must be recorded with the County Recorder. The documents must be approved by BDS prior to recording.

~~**33.630.700 Relationship To Other Tree Regulations**~~

~~Other tree regulations of this Title and other Titles may apply at the time of a land division and at the time of development.~~

Commentary

33.631 Sites in the Flood Hazard Areas

Summary of changes to this chapter:

- Created a set of approval standards for land divisions in all zones

A note about Special Flood Hazard Areas

The Floodplain Resilience Plan (FRP) project made changes to several chapters of the zoning code and also changed the term "Special Flood Hazard Area" to "Combined Flood Hazard Area". The FRP will not take effect until March 1, 2024. Until such time, the amendments in this project will not reflect those changes until after they are in effect.

33.631.100 Flood Hazard Approval Standards

These amendments provide new approval standards for land divisions where any portion of the site has flood hazard areas present. The standards require that all lots be located outside the special flood hazard area. In addition, all services and utilities must be kept outside the special flood hazard area, with two limited exceptions. When BES has determined that stormwater may be discharged to the waterbody, stormwater outfalls may be constructed within the special flood hazard area. Additionally, connections that are made underground to existing sewer, stormwater, or water services that are already located in the special flood hazard area are also allowed. While new services should be constructed outside flood hazard areas, where existing serves are already present, it is inefficient to require new services be constructed. Subsurface connections are less prone to impacts from flooding, and plumbing requirements will ensure that these are built to minimize flood water intrusion.

The standards also require that the entire special flood hazard area be placed in a tract.

Applications that are unable to meet these standards may opt to meet the approval criteria in 33.631.200 instead.

33.631 Sites in Flood Hazard Areas

631

Sections:

- 33.631.010 Purpose
- 33.631.020 Where these Regulations ~~Approval Criteria~~ Apply
- 33.631.100 Flood Hazard Area Approval Standards
- ~~33.631.200 Special~~ Flood Hazard Area Approval Criteria

33.631.010 Purpose

The regulations for lands subject to regular or periodic flooding will help minimize public and private losses from flooding. The approval standards and criteria limit the creation of lots on lands subject to flood in order to direct development away from hazardous areas. The approval standards and criteria promote the safety and well-being of citizens and protect property while preserving the natural function of floodplains.

33.631.020 Where these ~~Approval Criteria~~ Regulations Apply

The standards stated in 33.631.100 apply to proposals for land divisions where any portion of the site is in the special flood hazard area. Adjustments to the standards are prohibited. For proposals that cannot meet all of the standards, the approval criteria stated in 33.631.200 apply. Where a proposal can meet the standards, the applicant may choose to meet all of the approval criteria stated in 33.631.200 instead of all of the standards.

~~The approval criteria of this chapter apply to proposals for land divisions where any portion of the land division site is in the special flood hazard area.~~

33.631.100 Flood Hazard Area Approval Standards

All of the following standards must be met.

- A. All proposed lots must be outside of the special flood hazard area;
- B. All services must be outside of the special flood hazard area, except as follows:
 - 1. Stormwater outfalls, when such discharges are allowed, are allowed within the special flood hazard area; and
 - 2. Subsurface connections to existing sewer, stormwater, or water services are allowed within the special flood hazard area.
- C. The special flood hazard area must be entirely within a tract.

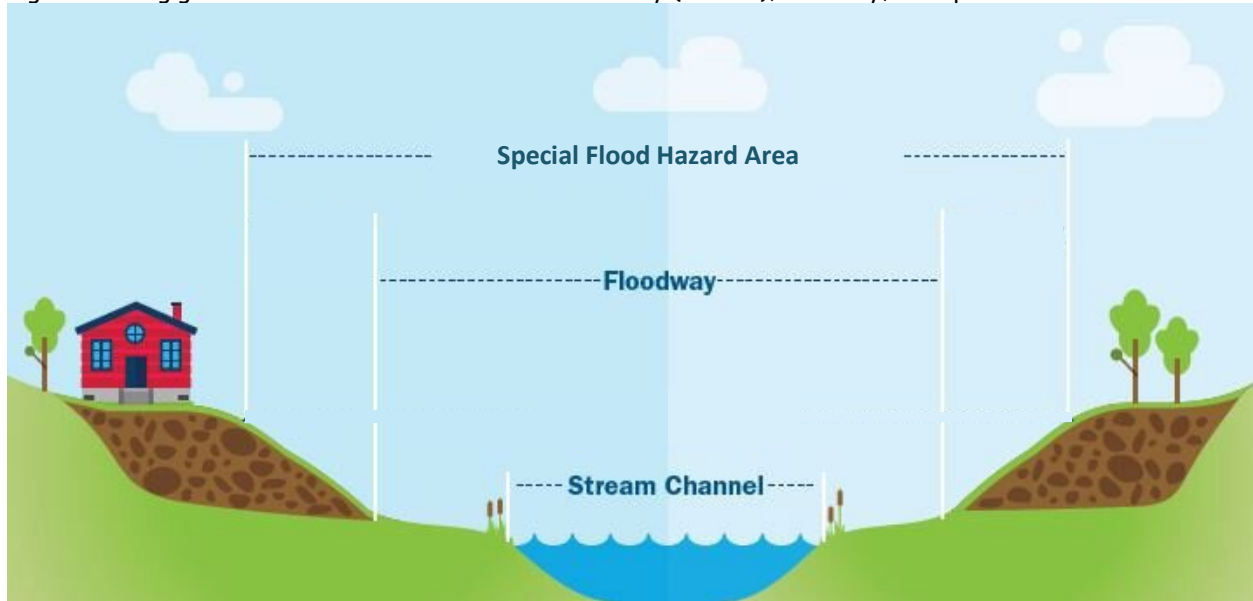
Commentary

33.631.200 Flood Hazard Area Approval Criteria

The flood hazard approval criteria apply when an applicant cannot or chooses to not meet the approval standards in 33.631.100.

These criteria are largely unchanged, except that the entire special flood hazard area, not just the floodway, should be placed in a tract when it's possible to do so. This is partly because residential zoned applications (which are required to place the entire special flood hazard area in a tract) may choose to use these criteria. The criteria allow an assessment of the feasibility of placing the entire special flood hazard area within a tract, whereas the standards do not have the benefit of this individualized assessment. The criteria maintain that the floodway must be placed in a tract as a minimum requirement.

Figure showing generalized cross section of the waterbody (stream), floodway, and special flood hazard area



33.631.1200 Flood Hazard Area Approval Criteria

~~A.~~ **RF through R2.5 zones.** The following criteria must be met in the RF through R2.5 zones:

- ~~1.~~ Where possible, all lots must be outside of the combined flood hazard area; and
- ~~2.~~ Where it is not possible to have all lots outside of the combined flood hazard area, all proposed building areas must be outside of the combined flood hazard area.

~~B.~~ **RM1 through RMP, C, E, I, IR, and CI zones.** The following criteria must be met in the RM1 through RMP, C, E, I, IR, and CI zones:

~~A1.~~ Each lot must have adequate area outside of the special flood hazard area to accommodate allowed or proposed uses. This criterion does not apply to river-dependent uses; ~~and~~

~~B2.~~ Where the proposed uses and development are river-dependent, lots must be configured so that development on them will minimize obstruction of floodwaters;:

~~C.~~ **In all zones.** The following criteria must be met in all zones:

~~1.~~ Services proposed in the special flood hazard area must be located and built to minimize or eliminate flood damage to the services; and

~~D2.~~ Where possible, the special flood hazard area must be entirely within a tract. At a minimum, the floodway must be entirely within a flood hazard area tract unless river-dependent land-uses and development are proposed on the site.

Commentary

33.632 Sites in Potential Landslide Hazard Areas

Summary of changes to this chapter:

- Created approval standards for single-dwelling residentially zoned land divisions
- Updated the potential landslide hazard area map and incorporated it into the zoning code

The purpose of these regulations is to reduce the risk of private and public losses from landslides. The current 1997 potential landslide hazard area map was created following the 1996 storm events to ensure that land divisions in areas of potential landslides are designed based on detailed knowledge of the site conditions. The 1997 map was based on the best available information at the time using a combination of sources to delineate potential landslide hazard areas. This data has subsequently been superseded by more accurate and detailed mapping published by the State Department of Geology and Mineral Industries (DOGAMI).

Experience by planners and engineers reviewing landslide hazard studies submitted for land divisions indicated that in some areas, particularly in southwest Portland, the existing map is overly conservative. Consequently, for some land division applications, a landslide hazard study provided no benefit to the property owner or public. In some areas, the 1997 map excludes properties that have a real landslide hazard. These areas include debris flow runout zones which, although not common, are a particularly high-risk type of landslide due to the speed of debris flows and their capacity for destruction. The landslide hazard area delineated on the new regulatory map is significantly more accurate than the 1997 potential landslide hazard area map.

Ordinance 190851, adopted June 1, 2022 updated the landslide hazard areas background maps in the Comprehensive Plan's Buildable Lands Inventory. The updated landslide hazard area map [New map 632-1] will replace the 1997 map to be used to determine which sites are regulated by this chapter. This map will also be available on the city's map system (Portland Maps) as a data layer which allows for a closer examination of the boundary of the hazard.

33.632.020 Where these regulations apply

This is an example where the variation in potential development from all zones is too broad to adequately address with a set of standards. These standards instead focus on smaller scale residential development in the single-dwelling zones and largely defer to the Certified Engineering Geologist and a Geotechnical Engineer's recommendations to address site suitability and slope stabilization. Sites in other zones are subject to the approval criterion.

33.632 Sites in Potential Landslide Hazard Areas

632

Sections:

33.632.010 Purpose

33.632.020 ~~Where This Approval Criterion Applies~~ These Regulations Apply

33.632.100 Landslide Hazard Area Standards

~~33.632.100~~200 Landslide Hazard Approval Criterion

33.632.010 Purpose

The ~~regulations approval criterion~~ regulations approval criterion for lands subject to landslide will help minimize public and private losses as a result of landslides. The ~~regulations approval criterion~~ regulations approval criterion limits the creation of lots on land subject to landslide hazard in order to direct development away from hazardous areas. The ~~regulations approval criterion~~ regulations approval criterion ensures that lots and development are located on a portion of the site that is suitable for development where the risk of a landslide is reasonably limited. In some cases, ~~the approval criterion will result in requirements to stabilize sites~~ will require stabilization through engineered solutions.

33.632.020 ~~Where These Regulations Apply~~ This Approval Criterion Applies

- A. The standards stated in 33.632.100 apply to proposals for land divisions in single-dwelling zones where any portion of the site is within a potential landslide hazard area shown on Map 632-1. Adjustments to the standards are prohibited. For proposals that cannot meet the standards, the approval criterion stated in 33.632.200 applies. Where a proposal can meet the standards, the applicant may choose to meet the approval criterion stated in 33.632.200 instead of the standards.
- B. The approval criterion stated in 33.632.200 applies to proposals for land divisions in the OS, multi-dwelling, C, E, I, CI and IR zones ~~of this chapter~~ applies to all proposals for land divisions where any portion of the site is within a potential landslide hazard area shown on Map 632-1.

Commentary

33.632.100 Landslide Hazard Area Standards

A. The use of standards is limited to two lot partitions in single-dwelling zones. Two lot partitions don't require streets or significant service infrastructure. There are 23,914 single-dwelling zoned, privately owned lots that have any amount of mapped landslide hazard area. The number of lots that are further dividable beyond two lots is approximately 1.5 percent of the total, and less than 1 percent of sites that are entirely mapped with landslide hazard area. Minimum densities are also reduced by the amount of area that is constrained by potential landslide hazard area, which would allow these sites to still adhere to the standards.

Amount of mapped landslide area	Total lots (single-dwelling)	Not dividable or dividable into max 2 lots	%	Potentially dividable into more than 2 lots	%
>0%	23,914	23,566	98.5%	348	1.5%
>25%	20,201	19,952	98.7%	249	1.3%
>50%	17,673	17,478	98.9%	195	1.1%
>75%	15,399	15,245	99%	154	1%
100%	12,913	12,794	99.1%	119	0.9%

B. The standards require that the applicant's Landslide Hazard Study, prepared by both a Certified Engineering Geologist and a Geotechnical Engineer, confirms that the proposed development will not be impacted by slope stability or other geotechnical hazards, or if there is potential for impact, that the study has reviewed the proposed development and made recommendations for any site modifications and methods to address slope stability issues.

C. The site will be conditioned to adhere to the relevant portions of the Landslide Hazard Study recommendations.

33.632.200 Approval Criterion

No changes are proposed to the current criterion. This will apply to land divisions of more than 2 lots in single-dwelling residential zones, and land divisions of any size in all other zones.

33.632.100 Landslide Hazard Area Standards

- A.** The application is for a proposal of no more than two lots;
- B.** The applicant has submitted a Landslide Hazard Study that either:
 - 1. Confirms that the proposed development will not be impacted by existing or potential slope stability problems and will not be impacted by any of the following site conditions, if present:
 - a. Slopes 20 percent or greater,
 - b. Springs or seeps,
 - c. Depth of soil bedrock,
 - d. Soil types,
 - e. Variations in soil types,
 - f. Open drainage ways,
 - g. Fill; or
 - 2. Finds that the proposed development may be impacted by one or more of the conditions identified in B.1. but the Landslide Hazard Study includes recommendations for the layout and design of the land division and proposed development; and
- C.** The site will be developed in accordance with the recommendations in the Landslide Hazard Study.

33.632.1200 Landslide Hazard Area Approval Criterion

The following approval criterion must be met: Locate the lots, buildings, services and utilities on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Specific improvements, engineering requirements, techniques or systems, or alternative development options, including alternative housing types and reduced density (minimum or maximum), may be required in order to facilitate a suitable development that limits the risk to a reasonable level. Reductions to minimum or maximum density are done as part of the land division review, and do not require an adjustment.

Commentary

Map 632-1 Potential Landslide Hazard Area

This new updated map will be incorporated into the zoning code (rather than being referenced to a separate ordinance). This improves transparency and facilitates future updates to the map. Applicants, the public, and review staff will also be able to use Portland Maps to more easily identify whether a site is in the potential landslide hazard area and how much area is affected. Review more detailed comparisons of the maps on the project Map App:

The difference in total area coverage between the existing and proposed regulatory maps is a net reduction of 1,799 acres.

Comparison of single dwelling zoned lots (prior landslide hazard map vs updated map):

<u>Affected SD zoned lots</u>	<u>Affected area SD zoned lots</u>	<u>No change</u>
Lots added=3,757	More area=1,883 lots	11,345 lots
Lots removed=9,405	Less area=7,268 lots	

Total existing regulated lots = 34,922 lots (all zones)

Total updated regulated lots = 32,460 lots (all zones)

Example of landslide impacting residential development: Rolling Hills Estates, CA 2023

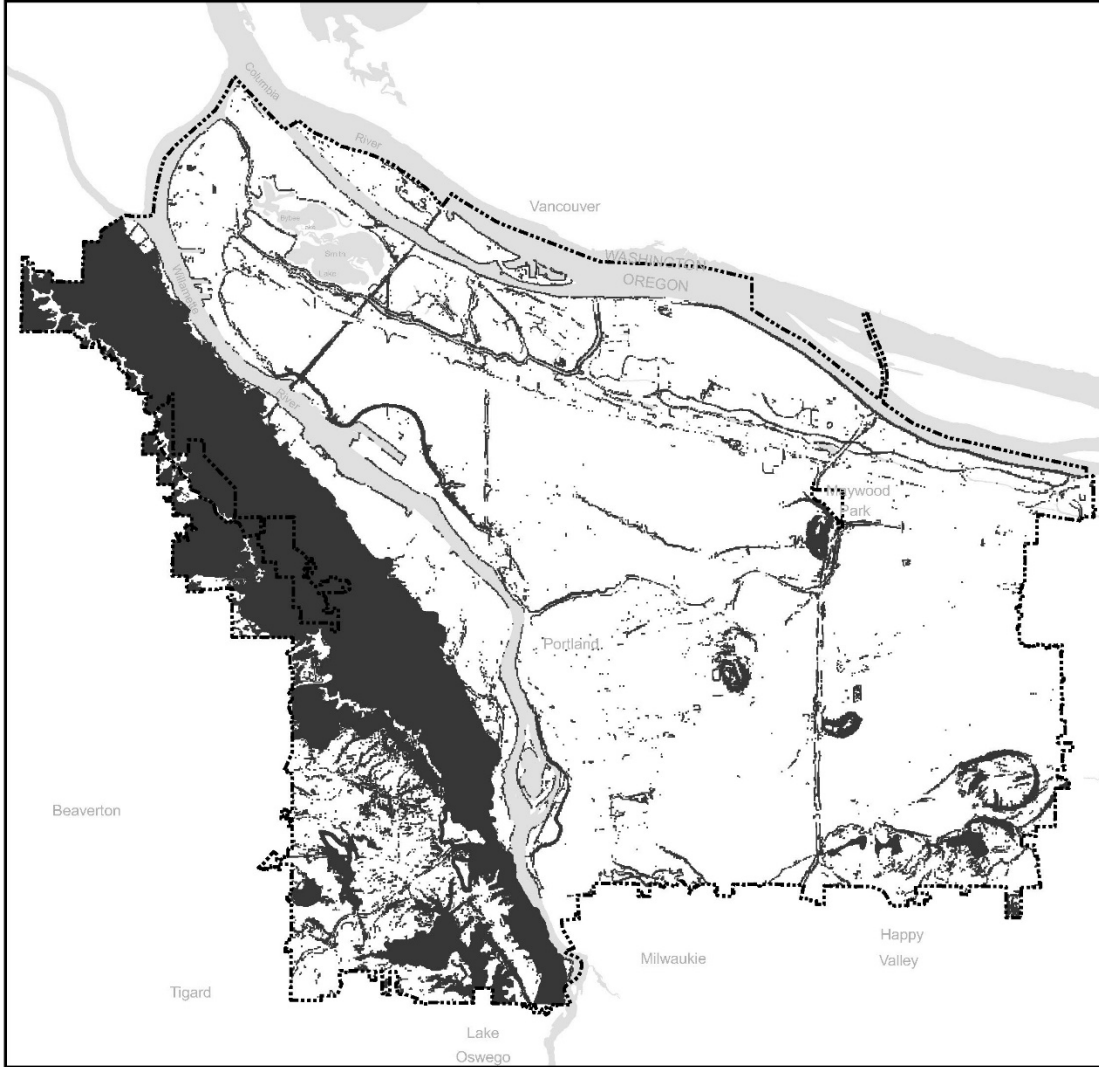


Language to be **added** is underlined
Language to be **deleted** is shown in ~~strikethrough~~

Potential Regulatory Landslide Hazard Area

Map 632-1

Map revised Xxxx X, 20XX



----- Urban Service Boundary

■ Regulatory Landslide Hazard Area



Commentary

33.633 Phased Land Divisions and Staged Final Plats

Summary of changes to this chapter:

- Changed land division size threshold
- Minor correction to add Pleasant Valley and River resource overlays

This regulations of this chapter are not often invoked as they provide an alternative process for single-dwelling zoned land division sites where the required minimum density is at least 40 lots. These regulations provide a mechanism to develop a very large site in multiple phases to reduce the upfront costs of constructing all the site improvements at one time.

However, sites that have certain constraints present may have no minimum required density, and based on the current language would be ineligible to phase the development, even when proposing more than 40 lots for the whole subdivision when built out. This change removes the reference to minimum density and looks at the total planned lots for all phases of the subdivision to determine eligibility.

A minor change is added here to include Pleasant Valley and River Environmental overlay zones consistent with environmental overlay zones.

33.633 Phased Land Divisions and Staged Final Plats

633

33.633.100 Purpose

Phased land divisions allow minimum density requirements for a site to be met in several phases rather than at one time.

33.633.110 Where These Standards Apply

The standards of Section 33.633.120 apply to proposals for phased land divisions in the RF through R2.5 zones.

33.633.120 Phased Land Division Standards

Phased land divisions are allowed if ~~the~~ all of the following are met. Adjustments to these standards are prohibited:

- A. The ~~required minimum density for the site~~ total number of lots proposed for all phases is 40 or more ~~lots~~;
- B. All portions of the site that are in the floodway or an Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zone ~~Overlay Zone~~ must be included in the first phase;
- C. All portions of the site that are to be divided in future phases must be held in non-development tracts;
- D. A future division plan must show how each subsequent phase can meet minimum density, the other requirements of Chapters 33.610 through 33.654, and all other regulations of the Portland City Code; and
- E. Applications for Preliminary Plan approval of subsequent phases are subject to the regulations in effect at the time of each application.

Commentary

33.634 Required Recreation Area

Summary of changes to this chapter:

- Converted standards plus criteria to standalone standards.
- Revised the applicability threshold
- Revised minimum area dimensions

This regulations of this chapter are not often invoked, and even less so as large land division sites are less common. Nevertheless, when a large land division site is developed, the required recreation area is an important component for the new neighborhood.

Currently, both the standards and the criteria must be met. The criteria do not add significantly to the standards (e.g. areas should be located where it is reasonable to develop and provide reasonable access). These changes strengthen/clarify the standards and remove the criteria. Exceptions to the standards may be requested through an adjustment.

33.634.100 Where These Regulations Apply

The regulations of this chapter currently apply to the single-dwelling and multi-dwelling zones when at least 40 dwelling units are proposed, or when the minimum required density is 40 dwelling units in multi dwelling zones. With the wider variety of housing types allowed in single-dwelling zones as well as the types allowed in multi dwelling zones, using "units" as a threshold would mean that in some cases, lots would need to be conditioned to certain housing types. For example, an application that proposed 19 duplex lots but no recreation area would mean that those lots could not be built with fourplexes, even if they were allowed, as that would exceed the 40 dwelling unit threshold. Moreover, in the multi dwelling zones, 40 unit minimum density can apply to very small sites (e.g. 1 acre in RM3), which makes it impractical to meet other dimensional standards of the open area requirements. Also, the multi dwelling base zones include common area requirements for larger multi dwelling development projects already.

The threshold change will apply these regulations to residentially zoned sites when the proposal includes at least 40 *lots*, as opposed to being tied to a particular number of dwelling units, which will enable greater development flexibility on those lots, while still providing for recreation areas within land divisions that involve significant amounts of site area.

33.634 Required Recreation Area

634

Sections:

- 33.634.010 Purpose
- 33.634.100 Where These Regulations Apply
- 33.634.200 Required Recreation Area Approval Standards
- ~~33.634.300 Required Recreation Area Approval Criteria~~

33.634.010 Purpose

Providing area for recreation ensures that the recreational needs of those who will live on the site will be accommodated. Large land divisions — ~~those that will create a minimum of 40 new dwelling units~~ — create a neighborhood that is big enough to warrant a recreation area that is accessible to all in the new community. Creating the space for recreation at the time of the land division is the most efficient way to ensure that the space is created. The land division process provides the opportunity to design the recreation area so that it relates to the lot and street pattern of the land division.

33.634.100 Where These Regulations Apply

The regulations of this chapter apply to land divisions in residential zones when the proposed density is 40 or more lots, dwelling units. ~~In multi-dwelling zones, where no development is specifically proposed with the land division, the regulations of this chapter apply when the minimum required density for the site is 40 or more units.~~

33.634.200 Required Recreation Area Approval Standards

The following standards must be met:

- A. Size.** At least 10 percent of the total site area of the land division site must be devoted to recreation area.
- B. RF-RM1 and RMP zones.** In the RF-RM1 and RMP zones, the recreation area must be in one or more recreation area tracts. Recreation area tracts must meet the requirements of Subsection D., below.
- C. RM2-RX and IR zones.** In the RM2-RX and IR zones, the recreation area may be in one or more recreation area tracts, in a roof-top garden, or in floor area improved for the purpose of passive or active recreation. Recreation area tracts must meet the requirements of Subsection D., below.

Commentary

33.634.200 Required Recreation Area Approval Standards

D.1 The dimension standards have also been reduced from 100x100 (10,000 sq ft) to 75x75 (5,625) to provide more flexibility, while still retaining the same 10 percent site area requirement.

D.2. To provide for more reasonable locations for active recreation areas, which typically require flat area for fields, sport courts, etc. a maximum slope standard applies.

D.3. This standard is being renamed since it refers more to the ability to get to the recreation area, than specific mobility/accessibility requirements for features within the recreation area.

D.5. Previously, the criteria supplemented the standards. The standards have now been crafted to work as stand-alone requirements. This necessitated the need to incorporate the improvement criteria into the improvement standards. The standard now requires that both passive and active recreation uses be provided for on the site, but do not necessarily need both to occur within each recreation area, when there are multiple areas.

33.634.300 Required Recreation Area Approval Criteria.

Currently, the criteria supplement the standards. The standards now act as stand-alone requirements. The criteria are deleted. Exceptions to the standards may be requested through an adjustment.

D. Recreation area tracts. Recreation area tracts required by this chapter must meet the following standards:

1. Size. Each tract must be at least ~~75~~100 feet wide by ~~75~~100 feet deep;
2. Location. No more than 50 percent of each recreation area tract may be in an Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zone ~~Overlay Zone~~ or in a special flood hazard area. Active recreation areas may not be located on slopes exceeding 5 percent;
3. ~~Accessibility.~~ Each recreation area tract must have at least 30 feet of street frontage;
4. Ownership. The tracts must be owned in common by all of the owners of the land division site, owned by a Homeowners' Association, or owned by a public agency; and
5. Improvements. Provision for both active and passive recreation must be included. Where there is more than one recreation area, not all areas must be improved for both active and passive recreation. Recreation areas must include at least one of the following improvements: children's play equipment, picnic area, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. The applicant must submit a surety and construction timing agreement prior to final plat approval. The construction timing agreement will specify the installation schedule of all improvements.

~~33.634.300 Required Recreation Area Approval Criteria.~~

All of the following approval criteria must be met:

- ~~A. Location.~~ Each recreation area must be located on a part of the site that can be reasonably developed for recreational use;
- ~~B. Accessibility.~~ Each recreation area must be reasonably accessible to all those who will live on the land division site; and
- ~~C. Improvements.~~ Each recreation area must be improved in order to meet the recreational needs of those who will live on the land division site. Provision for both active and passive recreation must be included. Where there is more than one recreation area, not all areas must be improved for both active and passive recreation. Recreation areas may include improvements such as children's play equipment, picnic areas, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. Surety may be required which specifies the timing of recreation area improvements. The recreation area improvements should be installed before any of the dwelling units on the site have received final inspection.

Commentary

33.635 Clearing, Grading, and Land Suitability

Summary of changes to this chapter:

- Created a set of grading standards for residentially zoned land divisions
- Created a set of land suitability standards for residentially zoned land divisions

33.635.020 Where These Requirements Apply

This is another example where the applicability of standards is limited, in this case to residential zones only. Preparation of land divisions sites that are for commercial or industrial development requires a very different set of considerations that would inevitably add complexity to the standards.

This section establishes that applications for land divisions in single-dwelling and multi-dwelling residential zones may either adhere to the approval standards or meet the approval criteria. All other land divisions must meet the approval criteria.

33.635 Clearing, Grading, and Land Suitability

635

Sections:

- 33.635.010 Purpose
- 33.635.020 Where These ~~Regulations~~ Approval Criteria Apply
- 33.635.100 Clearing and Grading ~~Approval Standards~~ Criteria
- 33.635.150 Land Suitability Standards
- 33.635.200 Clearing and Grading Approval Criteria
- 33.635.250 Land Suitability Approval Criterion

33.635.010 Purpose

These ~~regulations~~ approval criteria:

- Ensure limits of disturbance are reasonable given infrastructure needs, site conditions, and tree preservation requirements;
- Limit impacts of erosion and sedimentation;
- Protect water quality and aquatic habitat;
- Allow some site development activities to occur before Final Plat approval; and
- Ensure that new lots can be safely developed.

33.635.020 Where These ~~Regulations~~ Approval Criteria Apply

- A. The standards stated in 33.635.100, Clearing and Grading Standards, apply to proposals for land divisions in residential zones. Adjustments to the standards are prohibited. For proposals that cannot meet all of the standards, the approval criteria stated in 33.635.200 apply. Where a proposal can meet the standards, the applicant may choose to meet all of the approval criteria stated in 33.635.200 instead of all of the standards.
- B. The standards stated in 33.635.150, Land Suitability Standards, apply to proposals for land divisions in residential zones. Adjustments to the standards are prohibited. For proposals that cannot meet all of the standards, the approval criterion stated in 33.635.250 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criterion stated in 33.635.250 instead of all of the standards.
- C. The approval criteria of 33.635.200 and .250 ~~this chapter~~ apply to proposals for land divisions in the OS, C, E, I, CI and IR ~~all~~ zones.

Commentary

33.635.100 Clearing, Grading, and Land Suitability Approval Standards

New approval standards have been added for residentially zoned land division applications. Because standards are clear and objective and therefore less flexible in terms of considering various site characteristics and conditions, the standards for clearing and grading take a more conservative approach. If additional flexibility is required, the approval criteria may be followed.

- A. To prevent sites from being entirely cleared (and perhaps remain that way until building permits are subsequently submitted) the standards limit clearing and grading to the areas necessary to construct improvements associated with the land division. Clearing and grading for buildings on the lots will be reviewed with the building permit.
- B. Topsoil. To encourage the reuse of topsoil on a site and limit the extent of soil removal, a maximum of 10 cubic yards of soil may be removed from or deposited on the site (this is about 1 full dump truck).
- C. Grading area limitations.
 - Tree Preservation. The standards require that all clearing and grading activity be confined to areas outside the root protection zones. Encroachments are better reviewed through approval criteria.
 - Areas with water resources (e.g. seeps, flood areas) or other environmental resources require more specific detailed review of grading plans. Note that BES also regulates grading within drainage reserves. Some of these drainage reserves do not have an accompanying stream. Proposed grading in those drainage reserves would be allowed per these standards, so long as the remaining standards are also met. It should also be noted that there are specific limits of ground disturbance for overlay zones with environmental resources that are established through those separate standards or can be established through environmental (or River, or Pleasant Valley resource) review. So these “non-disturbance” areas do not need to be specifically called out here.
 - Landslide hazards. Sites that are located in a potential landslide hazard area pose potential elevated risks to public safety as a result of improperly designed or executed clearing and grading plans, which also usually require adherence to specific recommendations in a landslide hazard study, including “no build” areas or specific slope setbacks.

33.635.100 Clearing and Grading Standards

The preliminary clearing and grading plan must meet the following standards:

- A.** Clearing and grading is limited to areas where services, streets, pedestrian connections, and alleys will be constructed;
- B.** No more than 10 cubic yards of soil will be removed from or deposited on the site; and
- C.** No clearing or grading is proposed within:
 - 1. Root protection zones of trees to be preserved;
 - 2. Streams, springs, seeps, or wetlands tracts or easements;
 - 3. The floodway; or
 - 4. Areas of the site identified in the applicant’s Landslide Hazard Study as “Hazardous,” “No Build,” or within recommended building setbacks from slopes;

Commentary

33.635.150. Land Suitability Standards

Land suitability regulations are intended to make sites safe for future development. The first standard addresses previous historic uses that are most associated with potential contamination. These land uses are more prone to have site contamination resulting from improperly contained disposal or in the case of firing ranges, lead from spent ammunition. As these standards are only applicable to single-dwelling zoned sites, this standard will be largely inapplicable except to some sites with non-conforming or long-abandoned uses.

Examples of uses in the industrial use category include:

Bulk Fossil Fuel Terminal - crude oil terminals, petroleum products terminals, natural gas terminals, propane terminals, and coal terminals

Industrial Service - welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire retreading or recapping; truck stops; building, heating, plumbing or electrical contractors; trade schools where industrial vehicles and equipment, including heavy trucks, are operated; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; drydocks and the repair or dismantling of ships and barges; laundry, drycleaning, and carpet cleaning plants; and photofinishing laboratories.

Manufacturing and Production - processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie and video production facilities; recording studios; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including manufactured dwellings; and Utility Scale Energy production.

Railroad yards

Waste-related: sanitary landfills, limited use landfills, waste composting, solid waste incinerators that generate energy but do not meet the definition of Small Scale Energy Production, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous-waste-collection sites.

The standards also address soil stability for construction purposes (un-engineered fills that can compact unevenly).

The last standard requires that certain abandoned utilities and equipment that may pose an environmental health hazard or create sinkholes as they deteriorate must be removed before the plat is finalized.

33.635.200 Clearing, Grading Approval Criteria

These provisions are unchanged.

33.635.250 Land Suitability Approval Criterion

These provisions are unchanged.

33.635.150 Land Suitability Standards

The following standards must be met:

- A.** There is no record of the following uses existing or having existed on the site:
 - 1. Any use in the Industrial Use category, except Wholesale Sales;
 - 2. Quick Vehicle Servicing; or
 - 3. Outdoor firing range.
- B.** Any un-engineered fill in areas where buildings, streets, vehicle areas or services will be located must be removed; and
- C.** Prior to final plat, any underground facilities that will not remain in use must be decommissioned. Examples of such facilities include sewage or stormwater disposal or heating oil tanks.

33.635.~~100~~200 Clearing and Grading Approval Criteria

The Preliminary Clearing and Grading Plan must meet the following approval criteria:

- A.** Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
- B.** Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
- C.** Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
- D.** Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete;
- E.** Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable; and
- F.** The limits of disturbance and tree protection measures shown on the Preliminary Clearing and Grading Plan must be adequate to protect trees to be retained on the tree preservation plan.

33.635.~~200~~250 Land Suitability Approval Criterion.

Where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

Commentary

33.636 Tracts and Easements

Summary of changes to this chapter:

- Clarified how this chapter applies to non-required easements on plats

In some cases, applicants will propose and show easements on plats for items that are not required by the City. For example, an easement may be granted to an adjoining neighbor for a fence encroachment. In these cases, the City does not want to require a maintenance agreement or be party to the easement as this can create issues later, when the property owners wish to vacate or change the terms of the easement, in which case the City must review and approve the request. The current language also requires that the easement language be reviewed and approved by BDS and the city attorney, even if it is not necessary for the land division approval.

This change clarifies that these non-required easements are not subject to the maintenance agreement requirements.

33.636 Tracts and Easements

636

Sections:

33.636.100 Requirements for Tracts and Easements

33.636.100 Requirements for Tracts and Easements

- A. Ownership of tracts.** Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:
1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
 2. The Homeowners' Association for the area served by the tract;
 3. A public or private non-profit organization; or
 4. The City or other jurisdiction.
- B. Maintenance agreement.** The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of ~~the tracts~~ or easements required by City codes or regulations; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney, or submitted on forms approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Commentary

33.639 Solar Access

Summary of changes to this chapter:

- Deleting this chapter.

The solar access chapter was added as part of the land division rewrite project, completed in 2002. Those original standards and criteria have been modified over time, as experience in administering the requirements has proven difficult, or has conflicted with other land division requirements (such as street connectivity, tree preservation, minimum density, and lot dimensional requirements). In addition, the requirements have been applied in areas where it is not sensible such as in heavily forested areas, or on north facing or steeply sloping slopes affected by topographical shading. It is also challenging to meet the requirements for smaller land divisions (where there is not much variability in lot widths or are not creating streets) as well as high density areas (where proposed lots are very small).

Effective application of these requirements continues to be challenging, with the bulk of cases being deemed impractical/practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's, and thus exempt from the standards. Even in the few cases where the requirements were able to be applied, the outcome did not necessarily meaningfully improve solar access.

Discussions with review staff, and conversations with planners in neighboring jurisdictions indicate that the potential benefits of the regulating solar access is outweighed by the regulatory complexity involved to achieve meaningful solar access gains, and the limited number of sites and development types that are well suited to the requirements.

33.639 Solar Access

639

Sections

33.639.010 Purpose

33.639.020 Where These Approval Criteria Apply

33.639.100 Solar Access Approval Criteria

33.639.010 Purpose

The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

33.639.020 Where These Approval Criteria Apply

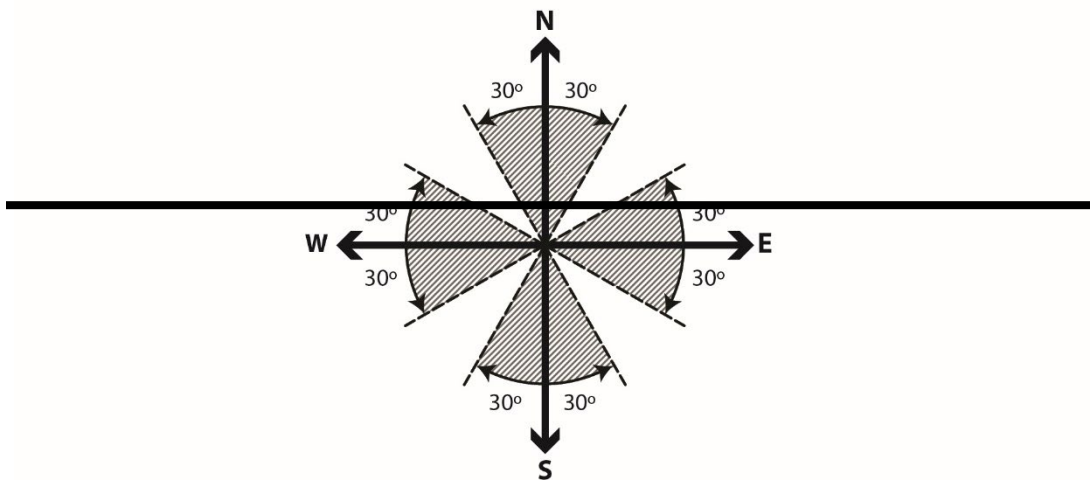
The approval criteria of this chapter apply to lots for single-dwelling detached development created as part of a land division proposal in all zones. Where it is not practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's, the regulations of the other chapters supersede the approval criteria of this chapter.

33.639.100 Solar Access Approval Criteria

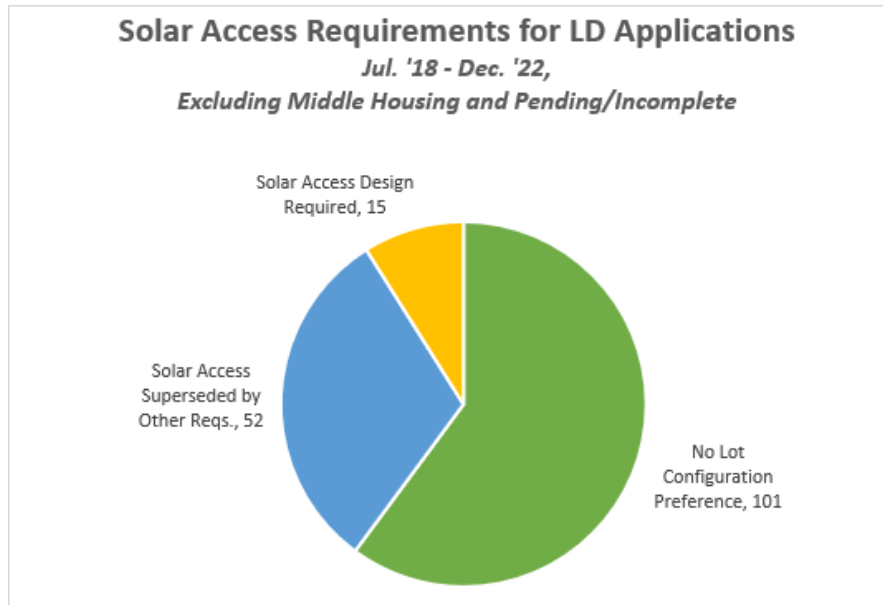
All of the following approval criteria must be met:

- A. On streets that are within 30 degrees of a true east-west axis, see Figure 639-1, the narrowest lots should be:
 - 1. Interior lots on the south side of the street. See Figure 639-2; and
 - 2. Corner lots on the north side of the street. See Figure 639-3.
- B. On streets that are within 30 degrees of a true north-south axis, the widest lots should be interior lots on the east or west side of the street. See Figure 639-4.

Figure 639-1
Axes within 30-Degrees of North-South and East-West



Commentary



Solar Access Design Required

Between July 2018 and December 2022, there were 15 cases out of 168 which were required to meet the solar access requirements. The findings provided for these cases demonstrated that the applicable lot design was applied. It's worth noting that some of these cases demonstrated compliance using only negligible differences in lot width. For example, a corner lot which was required to be wider than the adjacent interior lots was 26 feet wide, while the interior lots were 25 feet wide.

Solar Access Requirements Superseded by Other Requirements

There were 52 cases out of 168 where the solar access requirements were superseded by other requirements. In most of these cases, the findings for solar access stated the following:

"Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639)"

Some other examples of requirements that superseded solar access design included maintaining existing trees on site, complying with PBOT driveway separation, and more general references to "other standards and approval criteria of other chapters in the 600's".

No lot configuration preference

The remaining 101 cases were also not subject to the solar access design requirements. This included cases where no corner lots were proposed, no single-dwelling housing was proposed, or multi-dwelling housing was proposed on the corner lot where the requirements would have otherwise applied.

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

Figure 639-2
Interior Lots on South Side of Street

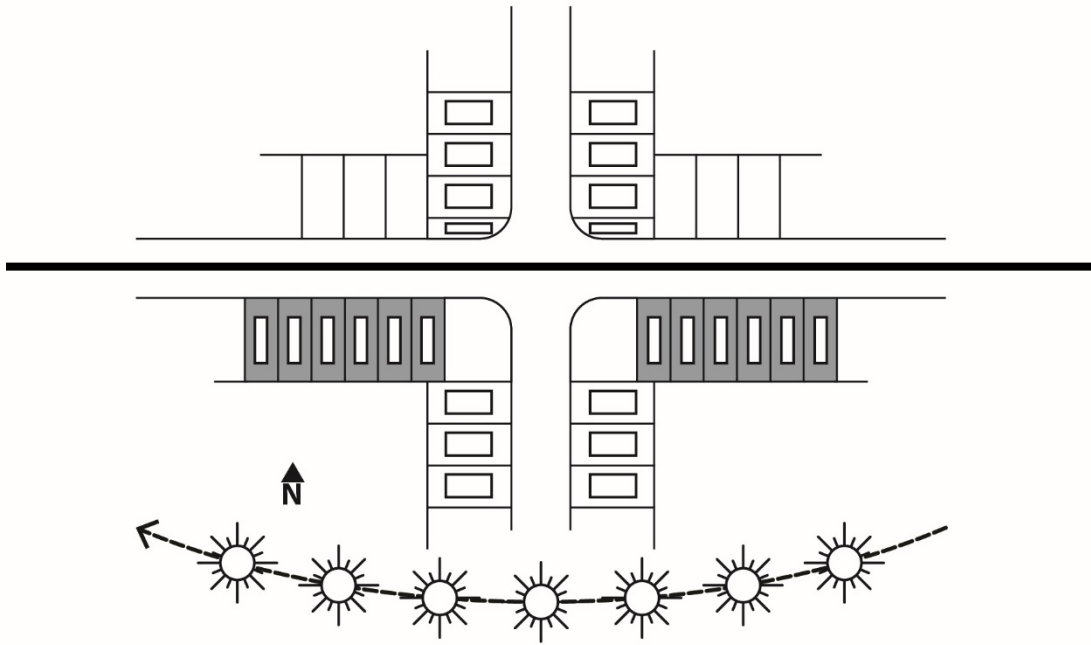
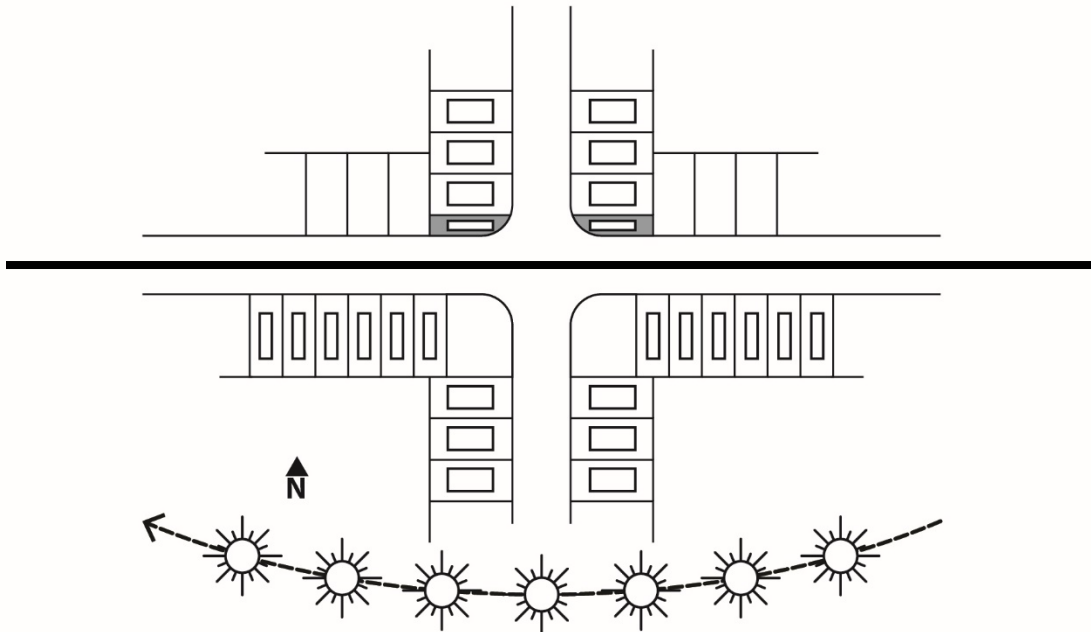


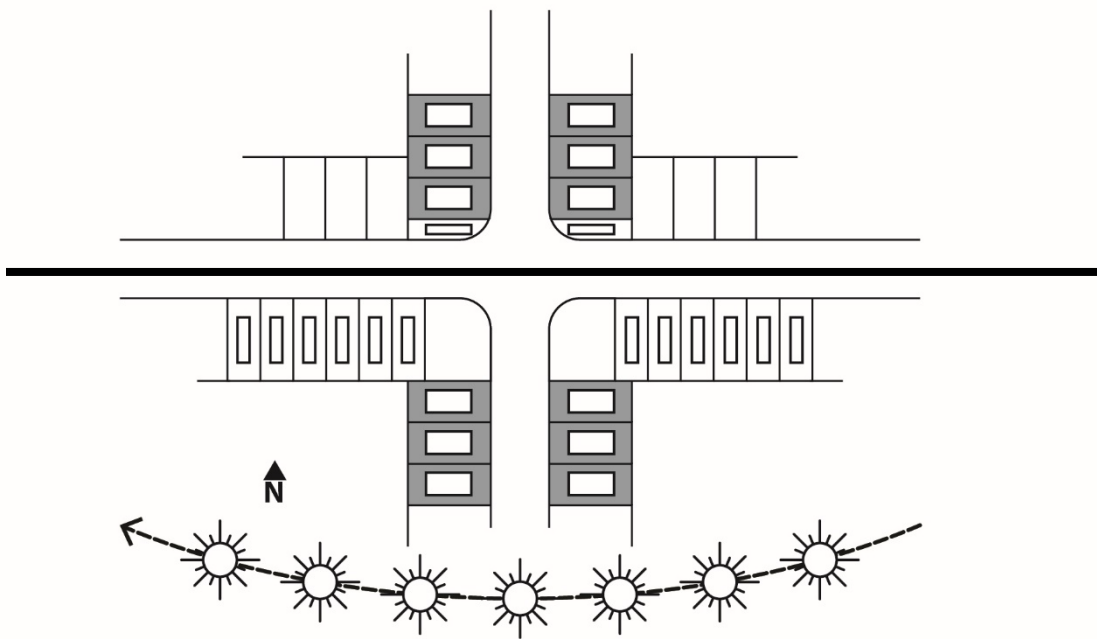
Figure 639-3
Corner Lots on North Side of Street



Commentary

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

Figure 639-4
Interior Lots on East and West Side of Street



Commentary

33.640 Streams, Springs, Seeps, and Wetlands

Summary of changes to this chapter:

- Included minor changes to reflect that minimum parking is no longer required.
- Created a non-discretionary standard limiting right of way crossings.

33.640.100 Where these standards apply

A minor change is included to add the Pleasant Valley and River Environmental overlay zones which had been previously omitted.

33.640.200.B.1

Stormwater discharge to a stream or wetland may be allowed when other stormwater solutions are not practical or available. This is more explicitly described in the Stormwater Management Manual (SWMM), and such determinations are made in conjunction with the review of the stormwater system design (under 33.653). BDS works in conjunction with BES in some cases to assist in that review, but the current code is inaccurate. This change makes the approval requirement more consistent with Title 17 and the SWMM.

33.640 Streams, Springs, Seeps, and Wetlands

640

Sections:

- 33.640.010 Purpose
- 33.640.100 Where These ~~Standards~~ Regulations Apply
- 33.640.200 Stream, Spring, Seep, and Wetland Standards
- 33.640.300 Driveway and Rights of Way Crossing Approval Criteria

33.640.010 Purpose

The standards in this chapter ensure that important streams, springs, seeps, and wetlands that are not already protected by the Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zones ~~Overlay Zones~~, are maintained in their natural state.

33.640.100 Where These ~~Standards~~ Regulations Apply

The regulations ~~standards~~ of this chapter apply to all land divisions where a stream, spring, seep, or wetland on the site is outside of an Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zone ~~Overlay Zone~~. For purposes of this chapter, the definition of stream does not include the Willamette or Columbia River.

33.640.200 Stream, Spring, Seep, and Wetland Standards

- A. Preservation in a tract. Streams, springs, seeps, and wetlands must be preserved in a tract as follows:
 - 1. The edges of the tract must be at least 15 feet from the edges of the stream, spring, seep, or wetland. The edges of a seep, spring, or wetland are determined through a wetland delineation, performed by an environmental scientist, and approved by BDS. For seeps and springs, if one or more wetland characteristics are absent from the resource, the delineation will be based on the wetland characteristics present. The edges of a stream are defined as the top-of-bank. Where the edge of the stream, spring, seep, or wetland is less than 15 feet from the edge of the site, the tract boundary will be located along the edge of the site;
 - 2. Existing structures within the area described in Paragraph A.1 may be excluded from the tract;
 - 3. Exception. Where the tract required by Paragraph A.1 would preclude compliance with the front lot line requirements of Chapters 33.610 through .615, the stream, spring, seep, ~~stream,~~ or wetland may be in an easement that meets the other requirements of Paragraph A.1.
- B. Development allowed in the tract or easement. The following development, improvements, and activities are allowed in the tract or easement:
 - 1. Disturbance associated with discharging stormwater to the stream channel or wetland, if when BES has preliminarily approved the stormwater system design ~~determined that the site's storm water cannot discharge to a storm sewer and BDS has determined that on-site infiltration is not an option;~~
 - 2. Removal of non-native invasive species with hand held equipment;

Commentary

33.640.200.B.5 is being amended because minimum on-site parking is no longer required as a result of changes to state rules regarding parking mandates (See the Parking Compliance Amendments Project, effective June 2023). Therefore, there is no longer a requirement for a driveway to cross a Stream, Spring, Seep, and Wetland tract or easement. Driveway and public or private rights of way crossings are not permitted unless the criteria in 33.640.300. can be met.

33.640.200.C is being deleted as these are all discretionary criteria. They have been incorporated into a new Section 33.640.300 as a supplementary set of criteria when a crossing has been proposed.

3. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;
 4. Erosion control measures allowed by Title 10 of Portland City Code;
 5. Construction of a walkway no wider than 5 feet and ~~required driveway connections or~~ required connections to services ~~when there is no practicable alternative to locating the driveways or service connections within the tract or easement;~~ and
 6. Maintenance and repair of existing utilities, services, and driveways;
- C.** Public or private rights-of-way and driveways may not cross a stream, spring, seep, or wetland tract or easement. Adjustments are prohibited; however a crossing may be allowed when the approval criteria stated in 33.640.300 Driveway and Rights of Way Crossing Approval Criteria are met.
- ~~C.~~ ~~When tract or easement may be crossed by a right of way. Public or private rights of way may cross the seep, spring, or stream tract or easement if the following approval criteria are met:~~
- ~~1. There is no reasonable alternative location for the right of way;~~
 - ~~2. The applicant has demonstrated that it is possible to construct street improvements within the right of way that will meet all of the following:~~
 - ~~a. The street improvements will not impede the flow of the stream, spring, or seep;~~
 - ~~b. The street improvements will impact the slope, width, and depth of the stream channel, spring, or seep to the minimum extent practicable; and~~
 - ~~c. The street improvements will not impede fish passage in a stream, spring, or seep has been identified by the Oregon Department of Fish and Wildlife as fish-bearing.~~
- D.** Minimum density. Minimum density is waived in order to ~~better~~ meet these standards.

Commentary

33.640.300 Driveway and Rights of Way Crossing Approval Criteria

These criteria were previously in Section 33.640.200 but were removed in order to make that section entirely clear and objective. This new section provides additional criteria for when tracts or easements may be crossed.

33.640.300 Driveway and Rights of Way Crossing Approval Criteria

Driveways and public or private rights-of-way may cross the stream, seep, spring, or wetland tract or easement when the following approval criteria are met:

- A. There is no reasonable alternative location for the driveway or right-of-way;
- B. The applicant has demonstrated that it is possible to construct the driveway or street improvements within the right-of-way that will meet all of the following:
 - 1. The driveway or street improvements will not impede the flow of the stream, spring, seep or wetland;
 - 2. The driveway or street improvements will not impede fish passage in a stream, spring, or seep or wetland that has been identified by the Oregon Department of Fish and Wildlife as fish-bearing; and
 - 3. The driveway or street improvements will have the minimum impact practicable to the slope, width, and depth of the stream channel, spring, seep or wetland.

Commentary

33.641 Transportation Impacts

Summary of changes to this chapter:

- Created new standards for single dwelling residential zoned land divisions

33.641.015 Where these regulations apply

The Transportation Impacts chapter is another example where the proposed standards have been tailored specifically to single-dwelling zones. Other zones allow for too broad of development outcomes to be adequately captured in a set of standards. In single-dwelling zones, lots can be built with 1 and sometimes up to 4 units. In multi dwelling zones, the number of units (and hence the potential for impacts to the transportation system) is limited only by floor area, and the specific number of units is not known until the development occurs. In commercial/mixed use zones, a wide variety of retail or professional service uses along with residential development can be co-mingled. And in employment and industrial zones, the types of vehicles coming to and leaving the site can be altogether different from passenger vehicles. For those cases, and cases where a single-dwelling zoned site cannot or chooses not to meet the standards, the approval criterion is available.

33.641.100 Approval Standards.

A. The standards were developed for proposals that are expected to generate a limited amount of vehicular traffic. Per the Institute of Transportation Engineers (ITE), trip generation rates are lower for fourplexes (6.74 per unit) than they are for single-dwelling houses (9.43 per unit). A 250 trip threshold provides for between 26 houses and 37 fourplex units or various other combinations. For purposes of a clear and objective standard, 10 lots is proposed, which enables the greatest flexibility for future development on those lots. Ten single-dwelling zoned lots can accommodate between 10 houses, 20 duplex units or up to 40 fourplex units. Larger land divisions may still meet the standards, when applicants propose other measures to effectively reduce trips to achieve the 250 trip threshold. For example proposing a 26 lot land division for single houses, or evaluating the site specific location of the subdivision to establish a local trip generation rate that may be different than the ITE national rate.

Note that the application submittal requirements in 33.730 have been adjusted so that the requirement to submit a transportation impact study is more aligned with Title 17.88 and these new standards.

B. In addition, to meet these standards, access to the lots must be from an existing local street or alley, where turning conflicts are reduced and backing maneuvering is less of an issue. Driveways will still be required to meet Title 17 requirements at time of development, but since parking is not required, there may be cases where driveway access would not be allowed, based on sight or stopping distance requirements or unusual road geometry (e.g. blind curves).

It is also important to emphasize that should an applicant opt to propose a specific development proposal (e.g. 26 house lots) or choose to limit access, these may be recorded as conditions of approval for the lots and subsequent development. Altering those conditions after the subdivision has been approved would require a costly and time-consuming process, and demonstration that the approval criterion is met at that time.

33.641 Transportation Impacts

641

Sections:

33.641.010 Purpose

33.641.015 ~~Where This Approval Criterion Applies~~ These Regulations Apply

33.641.100 Approval Standards

~~33.641.020~~200 Approval Criterion

33.641.010 Purpose

The regulations of this chapter allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. ~~Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects.~~ The purpose of a transportation impact study is to assess the effects of routing or volume of traffic in the vicinity of the site on traffic conditions, transit, and pedestrian and bicycle movement, ~~and~~ neighborhood livability.

33.641.015 ~~Where This Approval Criterion Applies~~ These Regulations Apply

~~This approval criterion applies to land divisions in all zones.~~

- A. The standards stated in 33.641.100 apply to proposals for land divisions located entirely within a single-dwelling zone. Adjustments to the standards are prohibited. For proposals that cannot meet the standards, the approval criteria stated in 33.641.200 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criteria stated in 33.641.200 instead of the standards.
- B. The approval criteria stated in 33.641.200 apply to proposals for land divisions located partly in a single-dwelling zone and partly in another zone, and to proposals for land divisions in the OS, multi-dwelling, C, E, I, CI and IR zones.

33.641.100 Approval Standards

- A. No more than 10 lots are proposed, unless:
 - 1. The application includes a specific development proposal for all the proposed lots that will generate no more than 250 net new daily vehicle weekday trips as demonstrated in the applicant's transportation impact study; and
 - 2. The applicant has agreed to construct improvements and mitigation measures recommended by the transportation impact study in order to remain below the trip generation rate threshold.
- B. Each lot is configured so that at least one of the following is met:
 - 1. Vehicle access to the lots will be solely from an existing local service street, private street, or alley and the proposed driveways meet Title 17.88 Street Access; or
 - 2. The applicant has proposed that there will be no vehicle access to the lots.

Commentary

33.641.200 Approval Criterion

On street parking impacts have been deleted from the approval criterion. The relationship between off-street and on-street parking was more important when the zoning code had off-street parking minimums. However, with the recent adoption of the Parking Compliance Amendments Package, the City no longer requires minimum off-street parking. These parking amendments were done to comply with recent state rule changes. Because the zoning code no longer requires off-street parking, requiring an analysis of a proposed developments impact to on-street parking can be problematic, because there is no policy or code mechanism to mitigate that impact with off-street parking.

33.641.020200 Approval Criterion

- A.** The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, ~~on-street parking impacts~~, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020200.B.
- B.** Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

Commentary

33.651 Water Service

Summary of changes to this chapter:

- Clarified that improvements proposed with the land division are considered when making determinations about adequacy and availability of service
- Clarified that the land division cannot eliminate service provision for existing development
- Removed unnecessary cross references to environmental zones

Service determinations are technical engineering decisions. A technical decision is not a land use decision. Technical requirements are in other Titles of the City Code, or in manuals adopted by the service bureaus, such as the City's Standard Construction Specifications Manual. City Titles 21 and 31 address provision of water service. In addition, the Fire Bureau implements a set of guidelines for land divisions. Fire Bureau requirements work in conjunction with Water Bureau requirements for water mains and fire hydrants.

The "standard" in question for this chapter is simply whether or not verification has been received from the appropriate bureau/agency.

33.651.020.A

This technical standard is being amended to clarify that the verification is based not just on what is currently present at the site, but includes any improvements, such as waterline extensions or facility upgrades, that have been proposed with the land division.

33.651.020.B

The creation of lots can potentially lead to services for existing development crossing over other lots, or otherwise removing the availability of that service. This change clarifies that land divisions cannot result in eliminating access to the service for existing development. In these cases, a new service line may be required, or when approvable, an easement must be created for the existing service.

33.651.030 Environmental Zones

This reference is unnecessary. The requirements of 33.430 already specify the applicable service regulations for services within environmental overlay zones. It is also potentially misleading, since other overlay zones (e.g. Pleasant Valley, River) also have specific service requirements and are not mentioned here.

33.651 Water Service

651

Sections:

- 33.651.010 Purpose
- 33.651.020 Water Service Standard
- ~~33.651.030 Environmental Overlay Zones~~

33.651.010 Purpose

Water service provides water for public health and emergency purpose, including fire suppression. These standards ensure that the public water system will serve each lot in the land division and, where appropriate, will extend through the land division to reach adjacent sites. They will result in an efficient, flexible water distribution system that can serve a variety of development configurations while minimizing overall development costs.

33.651.020 Water Service Standard

Water service must meet the standard of this section. Adjustments are prohibited.

- A.** The Water Bureau or District and the Fire Bureau have verified that water facilities with adequate capacity and pressure are or will be available to serve the proposed development.
- B.** The Water Bureau has verified that the land division will not eliminate the availability of services to existing development and the site will not move out of conformance with Water Bureau or District or Fire Bureau requirements for water service.

~~**33.651.030 Environmental Overlay Zones**~~

~~If any portion of the water service is within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Overlay Zones.~~

Commentary

33.652 Sanitary Sewer Service

Summary of changes to this chapter:

- Clarified that improvements proposed with the land division are considered when making determinations about adequacy and availability of service
- Clarified that the land division cannot eliminate service provision for existing development
- Removed unnecessary cross references to environmental zones

Service determinations are technical engineering decisions. A technical decision is not a land use decision. Technical requirements are in other Titles of the City Code, or in manuals adopted by the service bureaus, such as the Bureau of Environmental Services' Sewer and Drainage Facilities Design Manual. City Title 17 addresses provision of sewer service. In addition, the Bureau of Development Services works in conjunction with the County Sanitarian to determine when private on-site sanitary systems (e.g. septic system) may be allowed. Private on-site sewer systems are regulated by Oregon Administrative Rule OAR 340.

The "standard" in question for this chapter is simply whether or not verification has been received from the appropriate bureau/agency.

33.652.020.A

This technical standard is being amended to clarify that the verification is based not just on what is currently present at the site but includes any improvements that have been proposed with the land division.

When a land division is located in a separate sewer district jurisdiction (e.g. Gresham, Clean Water Services) BES' verification role is to confirm that a service provider letter has been submitted, and to coordinate with the sewer district during the review.

33.652.020.C

This amendment reflects that fact that BES is not responsible for reviewing private septic systems. These are reviewed by the County Sanitarian through BDS.

33.652.020.D

The creation of lots can potentially lead to services for existing development crossing over other lots, or otherwise removing the availability of that service, or in the case of septic systems, removing a secondary drainfield location from a lot, or placing the existing drainfield on an adjacent lot. In these cases, a new service line may be required, or when approvable, an easement must be created for the existing service.

33.652.030 Environmental Zones

This reference is unnecessary. The requirements of 33.430 already specify the applicable service regulations for services within environmental overlay zones. It is also potentially misleading, since other overlay zones (e.g. Pleasant Valley, River) also have specific service requirements and are not mentioned here.

33.652 Sanitary Sewer Disposal Service

652

Sections:

- 33.652.010 Purpose
- 33.652.020 Sanitary Sewer Disposal Service Standards
- ~~33.652.030 Environmental Overlay Zones~~

33.652.010 Purpose

The sanitary sewer disposal service standards protect the public health by providing for the safe and sanitary collection, treatment, and disposal of waste products from development in the land division. These standards will result in an efficient, flexible sewer system that can serve a variety of development configurations within reasonable overall development costs.

33.652.020 Sanitary Sewer Disposal Service Standards

Sanitary sewer disposal service must meet the standards of this section. Adjustments are prohibited.

A. Availability of sanitary sewer.

1. The Bureau of Environmental Services has verified that sewer facilities are or will be available to serve the proposed development; or
2. BDS has approved the use of a private on-site sanitary sewage disposal system.

B. Public sanitary sewage disposal. Where public sewer facilities are available to serve the proposed development, the Bureau of Environmental Services has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system. The approval is based on the Sewer Design Manual; and

C. Private sanitary sewage disposal. Where private on-site sanitary sewage disposal is proposed, BDS ~~and Environmental Services have~~ has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system.

D. The land division will not eliminate the availability of services to existing development and the site will not move out of conformance with Bureau of Environmental Services or BDS requirements for sanitary sewage disposal.

~~33.652.030 Environmental Overlay Zones~~

~~If any portion of the sanitary sewer is within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Overlay Zones.~~

Commentary

33.653 Stormwater Service

Summary of changes to this chapter:

- Clarified that improvements proposed with the land division are considered when making determinations about adequacy and availability of service
- Removed duplicative approval criteria
- Clarified that the land division cannot eliminate service provision for existing development
- Removed unnecessary cross references to environmental zones

Service determinations are technical engineering decisions. A technical decision is not a land use decision. Technical requirements are in other Titles of the City Code, or in manuals adopted by the service bureaus, such as the Bureau of Environmental Services' Stormwater Management Manual. City Title 17 addresses provision of stormwater service.

The "standard" in question for this chapter is simply whether or not verification has been received from the appropriate bureau/agency.

33.653.010 Purpose

The purpose statement has been revised to reflect that approval criteria have been deleted and reinforce that this service standard is a technical decision.

33.653.020 Stormwater Approval Criteria.

These criteria are unnecessary and are already addressed by the stormwater service standards. The size and location of the stormwater facility is determined by the stormwater management manual.

33.653.020.B. Stormwater Management Standards.

In some cases, the Bureau of Development Services will review relevant site stability aspects of a stormwater system for example when the system is infiltrating on sites with steep slopes, landslide concerns, or other geologic issues. However, this is addressed through an inter-agency memorandum of understanding, and does not need to be enumerated in this code. This subsection is deleted.

33.653 Stormwater Management

653

Sections:

- 33.653.010 Purpose
- 33.653.020 ~~Stormwater Management Approval Criteria~~
- 33.653.030 ~~Stormwater Management Approval Standards~~
- 33.653.040 ~~Environmental Overlay Zones~~

33.653.010 Purpose

These regulations provide for the efficient and flexible placement of stormwater facilities serving a variety of development configurations. The standards ~~and criteria~~ of this chapter recognize that on-site stormwater facilities may be land intensive and site specific, consequently affecting the arrangement of lots and streets. These regulations ensure that the land division site has an adequate area and an appropriate location for stormwater facilities. ~~The approval criteria ensure that it is feasible to develop a stormwater system that will have adequate capacity for the developed site.~~

33.653.020 ~~Stormwater Management Approval Criteria~~

Stormwater management must meet the following approval criteria:

- ~~A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and~~
- ~~B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.~~

33.653.030 ~~Stormwater Management Standards~~

Stormwater management facilities must meet the following standards. Adjustments are prohibited.

- ~~A. The Bureau of Environmental Services has preliminarily approved the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The approval is based on the Sewer Design Manual and the Stormwater Management Manual;~~
- ~~B. The Bureau of Development Services has preliminarily approved the capacity, type, location, feasibility, and land area required of any proposed private on-site stormwater disposal facilities; and~~

Commentary

33.653.020.B Ownership and maintenance.

Stormwater facilities that serve lots may not be located in the public right of way. They may, however, be located in private rights of way, or integrated with private street stormwater systems. The term "right of way" applies to both public and private ownership, so this change clarifies that these private facilities may only be in private tracts or incorporated into the private street tract.

The reference to maintenance requirements being addressed in CC&R's is being deleted as this provision is rarely invoked, and unnecessary with a maintenance agreement.

33.653.020.D

The creation of lots can potentially lead to services for existing development crossing over other lots, or otherwise removing the availability of that service. This change clarifies that land divisions cannot result in eliminating access to the service for existing development. In these cases, a new service line or facility may be required, or when approvable, an easement must be created for the existing service.

33.653.040 Environmental Zones

This reference is unnecessary. The requirements of 33.430 already specify the applicable service regulations for services within environmental overlay zones. It is also potentially misleading, since other overlay zones (e.g. Pleasant Valley, River) also have specific service requirements and are not mentioned here.

BC. Ownership and maintenance.

1. ~~Generally, a~~ A stormwater facility that serves more than one lot must be in a stormwater facility tract or included within ~~the a private street tract right-of-way;~~ except as allowed by C.2 below. If the facility is in a tract, it must be either owned in common by all of the owners of the lots served by the facility, by a Homeowners' Association, by a public agency, or by a non-profit organization.
2. Exceptions.
 - a. A private stormwater facility may be in an easement if the location of the tract would preclude compliance with the front lot line requirements of Chapters 33.610 through 33.615;
 - b. An existing private stormwater facility may be in an easement, if there is a recorded maintenance agreement, ~~or if the maintenance is addressed in the CC&Rs;~~
 - c. A private stormwater facility serving up to five dwelling units may be in an easement, if there is a recorded maintenance agreement, ~~or if the maintenance is addressed in the CC&Rs.~~

CD. Driveways may cross stormwater tracts and easements.

D. The land division will not eliminate the availability of services to existing development and the site will not move out of conformance with Bureau of Environmental Services requirements for stormwater service.

~~33.653.040 Environmental Overlay Zones~~

~~If any portion of the stormwater management system or disposal system is proposed within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Zones.~~

Commentary

33.654 Rights of Way

Summary of changes to this chapter:

- Added standards for when new through street connections are required
- Clarified that the design of public streets (width and configuration of elements) is a technical determination
- Added and clarified private street standards
- Expanded the ability to use shared courts in single-dwelling zones

33.654.110 Connectivity and Location of Rights of Way

This section has been reorganized to create a set of clear and objective standards, applicable to all land divisions except land divisions in Industrial zones. These standards are distinct from the approval criteria. Applicants for land divisions in non-industrial zones may choose to meet the standards or opt to meet criteria in lieu of standards.

These requirements are intended to implement requirements in the State Transportation Planning Rule (OAR 660-012), the Metro Regional Transportation Functional Plan (3.08), and the 2035 Comprehensive Plan policies in Chapter 9. Pedestrian connections are usually sought as a secondary network connection when full streets are not possible, and when they are sought, they should occur at greater frequencies (every 330 feet versus every 530 feet). To ensure the standards were not only objective, but also clear, these standards focus on creating street connections. When a full street connection is not possible due to any number of site-specific circumstances, an applicant may seek to meet the criteria, including proposals for pedestrian connections in lieu of a full street.

A. Purpose

The purpose statement has been expanded to include benefits of a well-connected street system for reducing VMT and congestion, which in turn helps reduce carbon emissions, and pollutants that can enter the waterways through runoff. Also, connected streets better enable efficient provision of emergency services and help to disperse traffic more evenly by offering multiple route choices.

B. Where the connectivity and location of rights of way regulations apply

This subsection specifies that land divisions in all zones except industrial zones are able to use the approval standards. Criteria apply to industrially zoned sites (specifically just for pedestrian connections), and other situations where an applicant has chosen to meet the criteria in lieu of the standards.

33.654 Rights-of-Way

654

Sections:

- 33.654.010 Purpose
- 33.654.020 Where These Regulations Apply
- 33.654.110 Connectivity and Location of Rights-of-Way
- 33.654.120 Design of Rights-of-Way
- 33.654.130 Additional ~~Approval Criteria~~ Requirements for Rights-of-Way
- 33.654.150 Ownership, Maintenance, and Public Use of Rights-of-Way
- 33.654.160 Street Classification

33.654.010 Purpose

Rights-of-way provide for movement and access to, within, and through a land division site by pedestrians, bicycles, and motor vehicles. These regulations ensure that the right-of-way system will serve each lot in the land division. Where possible, the system will extend through the land division to reach adjacent sites. Constraints, such as steep slopes or environmental zones on or near the site may influence the location or preclude connected rights-of-way. These regulations protect the public health and safety by ensuring safe movement and access for emergency and service vehicles.

33.654.020 Where These Regulations Apply

The regulations of this chapter apply to all land divisions.

33.654.110 Connectivity and Location of Rights-of-Way

- A. Purpose.** The regulations of this section ensure provision of efficient access to as many lots as possible, and enhance direct movement by pedestrians, bicycles, and motor vehicles between destinations. Direct routes for bicycles and pedestrians from residential areas to neighborhood facilities, such as schools and parks, are particularly important to increase the convenience of travelling by foot or bicycle. Direct routes for motor vehicles are important for reducing vehicle miles travelled and traffic congestion which reduces air and water pollution and carbon emissions. Connected streets provide for more efficient provision of utility and emergency services, and also enable a more even dispersal of traffic. The specific location of rights-of-way is influenced by a variety of conditions, including existing development, streets and lot patterns, and environmental features.
- B. Where the connectivity and location of rights-of-way regulations apply.**
 - 1. The standards stated in Subsection C. apply to proposals for land divisions in OS, R, C, E, CI, and IR zones. Adjustments are prohibited. For proposals that cannot meet all of the standards, the approval criteria stated in Subsection D. apply. Where a proposal can meet the standards, the applicant may choose to meet all of the approval criteria stated in Subsection D. instead of all of the standards.

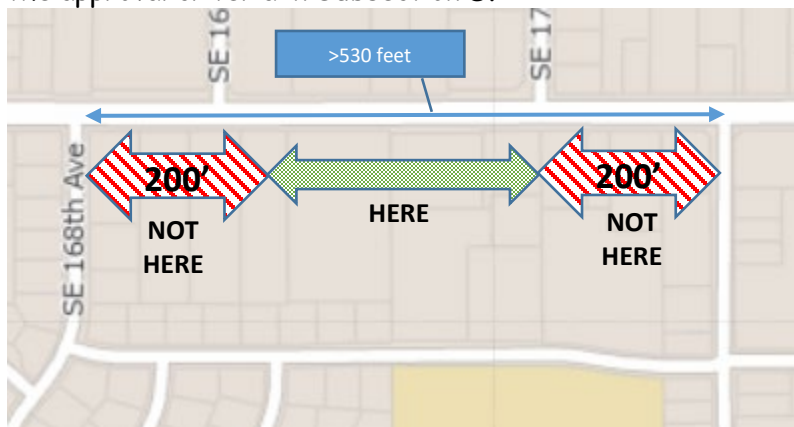
Commentary

33.654.110 Connectivity and Location of Rights of Way (cont'd)

C.1. New through streets.

a. Where through streets are required. When there is more than 530 feet between through streets, a new through street is required. However, through streets would not be required (but may be proposed, subject to PBOT approval) for sites that cannot locate the through street more than 200 feet from an existing through street.

It is worth noting, there are many other reasons why a through street may not be appropriate or practical, or a pedestrian connection may better suffice. These can all be evaluated through the approval criteria in Subsection D.



b. Measuring street spacing. In order to apply the non discretionary street spacing standard, more information is needed to determine how that spacing is measured.

The distance is measured between existing through streets on either side of the land division site that are on the same side of the street as the land division site. The measurement is between the closest intersecting points of those rights of way (as opposed to the right of way centerline, or edge of the physical improvements). Streets that are on the opposite side of the street and dead end streets are not considered in measuring this distance.



C. Standards.

1. New through streets.

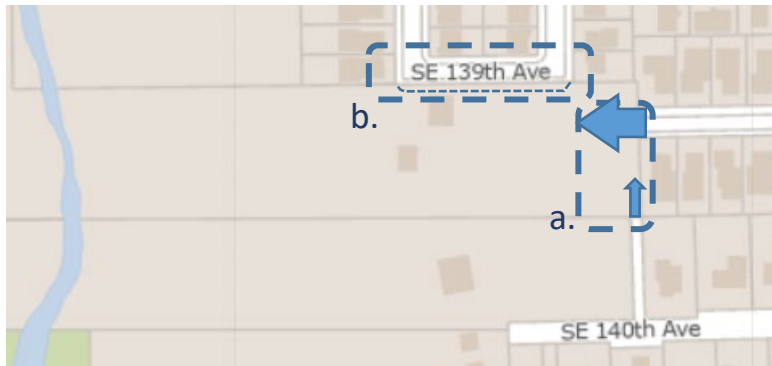
- a. Through streets must be provided where there is more than 530 feet between through streets, unless the entire site frontage is within 200 feet of the closest intersecting edge of a through street.
- b. Measuring the distance between through streets.
 - (1) For the purposes of this standard, the distance between through streets is measured from the closest intersecting edge of the through street or pedestrian connection in one direction along the shared block frontage, to the closest intersecting edge of the through street or pedestrian connection in the opposite direction along the shared block frontage.
 - (2) Permanent dead end streets are not included in measurements between through streets or pedestrian connections.

Commentary

33.654.110 Connectivity and Location of Rights of Way (cont'd)

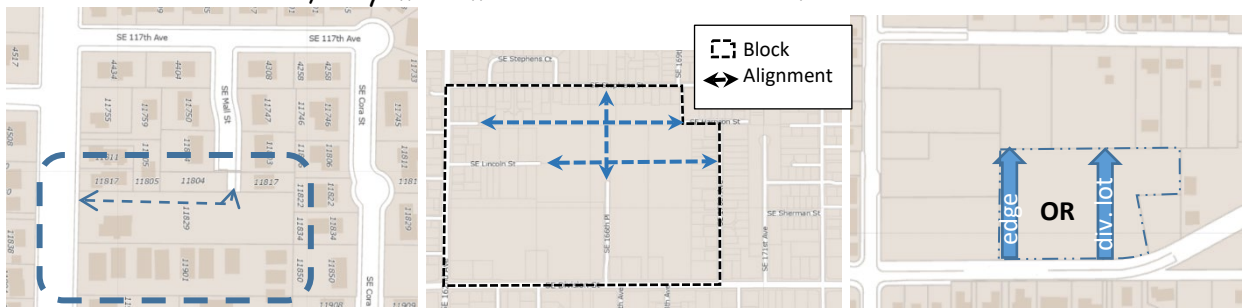
C.2. Expansion of existing partial streets

Whether or not a through street is required per C.1, street connectivity also relies on completing through streets and pedestrian connections that were started on adjacent sites. This can involve either an extension of a temporary dead end street or ped connection (examples indicated by a. the arrows below) or widening/completing a half street improvement (indicated by b. the dashed line below)



C.3. Location of through streets and pedestrian connections

When a through street is required and/or partial streets or pedestrian connections must be extended onto the site, they must meet locational standards.



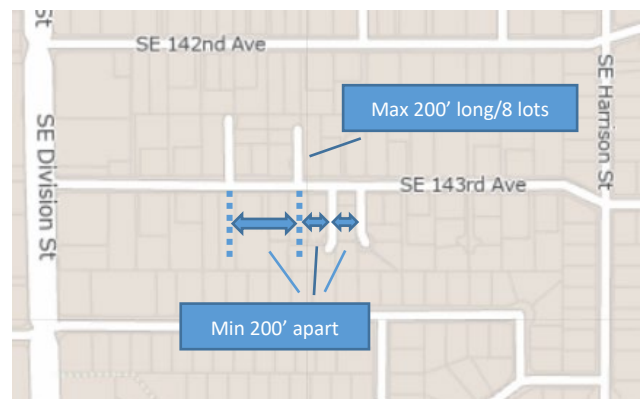
Connect two ROW's

Align with streets in the block

Extend to serve adjacent lots

C.4. Dead end street -

When a through street is not required (either a new through street to meet C.1, or an extension of a partial through street to meet C.2.) a dead-end street may be provided. These dead-end streets are limited in length, and number of lots. Metro Chapter 3.08, Title 1 specifies a 200 foot limit on length and 25 unit maximum for dead end streets.



2. Existing partial streets and pedestrian connections.

- a. Existing partial streets and pedestrian connections abutting the site must be extended onto the site.
- b. Widening a partial street is required where a street that is not improved to its full design width borders the edge of the land division site.

3. New partial streets.

- a. When a through street is required but is prevented from making a through connection due to the location or configuration of abutting sites, a partial street is required.
- b. The partial street must extend to the boundary of the site to provide an opportunity for future through connection.

4. Location of through streets and pedestrian connections. When new through streets, new partial streets or extensions of partial streets is required, they must:

- a. Connect two or more public streets when the site is abutting more than one public right of way;
- b. Be in alignment with partial through streets or pedestrian connections within the same block as the land division site; and
- c. Extend to the boundary of the site to provide future access to adjacent sites, either by terminating at a dividable lot or locating along the edge of the land division site.

5. Dead-end streets. Dead-end streets may be provided where through streets are not required. New public dead end streets may not exceed 200 feet in length or abut more than 8 lots within the land division site and must be at least 200 feet from any other public dead end street.

6. Alleys. Alleys may be provided where through streets are not required.

Commentary

33.654.110.D. Approval Criteria

D.1. Through streets and pedestrian connections.

When a proposal cannot meet, or chooses not to meet the approval standards, the criteria remain an available option. It should be noted that the standards do not include a through pedestrian connection requirement. Instead, they seek a through street at no more than 530 foot intervals. A number of factors may make compliance with that requirement infeasible (e.g. topography, existing development, lot patterns, sensitive environmental areas, freeways or rivers), but these are difficult to meaningfully codify as clear and objective standards. In some cases, a street may not be practical due to slope or available right of way width, in which case a pedestrian connection may be an appropriate alternative. The criteria are designed to weigh those considerations and allow for flexible solutions.

The criteria in D.1 are largely unchanged, with some exceptions:

D.1.c(5). Added missing reference to River Environmental overlay zone

D.1.d A minor fix is included to update the reference to the Transportation Element of the comprehensive plan.

D.B. Approval criteria.

1. Through streets and pedestrian connections in OS, R, C, E, CI, and IR Zones. In OS, R, C, E, CI, and IR zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:
 - a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;
 - b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;
 - c. Characteristics of the site, adjacent sites, and vicinity, such as:
 - (1) Terrain;
 - (2) Whether adjacent sites may be further divided;
 - (3) The location of existing streets and pedestrian connections;
 - (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection;
 - (5) Whether any of the following interrupt the expected path of a through street or pedestrian connection:
 - Environmental, River Environmental, or Pleasant Valley Natural Resource, or Greenway overlay zones;
 - Tree groves;
 - Streams;
 - Special flood hazard areas; or
 - Wetlands; and
 - (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;
 - d. Master street plans for the area identified in the Transportation Element Goal 11B of the Comprehensive Plan;
 - e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.

Commentary

33.654.110.D.

2. Partial streets and partial pedestrian connections.

The connectivity criteria have been consolidated with additional right of way approval requirements (formerly 33.654.130.B. and C.) that address other aspects of the street and pedestrian network, namely providing access for future development (which may also eventually extend to complete a street or pedestrian connection) and inversely, extending off site partial streets or partial pedestrian connections onto and possibly through the site.

The criteria in 33.654.110.D.2.a differ from the standards in 33.654.110.C.2. in that they seek through streets, temporary dead end streets or pedestrian connections where access for future development is needed regardless of general street or pedestrian connection spacing criteria in D.1.

The standards require through streets (when there is more than 530 feet between through streets) but do not require new partial streets to extend to the boundary of the land division site in cases where a through street is not required. Offsite partial streets and pedestrian connections that terminate at or border the site must also be extended. However, the criteria evaluate the appropriateness of through connections and future access to adjacent sites each independently. This is because the criteria are better able to consider site specific factors and determine the appropriateness, location and practicality of such ultimate future street or ped connection.

4. Dead end streets

The limit on the number of dwelling units on a dead end street has been increased from 18 to 25 units in conformance with Metro's Regional Transportation Framework. Since this is an approval criterion, additional lots/units may be allowed, but this could also affect the right of way design for fire emergency access. The length of new dead end streets should not be more than 200 feet, but extensions to the end of existing dead end streets may be the only practical alternative for access. Requirements for turnarounds and fire truck turnouts would be determined through the right of way design process.

5. Alleys.

Since parking is no longer required, the need to mitigate for access issues is no longer obligatory. Access issues may be addressed through an alley, or by not providing vehicle access onto the lots.

2. Partial streets and partial pedestrian connections. In addition to the criteria in paragraph D.1, the following criteria apply:
- a. Future development access. where the land division site is abutting sites that may be divided under current zoning, partial streets and partial pedestrian connections must be extended to the boundary of the site as needed to provide future access to the abutting sites. Options for access and street locations must consider the characteristics of adjacent sites, including terrain, the location of existing dwellings, Environmental, River Environmental, or Pleasant Valley Natural Resource overlay zoning, streams, wetlands, special flood hazard areas, and tree groves. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:
- (1) The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan;
or
- (2) The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.
- b. Existing partial streets and pedestrian connections abutting the site must be extended onto the site as needed to serve the site and to provide through street connections where appropriate and practicable using the considerations in paragraph D.1.
3. Pedestrian connections in I Zones. In I zones, pedestrian connections to all Regional Transitways, Major Transit Priority Streets, Transit Access Streets, Community Transit Streets, Off-Street Paths, and recreational trails within 1,300 feet of the site are required where appropriate and practicable. The connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible. Only the portion of the pedestrian connection that is on the land division site is required.
- ~~42.~~ Dead-end streets in OS, R, C, E, CI, and IR zones. In OS, R, C, E, CI, and IR zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than ~~18~~ 25 dwelling units. Longer dead end streets may be provided when an existing dead end street is being extended. Public dead-end streets should generally be at least 200 feet apart.
- ~~54.~~ Alleys in all zones. Alleys may be ~~required~~ provided where through streets are not required where the provision of an alley is appropriate to mitigate transportation or development impacts. Alleys may be appropriate to move garage access away from busy streets, reduce the number of driveways crossing sidewalks, provide alternative locations on the site for parking, limit the number of garage doors facing the street, and maintain on-street parking. Where alleys are not required, applicants may choose to provide them.

Commentary

33.654.120 Design of Rights of Way

This section determines the required right of way widths and what improvements (elements) are needed within that right of way.

B. Where these requirements apply.

This section clarifies that expansions of public rights of way that abut the land division site are also subject to the right of way design requirements. This includes site frontage dedications and improvements, as well as extensions of street stubs/pedestrian connections or completing half / partial streets.

C. Public street standards.

When the land division code was incorporated from Title 34 into the zoning code, this chapter included approval criteria for public and private street design requirements. Since then, PBOT has developed specific technical design requirements that apply not just to land divisions, but other development situations. These requirements establish standard street widths and which elements are to be incorporated into a specific right of way. PBOT also has a separate alternative review process to review modified street widths and designs that support different improvements due to unique characteristics of a particular site such as topography and/or environmental features.

PBOT bases its determinations on the Transportation System Plan, Title 17, and several administrative rules developed to support its decision making.

Rather than attempt to replicate all of those technical standards and processes in the zoning code, these changes make public right of way design a technical decision, similar to how sewer, water, and stormwater service requirements are reviewed.

D. Private Streets

These changes point private street design standards to the private street admin rules. The admin rules include how to determine roadway width, walkways, street tree planting, curbs, and other element requirements, which in sum establish the necessary right of way width. There are still areas within those rules that refer back to the zoning code for either specific design elements (like open area in common greens) or approval criteria (for adjusting the width of the right of way tract) which have been included in this subsection. Some requirements in the rule may also be adjusted, so purpose statements have been added to each of the private street types.

33.654.120 Design of Rights-of-Way

- A. Purpose.** The purpose of these standards and approval criteria is to ensure that the vehicle, bicycle, and pedestrian circulation system is designed to be safe, efficient, and convenient.
- B. Where these requirements apply.** The requirements of this section apply to land divisions in all zones, including frontage improvements abutting the land division site.
- ~~C.B. Non-local~~ Public street standards.** For all street and alley rights-of-way that are or will be dedicated to the public, streets other than local service streets, the ~~Office~~Bureau of Transportation has preliminarily approved the right-of-way location, width, and the design and configuration of elements within the street right-of-way.
- D. Private streets.** The following regulations apply to the design of private streets. The Bureau of Development Services is authorized to develop and maintain administrative rules for the width and the design and configuration of elements within a private street:
1. Width of the right-of-way. Private rights-of-way must meet the width standard stated in Subparagraph C.1.a. If the proposal cannot meet the standard, the applicant can choose to meet the approval criterion in Subparagraph C.1.b. Adjustments are prohibited:
 - a. Standard. The proposed private right-of-way must meet the applicable minimum width standards stated in the Permanent Administrative Rules for Private Rights of Way. Wider private rights of way may be proposed.
 - b. Approval criterion. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, the length of the street, and the number of housing units served by the street.
 2. Configuration of elements. For all private rights-of-way, the Bureau of Development Services has preliminarily approved the design and configuration of elements within the right-of-way.

Commentary

33.654.120.D.Private Streets

3. Additional private right-of-way design standards

These are largely adapted from previous language in 33.654.120.C.

a. Turnarounds.

This is largely adapted from the previous code section 33.654.120.C.3. except that discretionary language has been removed. Also provisions for when temporary turnarounds are required are deleted since temporary turnarounds only apply to public streets and are determined through the public street design manual and admin rules.

Note that private streets are not allowed to exceed 200 feet, however, if this were to be adjusted, a turnaround requirement has been included to match the fire code specification that calls for a turnaround for public and private streets that exceed 300 feet in length.

Turnarounds are not required in common greens or pedestrian connections, as these do not typically include vehicle roadways (but they may be designed for emergency access, in which case a turnaround may be necessary).

b. Standard private streets.

These were previously referred to more generically as "private streets" however, common greens and shared courts are also types of private streets. The additional standards for standard private streets were consolidated from several sources:

- Length: From 33.654.110.B.2
- Dead end: From 33.654.150.B.1
- Number of lots: From 33.654.150.B.2.
- Parking: from Admin rule III.G.1.a.

On street parking exceptions are currently enumerated in the admin rule III.G.1.a(2) and (5)

3. Additional private right-of-way design standards:

a. Turnarounds.

- (1) Purpose. A turnaround is a type of junction that allows traffic traveling in one direction on a road to efficiently reverse course and travel the opposite direction without the need to back up long distances.
- (2) Standard. A turnaround is required on a dead-end street in the following situations:
 - The street includes a vehicle roadway;
 - The street will serve 4 or more lots;
 - When required by the City Engineer to ensure forward egress onto a non-local street;
 - When the street is at least 300 feet long;
 - When the street is longer than 150 feet and the street is needed to meet the Fire Bureau requirements for fire emergency access; or
 - When the street is longer than 100 feet and the lots will each have curbside garbage and recycling service.

b. Standard private streets.

- (1) Purpose. A standard private street provides access to new lots with a partition or subdivision, where public street access is not possible or practical. A standard private street provides access for a limited amount of motor vehicles, bicycles, and pedestrians, and often provides a route for private and public utility connections. In some circumstances a private street must also accommodate larger vehicles, such as fire trucks, delivery trucks, or garbage/recycling trucks.
- (2) Standards:
 - A private street must be a dead-end street;
 - Up to 8 lots within the land division site may abut a private street;
 - The Fire Bureau has approved the land division for emergency access;
 - In residential zones, one on street parking space per two lots is required.
- (3) On street parking exceptions:
 - On street parking is not required when the street is less than 300 feet long, up to 3 lots within the land division site abut the street, and lots with a front lot line on the street may only be developed with a maximum of two dwelling units; or
 - On street parking may be reduced or waived when a site-specific parking analysis is provided demonstrating that adequate parking will be available. The analysis must include information regarding expected on-street parking demand on the private street based on allowed densities, access to alternative modes of travel, availability of parking in the area, feasibility of providing parking on the lots, and how visitors and deliveries will be accommodated.

Commentary

33.654.120.D.3. Additional private right-of-way design standards (cont'd)

c. Shared courts

Shared courts are specially designed, low-traffic reduced-speed streets that comingle vehicular and pedestrian areas. The design of shared courts incorporates multiple features (parking, roadway, pedestrian circulation, traffic calming, and amenities) within a combined space.

The shared court standards were consolidated from several sources:

- Length: From 33.654.120.G.1.b.
- Dead end: From 33.654.120.G.1.c.(2)
- Fire access: Generally shared courts are not able to accommodate fire trucks. So when a shared court is proposed, fire access must either be available through alternate means, or the dwelling units will need to meet specific fire bureau requirements.
- Open area: From 33.654.120.G.1.c.(3)
- Number of lots: From 33.654.120.G.2.b.

Note that 33.654.120.G.2.a, which previously limited shared courts to non-single-dwelling zones is deleted. This means that shared courts are now allowed in single-dwelling zones. Also, provisions that limited lots on shared courts to development of a house with an ADU or a duplex have been removed from this chapter and are incorporated into "additional development standards for development accessed by a shared court, common green or private alley" in the residential base zones (33.110.263 and 33.120.282).

d. Common greens

The common green standards were consolidated from several sources:

- Length: Not currently specified. The admin rules state that lots are not limited. Since no vehicular traffic is allowed on a common green, the increased allowance of units and length will not impact traffic safety.
- Dead end: From 33.654.120.D.1.a.(2). Note that the current criteria allow for a convoluted exception for through common greens. For purpose of creating standards, this exception has been deleted, however, common greens may be paired with a pedestrian connection to provide a through connection, and they will continue to be allowed on corners.
- Fire access: Generally, common greens are not able to accommodate fire trucks. So when a common green is proposed, fire access must either be available through alternate means, or the dwelling units will need to meet other specific fire bureau requirements. The approval criteria can also be used to propose emergency access.
- Open area: From 33.654.120.D.1.b.(3)
- Vehicle area. While not preferred, in some cases common greens may be designed to allow emergency vehicle access, but other regular vehicle use is prohibited. From admin rule III.L.1.b.

c. Shared courts.

(1) Purpose. Shared courts provide shared vehicle, pedestrian, and bicycle access to abutting property. The access for all modes is accommodated on the same surface and not differentiated by grade separation. A shared court may function as a community yard. A shared court includes traffic calming measures to ensure safe co-existence of vehicles, pedestrians, and bicycles in the same space. Shared courts should be designed to prioritize use of the right-of-way by pedestrians. Hard and soft landscape features may be included in a shared court, such as trees, shrubs, patterned brick paving, or benches.

(2) Standards:

- A shared court must not exceed 150 feet in length;
- A shared court must be a dead-end street;
- The Fire Bureau has approved the land division for emergency access;
- Shared courts must include at least 250 square feet of grassy area, play area, or dedicated gardening space, exclusive of vehicle parking areas. This area must be at least 15 feet wide at its narrowest dimension; and
- Up to 16 lots within the land division site may abut a shared court.

d. Common greens.

(1) Purpose. Common greens are landscaped rights of way that provide access for pedestrians and bicycles to abutting property. Since no motor vehicle access is provided, common greens are not limited in length or by the number of lots that can be served. Common greens are also intended to serve as a common open space amenity for residents.

(2) Standards:

- The length of a common green and number of lots is not limited;
- Common greens must be dead end streets. Through common greens are not allowed but common greens may be located on a corner of two intersecting streets. See Figure 654-2;
- The Fire Bureau has approved the land division for emergency access;
- Common Greens must include at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension; and
- Vehicle areas, except for emergency vehicle access, are prohibited in common greens;

Commentary

33.654.120.D.3. Additional private right-of-way design standards (cont'd)

Figure 654-1 is not new. It is being moved up to follow the revised Common Green Approval Standards

e. Pedestrian connections

The private pedestrian connection standards were consolidated from several sources:

- Length and number of lots: Not currently specified/or limited.
- Where private versus public pedestrian connections are allowed: From 33.654.150.B.6. Additional clarification has been added.
- Fire access: Generally pedestrian connections are not able to accommodate fire trucks. So when a pedestrian connection is proposed, fire access must either be available through alternate means, or the dwelling units will need to meet specific fire bureau requirements.
- Line of sight: From 33.654.120.E.1.
- Parking and vehicle area: While not preferred, in some cases pedestrian connections may be designed to allow emergency vehicle access, but other regular vehicle use is prohibited. From admin rule III.L.1.b..

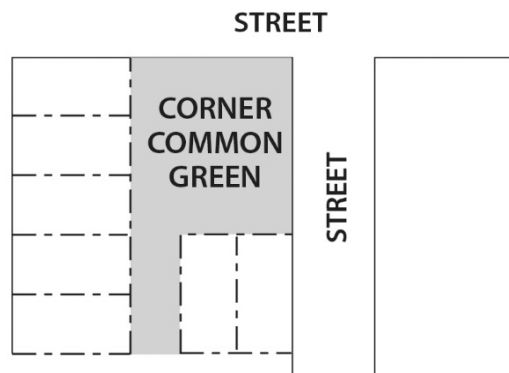
f. Private alleys

Alleys do not function as streets. They are provided for more convenient vehicular access where street conditions warrant a different or more consolidated location for vehicular access to serve lots.

The private alley standards were consolidated from several sources:

- Dead end alley length: Not specified, however to avoid the need for possible turnaround requirements, dead-end alleys are limited to 150 feet.
- Fire access: Generally alleys, especially private alleys, are not able to accommodate fire trucks. So when an alley is proposed, fire access must either be available through alternate means (e.g. the primary street), or the dwelling units will need to meet other specific fire bureau requirements.
- Front lot line: Private alleys are not streets, and therefore cannot be used to meet front lot line requirements
- The number of lots on through alleys are not currently limited
- The eight lot limitation for dead end alleys is a new standard intended to reduce vehicle movement conflict within a narrow right of way, since there is only one way out. It is also consistent with the number of lots allowed to be served by a standard private (dead end) street. Additional flexibility may be requested through the approval criteria which can better contemplate the types of vehicles expected, need for turnarounds, sufficiency of the roadway width, etc.

Figure 654-1
Corner Common Green



e. Pedestrian connections.

(1) Purpose. Pedestrian connections provide general access for pedestrians and bicyclists and provide a through connection between two streets or between a street and amenity like an open space tract. Private pedestrian connections typically connect two private streets or tracts, but may connect a private street to a public street.

(2) Standards:

- The length of a private pedestrian connection is not limited;
- Private pedestrian connections must only connect two private streets, a private street and a private tract, or a private street and a public street;
- The Fire Bureau has approved the land division for emergency access;
- Users must be able to see from one end of the connection to the other end;
and
- Vehicle areas, except for emergency vehicle access, are prohibited in private pedestrian connections.

f. Private alleys.

(1) Purpose. Private alleys provide a secondary means of access, primarily intended for motor vehicle or service vehicles, though pedestrians and bicycles may still share the roadway in private alleys. Private alleys allow access to on-site parking to be consolidated, preserving the street frontage for more continuous sidewalk improvements and also can be used to reduce traffic conflicts.

(2) Standards:

- Dead end private alleys may be up to 150 feet in length;
- Alleys may not be used to meet front lot line requirements;
- The Fire Bureau has approved the land division for emergency access; and
- Up to 8 lots can have a lot line abutting a dead end alley. There is no limitation on the number of lots with a lot line on a through alley;

Commentary

33.654.120.C. Local Street approval criteria and standards

This subsection has been replaced by the amendments above.

33.654.120.D. Common green approval criteria and standards

This subsection has been replaced by the amendments above.

C. ~~Local street approval criteria and standards.~~ The following approval criteria and standards apply to all local service streets except for common greens and shared courts:

- ~~1. Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.~~
- ~~2. Standard for configuration of elements within the right of way. For public streets, the Office of Transportation has approved the configuration of elements within the street right of way. For private streets, the Bureau of Development Services has approved the configuration of elements within the street right of way.~~
- ~~3. Standards for turnarounds.~~
 - ~~a. When a turnaround is required. A turnaround is required on a dead-end street in the following situations:
 - ~~(1) The street will serve 4 or more lots;~~
 - ~~(2) The street is at least 300 feet long; or~~
 - ~~(3) When required by the City Engineer, the Fire Bureau, or BDS.~~~~
 - ~~b. Temporary turnaround. Where a street is temporarily terminating within the land division site, the City Engineer, BDS, or Fire Bureau may require a temporary turnaround.~~
 - ~~c. The following approval criteria and standard applies to permanent and temporary turnarounds:
 - ~~(1) Approval criteria. The turnaround must:
 - ~~• Be of a size to accommodate expected users, taking into consideration the characteristics of the site such as existing structures, natural features, the length of the street, and the number of housing units served by the street;~~
 - ~~• Minimize paved area;~~
 - ~~• Provide adequate area for safe vehicular movement; and~~
 - ~~• Provide adequate area for safe and convenient movement by bicyclists and pedestrians traveling on the street or traveling from the street to a pedestrian connection.~~~~
 - ~~(2) Standard. For public streets, the Office of Transportation has approved the configuration of elements within the turnaround right-of-way. For private streets, the Bureau of Development Services has approved the configuration of elements within the turnaround right-of-way.~~~~

D. ~~Common green approval criteria and standards.~~ The purpose of the following standards is to allow streets designed to provide access for only pedestrians and bicycles to abutting properties. Common greens are also intended to serve as a common open space amenity for residents. The following approval criteria and standards apply to common greens:

Commentary

Figure 654-1 through common green is deleted, as the standards that allowed a through common green have been deleted.

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

1. ~~Right of way.~~

a. ~~Approval criteria.~~

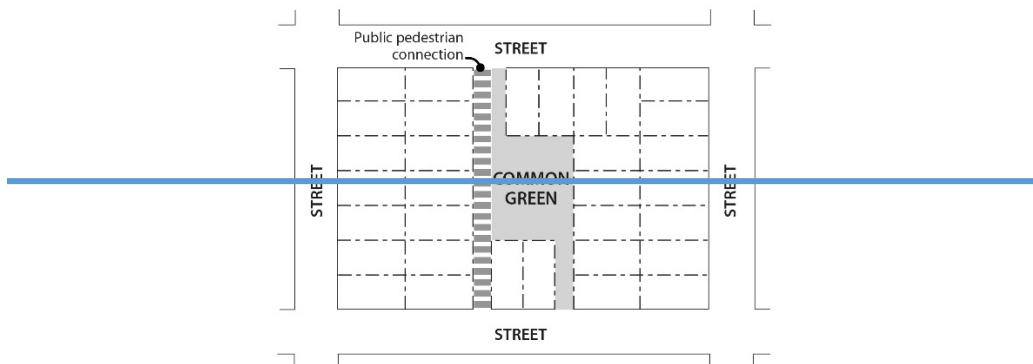
- ~~(1) The size of the common green right-of-way must be sufficient to accommodate expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian system, structures, natural features, and the community activities that may occur within the common green.~~
- ~~(2) Generally, common greens should be dead-end streets. However, common greens may be through streets if a public pedestrian connection is provided directly abutting the common green, or in close proximity. See Figure 654-1. Common greens may also have frontage on more than one intersecting street, if the green is located at the corner of the intersecting streets. See Figure 654-2.~~
- ~~(3) Where a common green abuts a public pedestrian connection, the green must include design features that distinguish the common green from the pedestrian connection, such as perimeter landscaping, low decorative fencing, or paving materials.~~
- ~~(4) Where a common green is a through street, the design of the green should encourage through pedestrian and bicycle traffic to use nearby public pedestrian connections, rather than the common green.~~

b. ~~Standards for configuration of elements within the right-of-way.~~

- ~~(1) For common greens, the Bureau of Development Services has approved the configuration of elements within the street right-of-way.~~
- ~~(2) Turnarounds are not required for common greens.~~
- ~~(3) Common Greens must include at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension.~~

2. ~~Fire access for land divisions with common greens. For land divisions that include a common green, the Fire Bureau has approved the land division for emergency access.~~

Figure 654-1
Blocks with Through Common Green



Commentary

Figure 654-2 Corner Common Green has been renumbered and moved to the preceding proposed common green standards.

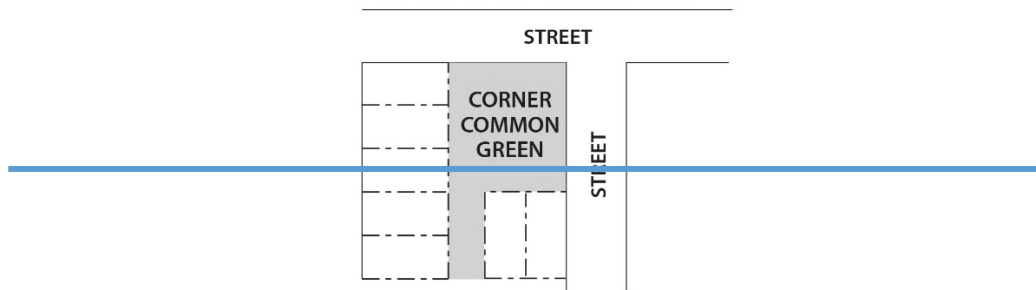
33.654.120.E. Pedestrian Connections

This subsection has been replaced by the amendments above.

33.654.120.F. Alleys

This subsection has been replaced by the amendments above.

Figure 654-2
Corner Common Green



E. Pedestrian connections. The following approval criteria and standards apply to pedestrian connections:

1. ~~Approval criterion for width of the right-of-way. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.~~
2. ~~Standard for configuration of elements within the right-of-way. For public pedestrian connections, the Office of Transportation has approved the configuration of elements within the pedestrian connection right-of-way. For private pedestrian connections, the Bureau of Development Services has approved the configuration of elements within the pedestrian connection right-of-way.~~

F. Alleys. The following approval criteria and standards apply to alleys:

1. ~~Approval criterion for width of the right-of-way. The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.~~
2. ~~Standard for configuration of elements within the right-of-way. For public alleys, the Office of Transportation has approved the configuration of elements within the alley right-of-way. For private alleys, the Bureau of Development Services has approved the configuration of elements within the alley right-of-way.~~
3. ~~Standard for turnarounds. The City Engineer, Bureau of Development Services, or Fire Bureau may require a turnaround on a dead-end alley.~~

Commentary

H. Standard for Street Trees

These standards have been incorporated into the additional requirements for rights of way, as they apply to both public and private streets.

G. ~~Shared court approval criteria and standards.~~ The purpose of the shared court standards is to allow streets that accommodate pedestrians and vehicles within the same circulation area, while ensuring that all can use the area safely. ~~Special paving and other street elements should be designed to encourage slow vehicle speeds and to signify the shared court's intended use by pedestrians as well as vehicles. Access from a shared court is limited to ensure low traffic volumes that can allow a safe mixing of pedestrians and vehicles. Shared courts are limited to zones intended for more intense development to facilitate efficient use of land while preserving the landscape-intensive character of lower density zones. The following approval criteria and standards apply to shared courts:~~

~~1. Right of way.~~

~~a. Approval criterion for width of the right of way. The size of the shared court right of way must be sufficient to accommodate expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian system, structures, traffic safety, natural features, and the community activities that may occur within the shared court.~~

~~b. Standards for length of the right of way. A shared court may be up to 150 feet long.~~

~~c. Standards for configuration of elements within the right of way.~~

~~(1) The Bureau of Development Services has approved the configuration of elements within the street right of way, including a specific paving treatment and traffic calming measures;~~

~~(2) Shared courts must be dead end streets. Through shared courts are not allowed.~~

~~(3) Shared courts must include at least 250 square feet of grassy area, play area, or dedicated gardening space, exclusive of vehicle parking areas. This area must be at least 15 feet wide at its narrowest dimension.~~

~~d. Standards for turnarounds. Turnarounds are not required for a shared court, unless required by the City Engineer, Bureau of Development Services, or Fire Bureau.~~

~~2. Standards for land divisions with shared courts. Land divisions that include a shared court must meet the following standards:~~

~~a. A shared court is allowed only in multi dwelling, commercial/mixed use, employment, or campus institution zones;~~

~~b. Up to 16 lots may have a front lot line on a shared court;~~

~~c. Lots with a front lot line on a shared court must be developed with attached houses, detached houses, duplexes or attached duplexes; and~~

~~d. The Fire Bureau has approved the land division for emergency access.~~

H. ~~Standard for street trees.~~ For existing and proposed public streets, the City Forester, in consultation with the City Engineer, ~~has preliminarily approved the proposal and found it acceptable for the retention of existing street trees and providing adequate areas for future street tree planting. For private streets, the Bureau of Development Services has preliminarily approved the street tree planting plan.~~

Commentary

33.654.130 Additional Requirements for Rights of Way

A. Where these requirements apply.

Added this applicability section for clarity.

B. Standards for street trees.

Moved and expanded upon the standards that were previously in the right of way design section.

For public streets, the regulation is not changed. The City Forester consults with the City Engineer (or their staff) to determine which street trees may be retained, which may be removed, and where and what type of street trees will be planted.

For private streets, the private street admin rules establish planting locations and dimensions. Provisions to reduce required tree planting that are in admin rule, III.I.1.c. have been incorporated here as criteria.

C. Standard for utilities

Removed discretionary language to make this an objective standard.

B. Extension of existing public dead-end streets and pedestrian connections.

This subsection has been incorporated into the connectivity standards and connectivity criteria in 33.654.110.

C. Future extension of proposed dead-end streets and pedestrian connections.

This subsection has been incorporated into the connectivity standards and connectivity criteria in 33.654.110.

33.654.130 ~~Approval Criteria~~ Requirements for Rights-of-Way

A. Where these requirements apply. The requirements of this section apply to land divisions in all zones.

B. Standards for street trees.

1. For existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the street tree preservation, protection, and planting plan.

2. Private street trees. Private street tree plans must meet the standard stated in Subparagraph B.2.a. Adjustments are prohibited. If the proposal cannot meet the standard, the applicant can choose to meet the approval criterion in Subparagraph B.2.b. Adjustments are prohibited:

a. Private street tree standard. The street tree planting plan meets the Trees and Landscaping standards stated in the Permanent Administrative Rules for Private Rights of Way;

b. Private street tree approval criteria. The number of private street trees may be reduced or are not required when:

(1) It is not feasible to provide street trees while meeting the other requirements of this rule and the minimum lot size and dimension standards of the zone;

(2) Trees will be planted in the front yard of each lot, within 5 feet of the street tract, generally one tree every 25 feet of frontage; and

(3) The proposed tree locations will not conflict with public utility easements on the lots; and

c. Tree planting may be deferred until development of the lots, however, such planting must occur prior to final building inspection.

~~C.A. Standard for utilities.~~ Telephone, cable, natural gas, electric, and telecommunication utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way ~~to the maximum extent practicable.~~ Utility easements up to 15 feet in width may be required adjacent to rights-of-way. ~~To the extent practicable,~~ Utility easements needed to serve the lots must be identified during the preliminary land division plan review.

~~B. Extension of existing public dead end streets and pedestrian connections.~~ Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.

~~C. Future extension of proposed dead end streets and pedestrian connections.~~ Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. Options for access and street locations must consider the characteristics of adjacent sites, including terrain, the location of existing dwellings, environmental or Pleasant Valley Natural Resource overlay zoning, streams, wetlands, special flood hazard areas, and tree groves. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:

Commentary

33.654.130 Additional Requirements for Rights of Way (cont'd)

D. Partial rights of way

This subsection is deleted. Partial through street requirements are included in the connectivity and location standards and criteria (in cases where a street is extended to the boundary of the land division site for future through street connection, or to provide future development access). The appropriateness of partial street width is a design component in the public street design requirements. They are determinations that are made when reducing the required width, or that require applying temporary turnarounds to stub streets. So this language is no longer necessary here.

E. Ownership of alleys

This subsection has been incorporated into the Ownership, Maintenance, and Public Use of Rights of Way section

33.654.150 Ownership, Maintenance, and Public Use of Rights of Way

B.2. Pedestrian connections.

These provisions have been moved to follow through streets.

B.2.c is new and is intended to clarify when pedestrian connections may be privately owned, specifically - when connecting two private streets, or connecting a private street to a public street, though pedestrian connections that are parallel to a private street and that connect two public streets would be required to be public.

- ~~1. The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan; or~~
- ~~2. The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.~~

~~**D. Partial rights of way.** Partial rights of way and street improvements may be appropriate where the proposed right of way and street improvements are expected to be provided by the owner of the adjacent property. Partial rights of way and street improvements may also be required where needed to provide future access to adjacent sites. The Office of Transportation must approve the configuration of a partial right of way or public street improvement.~~

~~**E. Ownership of alleys.** Where the proposed alley abuts sites that may be divided or further developed under current zoning, the alley may be required to be dedicated to the public. Factors to be considered include the spacing of existing rights of way, whether adjacent sites are already fully developed under the current zoning, and whether the alley can provide vehicle access to adjacent developable sites. The Office of Transportation must approve the dedication and configuration of any public alley improvements.~~

33.654.150 Ownership, Maintenance, and Public Use of Rights-Of-Way

A. Purpose. To protect long-term access and both public and private investment in the street system, the rights and responsibilities for the street system must be clear. Public ownership of streets is preferred to provide long-term access to sites and meet connectivity goals. However, where a dead-end street serves a limited number of units, the public benefit may be very limited and the maintenance costs may be relatively high. In that limited situation, private streets may be appropriate. Where public ownership is not feasible, property owners must know their maintenance responsibilities and what public use to expect on rights-of-way.

B. Ownership. Ownership of rights-of-way is determined through the following standards:

1. Through streets. Through streets must be dedicated to the public.
2. Pedestrian connections.
 - a. Pedestrian connections that connect two through public streets, must be dedicated to the public.
 - b. Partial pedestrian connections that begin at a public right of way and terminate at the boundary of the land division site, must be dedicated to the public.
 - b. Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.
 - c. Pedestrian connections that connect two private streets or that connect a private street to a public street may be privately owned, unless 2.b. applies.
 - e. Pedestrian connections that are not dedicated to the public must either be privately owned in common by the owners of the property within the land division site or the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.
- ~~3. Partial streets. Partial streets must be dedicated to the public.~~

Commentary

33.654.150 Ownership, Maintenance, and Public Use of Rights of Way (cont'd)

B.4. Dead end streets.

In general, dead end streets must be dedicated to the public. However, certain dead end streets may be privately owned. These include streets that are designed to meet the private street design requirements. Specific limitations on the numbers of lots have been deleted from this regulation because those limitations are incorporated into the design standards in 33.654.120 and they conflicted with regulations for shared courts and common greens.

B.4. Exception for Temporary Turnarounds.

This has been incorporated into the public dead end street regulations

B.5. Exception for common greens and shared courts.

This is covered more generally with the revisions to private dead end streets in B.4.

B.6. Pedestrian Connections

This was renumbered to B.2.

B.5. Alleys

Alley ownership was split between 33.654.130 Additional approval criteria for rights of way and here. This consolidates the requirements. These changes adapt and simplify the previous discretionary criterion

"Where the proposed alley abuts sites that may be divided or further developed under current zoning, the alley may be required to be dedicated to the public. Factors to be considered include the spacing of existing rights-of-way, whether adjacent sites are already fully developed under the current zoning, and whether the alley can provide vehicle access to adjacent developable sites. The Office of Transportation must approve the dedication and configuration of any public alley improvements."

5.a. now states that if an alley abuts more than 5 lots and is located on the edge of the site, it must be public, but PBOT may still decide to not accept it, in which case it must be placed in a tract, per 5.b.

Alleys that abut 5 or fewer lots may be private and can either be in a tract or easement.

~~43.~~ Dead-end streets. ~~In general, d~~

a. Dead-end streets and turnarounds must be dedicated to the public. Temporary turnarounds may be in an easement.

b. Private street exception. A dead-end street and turnaround may be privately owned if the street is not a temporary dead end street and meets the private street design requirements in 33.654.120.C. ~~will abut no more than eight lots within the land division site, and the street is not proposed as, or required to be a partial street. If the street is not dedicated to the public, it~~ The private street and turnaround must be in a tract, and owned in common by the owners of property served by the street or by the Homeowners' Association.

~~4.~~ ~~Exception for temporary turnarounds. Temporary turnarounds may be in an easement.~~

~~5.~~ ~~Exceptions for common greens and shared courts. Common greens and shared courts must be privately owned. They must be in a tract and owned by the Homeowners' Association or owned in common by the owners of property served by the common green or shared court.~~

~~6.~~ ~~Pedestrian connections.~~

a. ~~Pedestrian connections that connect or are intended to eventually connect two through streets, must be dedicated to the public.~~

b. ~~Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.~~

c. ~~Pedestrian connections that are not dedicated to the public may be privately owned in common by the owners of the property within the land division site or the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.~~

~~57.~~ Alleys.

a. ~~Determination of whether an alley must be dedicated to the public or may be privately owned is made under 33.654.130.E.~~

a. Alleys that abut more than 5 lots within the land division site and also abut sites that may be divided under current zoning must be dedicated to the public unless the Bureau of Transportation does not agree to accept the dedication.

b. If an alley is not dedicated to the public and ~~serves~~ abuts more than 5 lots within the land division site, it must be placed in a tract owned in common by the owners of property within the land division site or the Homeowners' Association.

c. If an alley is not dedicated to the public and ~~serves~~ abuts 5 or fewer lots within the land division site, it must either be placed in an easement, or placed in a tract owned in common by the owners of the property within the land division site or the Homeowners' Association.

Commentary

33.654.150 Ownership, Maintenance, and Public Use of Rights of Way (cont'd)

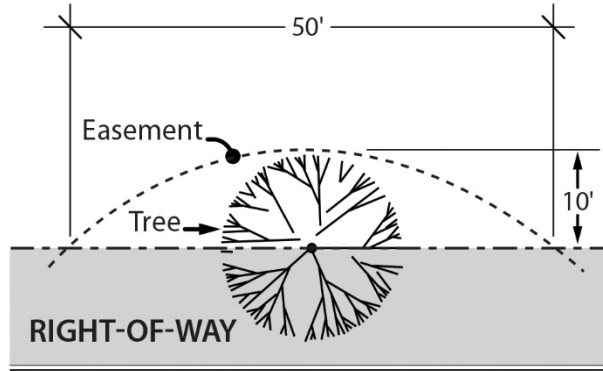
D. Public use of rights-of-way.

This subsection now includes shared courts and common greens which previously were not specifically addressed.

- ~~68.~~ Public rights-of-way. All elements of public rights-of-way must be dedicated to the public, except as allowed by paragraph B.~~810~~, below.
- ~~79.~~ Private rights-of-way. For rights-of-way held in common ownership or owned by the Homeowners' Association, all elements of the right-of-way must be in a tract, except as allowed by paragraph B.~~810~~, below.
- ~~810.~~ Right-of-way elements in easements. Right-of-way elements may be in an easement if the following standards are met:
- a. Temporary turnarounds. Temporary turnarounds allowed under this Chapter may be placed in easements that also include a public access easement that allows public access on all parts of the turnaround;
 - b. Street elements. Sidewalks and other street elements may be placed in easements adjacent to a right-of-way if the following standards are met:
 - (1) A tree, rock outcropping, or other natural feature within the right-of-way precludes construction of the sidewalk or other element within the right-of-way;
 - (2) The easement may be up to 50 feet long, measured along the right-of-way, and up to 10 feet wide. See Figure 654-~~23~~;
 - (3) The easement must also include a public access easement that allows public access on all parts of the easement; and
 - (4) The City Engineer has approved the use of an easement adjacent to a public street or the Bureau of Development Services has approved the use of an easement adjacent to a private street.
 - c. Alleys. Alleys serving 5 or fewer lots may be placed in an easement.
- C. Maintenance.** If the right-of-way is privately owned, a maintenance agreement must be recorded that commits the owner to maintain all elements of the right-of-way.
- D. Public use of rights-of-way.**
1. Street tracts must include a public access easement that allows public access on all parts of the sidewalks;
 2. Shared courts must include a public access easement that allows public access on all parts of the shared roadway;
 3. Common greens, and pPedestrian connections must include a public access easement that allows public access on all parts of the connection; and
 - ~~4.3.~~ Public access easements must be recorded with the County Recorder.

Commentary

Figure 654-~~23~~
Street Elements in Easements



33.654.160 Street Classification

- A. Purpose.** As streets are created or extended through the land division process, these streets should receive a classification in the Transportation Element of the Comprehensive Plan. The street classifications guide decisions on the design of streets and intersections, traffic operations, and the appropriate types of development along the street.
 - B. New streets and street extensions.** New streets, street extensions, and pedestrian connections within the land division site will automatically be classified as local service streets for all modes unless the Transportation Element of the Comprehensive Plan designates them for other classifications.
-

Commentary

33.655 School District Capacity

Summary of changes to this chapter:

- This chapter is deleted

This chapter was added to the land division code in 2016 as part of the 2035 Comprehensive Plan Early Implementation Project, Ord. 188177. It was adopted in response to new service coordination policies adopted with the Comp Plan and applies to land divisions in all zones when 11 or more lots are proposed.

The commentary for that project noted:

"To implement new Comprehensive Plan policy, school district capacity is being added as a service criterion for the approval of a land division. When a land division occurs within the boundaries of a school district that has an adopted school facility plan, the school district will be required to verify that the schools in the district have adequate space to accommodate the students expected to live in the homes that will be developed once the land is divided into additional lots. This requirement is similar to existing service requirements, such as streets, sewer and water, that apply to a request for a land division."

Policy 8.113 states: "School district capacity. Consider the overall enrollment capacity of a school district - as defined in an adopted school facility plan that meets the requirements of Oregon Revised Statute 195 - as a factor in land use decisions that increase capacity for residential development"

Land divisions do not increase the *capacity* for residential development. Capacity is established by the underlying zoning and comprehensive plan designations. In single-dwelling zones, land divisions *enable* development up to the zoned capacity, but do not increase its capacity. In other zones, the division of land has no bearing on the amount of residential development allowed (and arguably reduces it when streets are created).

To date, David Douglas School District is the only district with an adopted and acknowledged facility plan. DDS D has seen declining enrollment since the passage of the Comprehensive Plan and has not made a determination of inadequate capacity to date.

~~33.655 School District Enrollment Capacity~~

655

Sections:

~~33.655.010 Purpose~~

~~33.655.020 Where These Regulations Apply~~

~~33.655.100 School District Enrollment Capacity Standard~~

~~33.655.010 Purpose~~

~~In some areas of the City, growth and development have outpaced the ability for a school district to accommodate increasing student population. This regulation ensures that there is adequate enrollment capacity within school districts to accommodate the student population that is projected to be generated from a land division site.~~

~~33.655.020 Where These Regulations Apply~~

~~The standard of this chapter applies to all land divisions that will result in eleven or more lots within the boundaries of a school district that has an adopted school facility plan that has been acknowledged by the City of Portland.~~

~~33.655.100 School District Enrollment Capacity Standard~~

~~The school district within whose boundaries the land division site lies has verified that enrollment capacity for the district is adequate to serve the proposed development. Adjustments are prohibited.~~

Commentary

33.660 Review of Land Divisions in Open Space, Residential, and IR Zones

Summary of changes to this chapter:

- Reduced the procedural level for land divisions with a concurrent environmental review
- Updated reference to environmental review to include River/Pleasant Valley
- Reduced the procedural level for land divisions located in an OS zone
- Updated final plat chapter reference
- Changed "approval criteria" to "requirements" to reflect ability to meet standards

33.660.100 Review Procedure

Currently, for any land division where environmental review is required, the procedure type automatically escalates to a Type III review. Higher procedure types are often required for cases that are more complex. These are typically assigned by numbers of proposed lots, or when there is proposed development in areas like landslide hazards or flood plains. However, for environmental review, a Type III procedure is assigned even for 2 and 3 lot partitions. A Type III review requires a public hearing before the hearings officer, and a local appeal opportunity at City Council. In addition to higher Type III fees, it also necessitates a pre-application conference prior to submitting the application. The total added fees for a 2 or 3 lot partition as a result is approximately \$17,000 more.

Procedure Type	Application
Type Ix	2-3 lots
Type IIx	4-10 lots 2-3 lots with development in landslide hazard or 2+ lots in flood plains PROPOSED CHANGE: 2-3 lots with environmental review
Type III	11+ lots 4+ lots with landslide hazard CURRENT: Any land division with environmental review PROPOSED CHANGE: 4+ lots with environmental review CURRENT: Any land division site in the OS zone PROPOSED CHANGE: Address OS the same as other R zones

This change will put land divisions with environmental/resource review on par with land divisions that have other unique site attributes like landslide hazards.

The River Environmental and Pleasant Valley Natural Resource reviews have been added to the list of environmental reviews to correct their omission.

The requirement for OS zoned land divisions to be processed as a Type III review is a holdover from before the Land Division Code Rewrite Project in 2003. OS zoned property is primarily in public holding. There are times when the property needs to be divided to separate one type of open space use (e.g. watershed protection) from another (e.g. park facility) which will be held and managed by separate bureaus. There is no compelling rationale to procedurally treat these land division requests any differently from residential zone land divisions.

33.660 Review of Land Divisions in Open Space, Residential, and IR Zones

660

Sections:

General

33.660.010 Purpose

33.660.020 Where These Regulations Apply

Review of Preliminary Plan

33.660.110 Review Procedures

33.660.120 Requirements for Approval Criteria

Review of Changes to an Approved Preliminary Plan

33.660.300 When Review is Required

33.660.310 Review Procedures

33.660.320 Requirements for Approval Criteria

33.660.110 Review Procedures

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed.

- A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:
1. Eleven or more lots;
 2. Four or more lots, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
 3. Four or more lots, when the proposal includes an ~~E~~environmental review, River Review or Pleasant Valley Resource review ;
 4. A phased land division, as described in Chapter 33.633, Phased and Staged Plans;
 5. ~~Any portion of the site is in an Open Space zone.~~
- B. Type IIx.** Except as provided in Subsection A, above, land division proposals that include any of the following elements are processed through a Type IIx procedure:
1. Four to ten lots;
 2. Two or three lots, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
 3. Two or three lots, when the proposal includes an environmental review, River Review or Pleasant Valley Resource review;
 4. ~~Lots, utilities, or services are proposed within a special flood hazard area; or~~
 5. ~~The proposal includes a concurrent land use review assigned to a Type I, Type Ix, Type II, or Type IIx procedure except environmental review. If environmental review is required, then the application is processed through a Type III procedure.~~
- C. Type Ix.** All land divisions not assigned to a Type IIx or Type III, are processed through a Type Ix procedure.

Commentary

33.660.120 Requirements for Approval

With the introduction of approval standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations" which can mean criteria or standards, as appropriate.

F. This change removes reference to the specific applicability threshold, similar to how other chapters are referred to. Sites that proposed fewer lots than the threshold will "meet the regulations of 33.634" by not being subject to those regulations.

I. The solar access chapter has been deleted.

L. With the deletion of Chapter 33.655, the reference to the services and utilities regulations is being corrected.

33.660.300 When Review is Required

Updating reference to renumbered final plat chapter 33.673

33.660.120 Requirements for Approval Criteria

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria regulations~~ have been met. ~~The approval criteria are:~~

- A. Lots.** ~~The standards and approval criteria regulations~~ of Chapters 33.605 through 33.612 must be met;
- B. Trees.** ~~The standards and approval criteria regulations~~ of Chapter 33.630, Tree Preservation, must be met;
- C. Special flood hazard area.** If any portion of the site contains special flood hazard area, the ~~approval criteria regulations~~ of Chapter 33.631, Sites in Special Flood Hazard Areas, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, the ~~approval criteria regulations~~ of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;
- F. Required recreation area.** ~~If 40 or more lots or dwelling units are proposed, the standards and approval criteria~~ The regulations of Chapter 33.634, Required Recreation Areas, must be met;
- G. Clearing, grading, and land suitability.** ~~The approval criteria regulations~~ of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- H. Tracts and easements.** The standards of Chapter 33.636, Tracts and Easements must be met;
- ~~**I. Solar access.** If single dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met;~~
- J. Streams, springs, seeps, and wetlands.** ~~The approval criteria regulations~~ of Chapter 33.640, Streams, Springs, Seeps, and Wetlands must be met;
- JK. Transportation impacts.** ~~The approval criteria regulations~~ of Chapter 33.641, Transportation Impacts, must be met; and,
- KL. Services and utilities.** ~~The regulations and criteria~~ of Chapters 33.651 through ~~33.655~~33.654, which address services and utilities, must be met.

33.660.300 When Review is Required

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.660.300 through 33.660.320. Some changes, listed in Section 33.~~663~~673.200, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.~~663~~673.200, and is not specifically allowed by the Preliminary Plan approval, review is required.

Commentary

33.660.320 Requirements for Approval

With the introduction of approval standards in lieu of approval criteria in many chapters, this section is being renamed.

This section already provides a standards or criteria path for reviewing changes to approved residential land divisions. However, the language has been revised to make this distinction more clear.

33.660.320 Requirements for Approval Criteria

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval standards or criteria have been met:

- A. Approval requirements ~~criteria~~ for changes listed in Subsection 33.660.310.B.** Changes to the Preliminary Plan that are listed in Subsection 33.660.310.B must meet the approval requirements ~~criteria~~ of Section 33.660.120, ~~Approval Criteria~~.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
 - 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
 - 2. The ~~approval criteria~~ regulations addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

Commentary

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

Summary of changes to this chapter:

- Reduced the procedural level for land divisions with a concurrent environmental review
- Updated reference to environmental review to include River/Pleasant Valley
- Updated final plat chapter reference
- Made references to "approval criteria" more general to reflect ability to meet standards

33.662.110 Review Procedures

These changes reduce the procedure type for sites with a concurrent environmental/resource review when there are 2-3 lots proposed. Refer to commentary in 33.660.110.

The addition of the River Environmental and Pleasant Valley Natural Resource reviews corrects an omission.

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

662

Sections:

General

33.662.010 Purpose

33.662.020 Where These Regulations Apply

Review of Preliminary Plan

33.662.110 Review Procedures

33.662.120 Requirements for Approval Criteria

Review of Changes to an Approved Preliminary Plan

33.662.300 When Review is Required

33.662.310 Review Procedures

33.662.320 Requirements for Approval Criteria

33.662.110 Review Procedures

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed.

- A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:
1. Eleven or more lots, regardless of zone;
 2. Four or more lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area; or
 3. Four or more lots, when the proposal includes an ~~E~~environmental review, River Review or Pleasant Valley Resource review.
- B. Type Ix.** Except as provided in Subsection A above, land divisions that include any of the following elements are processed through a Type Ix procedure:
1. Four to ten lots;
 2. Two or three lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
 3. Two or three lots, when the proposal includes an environmental review, River Review or Pleasant Valley Resource review;
 - ~~4.3.~~ Lots, utilities or services are proposed within a special flood hazard area; or
 - ~~5.4.~~ The proposal includes a concurrent land use review assigned to a Type I, Type Ix, Type II, or Type Ix procedure ~~except environmental review. If environmental review is required, then the application is processed through a Type III procedure.~~
- C. Type Ix.** All land divisions not assigned to a Type Ix or Type III in Sections A and B above, are processed through a Type Ix procedure.

Commentary

33.662.120 Requirements for Approval

With the introduction of approval standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations" which can mean criteria or standards, as appropriate.

E. Staged Plans and Phased Final Plats. This chapter is only applicable to RF through R2.5 zones, so reference to these regulations is being deleted.

H. The solar access chapter has been deleted.

K. With the deletion of Chapter 33.655, the reference to the services and utilities regulations is being corrected.

33.662.300 When Review is Required

Updating reference to renumbered final plat chapter 33.673

33.662.120 Requirements for Approval Criteria

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria~~ regulations have been met. ~~The approval criteria are:~~

- A. Lots.** ~~The standards and approval criteria~~ regulations of Chapters 33.613 through 33.615 must be met;
- B. Trees.** ~~The standards and approval criteria~~ regulations of Chapter 33.630, Tree Preservation, must be met;
- C. Special flood hazard area.** If any portion of the site contains special flood hazard area, the ~~approval criteria~~ regulations of Chapter 33.631, Sites in Special Flood Hazard Areas, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, the ~~regulations~~ approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- ~~**E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;~~
- EF. Clearing, grading, and land suitability.** The regulations ~~approval criteria~~ of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- FG. Tracts and easements.** The regulations ~~standards~~ of Chapter 33.636, Tracts and Easements must be met;
- ~~**H. Solar access.** If single dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met; and~~
- GI. Streams, springs, seeps, and wetlands.** The ~~approval criteria~~ regulations of Chapter 33.640, Streams, Springs, Seeps, and Wetlands must be met.
- HJ. Transportation Impacts.** The regulations ~~approval criteria~~ of Chapter 33.641, Transportation Impacts, must be met; and
- IK. Services and utilities.** The ~~regulations and criteria~~ of Chapters 33.651 through ~~33.655~~654, which address services and utilities, must be met.

33.662.300 When Review is Required

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.662.300 through 33.662.320. Some changes, listed in Section 33.~~663~~673.200, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.~~663~~673.200, and is not specifically allowed by the Preliminary Plan approval, review is required.

Commentary

33.660.320 Requirements for Approval

With the introduction of approval standards in lieu of approval criteria in many chapters, this section is being renamed.

This section already provides a standards or criteria path for reviewing changes to approved residential land divisions. However, the language has been revised to make this distinction more clear.

33.662.320 Requirements for Approval Criteria

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:

- A. Approval ~~requirements criteria~~ for changes listed in Subsection 33.662.310.B.** Changes to the Preliminary Plan that are listed under Section 33.662.310.B must meet the approval requirements ~~criteria~~ of Section 33.662.120.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
 - 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
 - 2. The proposed changes continue to comply with the findings made for the approval of the Preliminary Plan; and
 - 3. The ~~approval criteria~~ regulations addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

Commentary

33.663 Final Plats

Summary of changes to this chapter:

- Moved and renumbered the chapter from 33.663 to 33.673
- Restructured the list of allowed variations
- Removed the 5 percent maximum increase limit threshold for lot width or depth

The Final Plat is the last stage of the two-step land division process and follows the review of the preliminary plan. This amendment renumbers the chapter so that it appears last in the sequence of chapters dealing with land division procedures.

33.~~663~~673 Final Plats

~~663~~673

Sections:

General

33.~~663~~673.010 Purpose

33.~~663~~673.020 Where These Regulations Apply

Review of Final Plats

33.~~663~~673.100 Review Procedures

33.~~663~~673.110 Voiding of Final Plat Application

Standards for Approval

33.~~663~~673.200 Approval Standards

33.~~663~~673.210 Staged Final Plat

Changes to Final Plat

33.~~663~~673.310 Changes to Final Plat Before Recording

33.~~663~~673.320 Changes to Final Plat Survey After Recording

General

33.~~663~~673.010 Purpose

These regulations ensure that Final Plats are processed with the appropriate level of city review. This chapter contains clear procedures and approval standards for Final Plats.

33.~~663~~673.020 Where These Regulations Apply

- A. Generally.** The regulations of this chapter apply to proposals for Final Plats in all zones, except those listed in Subsection B and C.
- B. Final Plats of Manufactured Dwelling Parks.** The regulations for the review of Final Plats of Manufactured Dwelling Parks are in Chapter 33.670, Review of Land Divisions of Manufactured Dwelling Parks.
- C. Final Plats for Large Sites in Industrial Zones.** The regulations for the review of Final Plats for Large Sites in Industrial Zones are in Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones.

Review of Final Plats

33.~~663~~673.100 Review Procedure

Final Plats are reviewed through a non-discretionary, administrative procedure. The decision of the Director of BDS is final and is indicated through a signature on the Final Plat.

Commentary

33.673.200.A. Conformance with Preliminary Plan

This list has been restructured to group allowed increases into one paragraph and allowed decreases into another.

There are two changes to these thresholds from current allowances:

- Increases to the width or depth of any lot - this change removes the 5 percent threshold, allowing lot widths or depth to be increased without limit, provided that other tolerances are not exceeded (e.g. reducing the number of lots by more than one, or decreasing the width of other lots by more than 5 percent). Additionally, the regulations for the Title must also continue to be met, including lot dimension requirements.
- The previous list interchangeably used thresholds of "up to 5 percent" and "less than 5 percent". 33.700.070.D.2.f. states: When used with numbers, "Up to x," "Not more than x" and "a maximum of x" all include x. This is different than "less than x". These changes make the thresholds consistently "up to 5 percent" which includes 5 percent.

33.~~663~~673.110 Voiding of Final Plat Application

A. Generally. An application for Final Plat review will be voided when:

1. The Director of BDS has sent written comments to the applicant, requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval and the applicant has not provided any of the requested information or completed any steps toward meeting the outstanding requirements within 180 days. If the applicant provides some information or completes some steps toward meeting the outstanding requirements within 180 days the application of final plat review will not be voided; or
2. It has been more than 3 years since the Director of BDS has sent the initial set of written comments requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval and the applicant has not provided all of the requested information and completed all of the steps necessary to meet the outstanding requirements. This paragraph does not apply to applications for final plat review submitted on or before May 16, 2012.

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.

Standards for Approval

33.~~663~~673.200 Approval Standards

These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of Chapter 33.660, 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. Any of the following decreases:
 - a. The number of lots by one, if minimum density requirements continue to be met;
 - b. The area of any lot up to 5 percent;
 - c. The width or depth of any lot up to 5 percent;
 - d. The area of a stormwater tract up to 5 percent; or
 - e. The area approved for clearing and grading.

Commentary

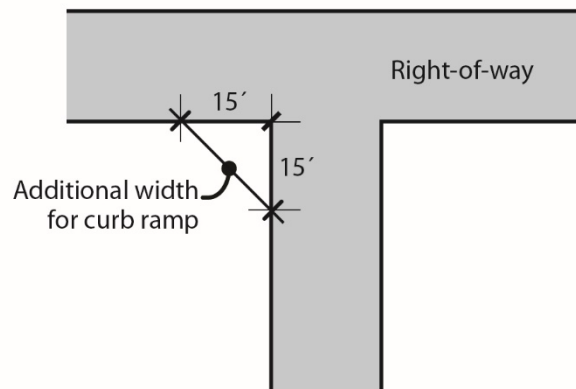
2. Any of the following increases:
 - a. The area of any lot;
 - b. The width or depth of any lot;
 - c. The area of a stormwater tract up to 5 percent;
 - d. The area of a shared parking tract up to 5 percent;
 - e. The area approved for clearing and grading up to 5 percent;
 - f. The area of environmental resource tracts;
 - g. The area of tree preservation tracts;
 - h. The area of flood hazard easements or tracts;
 - i. The area of landslide hazard easements or tracts;
 - j. The area of recreation area tracts;
 - k. The area of an easement or tract, other than a stormwater or parking tract, in a middle housing land division; or
 - l. 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 673-1.
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.~~
 - f. ~~An easement or tract, other than a stormwater or parking tract, in a middle housing land division.~~
- 3.8. ~~Moving a public or private right-of-way if approved by the appropriate service bureau;~~
- 4.9. ~~Changes to a stormwater facility if approved by the appropriate service bureau;~~

Commentary

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

- ~~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.~~
- 5.13. 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
- 6.14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

Figure ~~663~~673-1
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;
- D. Dedications, tracts, and easements.**
 - 1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and
 - 2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;
- 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.
- F. 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;

Commentary

- G. 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
- H. 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.

~~33.663~~33.673.210 Staged Final Plat

If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Staged Final Plats are defined in Chapter 33.633, Phased Land Divisions and Staged Final Plats. Each stage must meet ~~the~~ all of the Final Plat approval standards of Section 33.~~673~~663.200.

Changes to Final Plat

~~33.663~~33.673.310 Changes to Final Plat Before Recording

Before the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to an approved Preliminary Plan. Where a land use review of the changes is required by 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, the revised Final Plat must undergo Final Plat review again.

~~33.663~~33.673.320 Changes to Final Plat Survey After Recording

After the Final Plat Survey has been recorded with the County Recorder and Surveyor, changes are processed as a new land division or alternative process, such as a Replat under 33.675, or Property Line Adjustment under Chapter 33.677, if allowed.

Commentary

33.670 Review of Land Divisions of Manufactured Dwelling Parks

Summary of changes to this chapter:

- Revised application submittal requirements to acknowledge electronic submittals
- Updated reference to proof of property ownership

33.670.030 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

To provide more clarity for scaled drawings, a range of allowable scale is specified, consistent with the scale requirements that currently apply to property line adjustments (33.677.200.B.1)

33.670 Review of Land Divisions of Manufactured Dwelling Parks

670

33.670.030 Application Requirements

A complete application for a land division of a manufactured dwelling park 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. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. 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 t~~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;
2. Written statement. ~~Two copies of a~~ A written statement that includes the following:
 - A complete list of all land use reviews requested;
 - 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~~ a vicinity map. ~~The map must cover an area~~ extending at least 200 feet in each direction from the land division site, and shows 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 t~~The proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet 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-b. [No change]
5. [No change]

Commentary

33.670.030.B. Final Plat

5. Verification of Ownership.

The required documentation to demonstrate property ownership may not be limited to Title Insurance companies, or specifically called "Title Reports". This change refers more generally to the documentation that is required and is responsive to any changes that may occur in state legislation as to who may prepare such reports. This is consistent with changes in 33.730.

33.670.130 Requirements for Approval

With the introduction of approval standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations" which can mean criteria or standards, as appropriate.

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

1. Final Plat survey. A copy ~~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:
 - a-b. [No change]
2. Supplemental plan. A supplemental plan, ~~the number determined by the Director of BDS,~~ 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. This includes the information from the Preliminary Plan that shows the proposal does not move the site out of conformance, or further out of conformance, with the standards of Chapter 33.251, Manufactured Homes and Manufactured Dwelling Parks;
3. 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;
4. Maintenance agreements and CC&Rs. ~~Three copies~~ A copy of each required maintenance agreement or Conditions, Covenants and Restrictions;
5. Verification of ownership. A report issued by a title insurance company or authorized agent to perform such services in the state verifying ownership and detailing any deed restrictions ~~Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;~~ and
6. [No change]

33.670.130 Requirements for Approval Criteria

The Preliminary Plan for a land division of a manufactured dwelling park will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria~~ regulations have been met. ~~The approval criteria are:~~

A.-F. [No change]

Commentary

33.671 Review of Middle Housing Land Divisions

Summary of changes to this chapter:

- Revised application submittal requirements to acknowledge electronic submittals

33.671.030 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

To provide more clarity for scaled drawings, a range of allowable scale is specified, consistent with the scale requirements that currently apply to property line adjustments (33.677.200.B.1)

33.671 Review of Middle Housing Land Divisions

671

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.

Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. 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.~~ An application for Preliminary Plan must include all of the following:

- A. **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;
- B. **Written statement.** ~~Two copies of a~~ 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;
- C. **Vicinity map.** ~~Three copies of A~~ a vicinity map. ~~The map must cover an area~~ extending at least 200 feet in each direction from the land division site, and shows the following existing conditions for both the site and the vicinity:
 - Streets;
 - Pedestrian and bicycle facilities and connections; and
 - Location of utilities and services;
- D. ~~Copies of~~ The proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet 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:
 - 1-2. [No change]
- E. [No change]

Commentary

33.675 Replat

Summary of changes to this chapter:

- Revised application submittal requirements to acknowledge electronic submittals
- Updated reference to proof of property ownership

33.675.200 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

C.1 Verification of Ownership.

The required documentation to demonstrate property ownership may not be limited to Title Insurance companies, or specifically called "Title Reports". This change refers more generally to the documentation that is required and is responsive to any changes that may occur in state legislation as to who may prepare such reports.

To provide more clarity for scaled drawings, a range of allowable scale is specified, consistent with the scale requirements that currently apply to property line adjustments (33.677.200.B.1)

33.675 Replat

675

33.675.200 Application Requirements.

A complete application for a replat 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. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. An application for a replat must contain the following:

- A. Application form.** ~~One copy of t~~The completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.
- B. Surveys.**
- ~~Three copies of a~~A survey of the site ~~prepared~~, stamped and signed by a registered land surveyor showing all existing ~~property~~lot lines and the location, dimensions and setbacks from ~~property~~lot lines for all structures and other improvements, ~~and utilities, and~~ services on the site. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet;
 - If the site is part of an existing plat, a copy of the recorded plat; and
 - ~~Three copies of a~~A Final Partition Plat showing the reconfigured lot or lots. Copies of the Final Plat must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet and of a format, material, and number acceptable to the Director of BDS. The following statement must be on the Final Plat: "This plat is subject to the conditions of the City of Portland Case File No. LUR..."
- C. Other.**
- Verification of ownership. A report issued by a title insurance company or authorized agent to perform such services in the state verifying ownership and detailing any deed restrictions ~~Title reports. A current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;~~ and
 - 2-3. [No change]

Commentary

33.675.300.A.

The lot dimension requirements in 33.605 through 615 are not exclusively standards and include some alternative criteria. The change to "regulations" is clearer and more inclusive of both approval standards and approval criteria.

33.675.300.A.1.a(1) and 1.c(1)

Pleasant Valley Natural Resource overlay zone has been added to correct an omission

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~~regulations of Chapters 33.605 through 33.615, with the following exceptions:

1. Lot dimension standards.

- a. Lots and adjusted lots that do not meet the minimum lot area required for new lots are exempt from the minimum lot area requirement if they do not move further out of conformance with the minimum lot area required for new lots, and they meet the following:

- (1) No portion of the lot or adjusted lot is in an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental protection, environmental conservation, or river environmental~~ overlay zone;
- (2) No portion of the lot or adjusted lot is in the special flood hazard area; and
- (3) The lot or adjusted lot has an average slope of less than 25 percent;

- b. Maximum lot area. If any of the lots within the replat site are larger than the maximum lot area allowed, the same number of lots in the replat site are exempt from maximum lot area requirements;

- c. Minimum lot width. Lots and adjusted lots that do not meet the minimum lot width required for new lots are exempt from the minimum lot width requirement if they do not move further out of conformance with the minimum lot width required for new lots, and they meet the following:

- (1) No portion of the lot or adjusted lot is in an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental protection, environmental conservation, or river environmental~~ overlay zone;
- (2) No portion of the lot or adjusted lot is in the special flood hazard area; and
- (3) The lot or adjusted lot has an average slope of less than 25 percent;

2-5. [No change]

B-E. [No change]

Commentary

33.676 Lot Confirmation

Summary of changes to this chapter:

- Revised application submittal requirements to acknowledge electronic submittals
- Excluded lot confirmations from minimum density regulations.

33.676.200 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

33.676 Lot Confirmation

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33.676.200 Application Requirements

A complete application for a Lot Confirmation 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. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. ~~The application for a Lot Confirmation must contain the following:~~

- A. Application Form.** ~~One copy of t~~The completed application form bearing an accurate legal description, tax account number and location of the property. The completed form must also include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant’s interest in the property.
- B. Verification of lot creationSupporting documentation.** Documentation that establishes when and how the lot was created is required. For Lot Confirmations where the base zone requires that the lot was under separate ownership from abutting lots, ownership information for the lot and abutting lots is also required. This may include copies of recorded plats, historic deeds, or other documentation that provides evidence of the creation and chain of ownership of the property.
- C. Site plan and supplemental survey.**
 1. A site plan ~~no larger than 18 inches by 24 inches in size~~ is required for all applications. The site plan must be drawn to scale and show:
 - The location of existing lot ~~or property~~ lines;
 - The boundaries of the re-established lot, lot of record, or combinations thereof;
 - All development on the site including driveways ~~and parking areas~~;
 - The location and size of trees that are 12 or more inches in diameter;
 - The location of utilities and services; and
 - The location and dimensions of existing curb cuts abutting the site.
 2. If existing buildings on the site will remain after the lot confirmation, a supplemental survey signed and stamped by a registered land surveyor is also required. The survey must show utilities and services, the distances between the buildings on the lot, ~~and the property~~ lot line that is being confirmed.

Commentary

33.676.300.B Development Standards

33.676.300.B.1. refers to lot dimension requirements for being able to confirm lots, and states that “adjustments are prohibited.” This is to prevent requests to approve lots that are too small to reasonably develop individually from being separated.

33.676.300.B.2 has been added to afford greater flexibility to separate ownerships to create additional housing. Minimum density requirements, when applied to separated lots as opposed to a combined site, can mathematically have different results, making it difficult to comply, even when there is no material reduction in dwelling density. Future building on the separated lots will be assessed for minimum density requirements at the time of development.

33.676.300.B.3. (previously 300.C.) notes that development must remain in conformance with development standards, unless an adjustment is approved. These development standards include lot dimensions and minimum density. This creates confusion when applying subsections B.1 and B.3 together.

The ability to adjust development standards may be needed for example where a structure is located too close to an underlying lot line, and doesn't meet the setbacks, or will exceed lot coverage based on the reduced site area.

To resolve this conflict, clarification is added to B.3. that development must be in conformance (or not move further out of conformance) with development standards other than the minimum lot dimensions and minimum density.

C. Other.

1. Verification of ownership. A report issued by a title insurance company or authorized agent to perform such services in the state verifying ownership and detailing any deed restrictions;
2. Narrative. A written narrative explaining how the regulations and approval standards of this chapter have been met; and
3. Fees. The applicable filing fees.

33.676.300 Standards

A request for a Lot Confirmation will be approved if all of the following are met:

A. [No change]

B. Development standards.

1. Minimum lot dimension standards. The following lot dimension standards apply to each lot, adjusted lot, lot remnant, lot of record or combination thereof. The standards must be met without necessitating a property line adjustment. Adjustments are prohibited:
 - ~~a~~1. In the OS, C, EX, CI and IR zones, each lot must have a front lot line that is at least 10 feet long. There are no other minimum lot dimension standards.
 - ~~b~~2. In the single-dwelling zones, each lot must have frontage on a street, and each lot must meet the standards of 33.110.202, When Primary Structures are Allowed.
 - ~~c~~3. In the multi-dwelling zones, each lot must have frontage on a street, and each lot must meet the standards of Section 33.120.205, Development on Lots and Lots of Record.
 - ~~d~~4. In the EG zones, each lot must meet Standard B stated in Table 614-1.
 - ~~e~~5. In the I zones, each lot must meet Standard B stated in Table 615-1.
 - ~~f~~6. If the lot is in an overlay zone or plan district that regulates minimum lot dimensions, the minimum lot dimension standards of the overlay zone or plan district must be met instead of the standard that corresponds to the base zone.
2. Minimum density. Minimum density regulations do not apply to a lot confirmation.
3. All other ~~D~~development standards. The following standards apply to development standards other than minimum lot dimensions and minimum density:
 - a. If existing development is in conformance with the development standards of this Title, the development must remain in conformance after the Lot Confirmation.
 - b. If existing development is not in conformance with a development standard of this title, the Lot Confirmation will not cause the development to move further out of conformance with the standard unless an adjustment or Property Line Adjustment is approved.

CD. Conditions of previous land use reviews. All applicable conditions of previous land use reviews must be met, see 33.700.110, Prior Conditions of Land Use Approvals. Adjustments are prohibited.

Commentary

33.677 Property Line Adjustment

Summary of changes to this chapter:

- Revised application submittal requirements to acknowledge electronic submittals
- Updated reference to state survey requirements
- Added exception to allow flexibility for already undersized E/I zoned lot PLA's

33.677.200. Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

B. Surveys

The reference to survey requirements is updated to the correct ORS citation. By citing Oregon statutes more generally, the risk of the specific citation getting renumbered or otherwise changed is eliminated. Since this language is more informational than regulatory (the county surveyor reviews and approves the recorded plat), a general citation is appropriate here.

33.677 Property Line Adjustment

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33.677.200 Application Requirements

A complete application for a property line adjustment consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. No more than three Property Line Adjustments may be requested on a site within one calendar year.~~The application must contain the following:~~

- A. Application form.** ~~Two copies of the~~The completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.
- B. Surveys and supplemental site plan.**
- ~~1. Three paper copies of a~~A property line survey. The survey must be ~~prepared~~, stamped and signed by a registered land surveyor ~~as required by Oregon statute to meet ORS 92.050.~~ The survey must show all existing and proposed property lines and all existing lot lines. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet;
 - ~~2. One copy of the property line survey that is 8-1/2 by 11 inches in size; and~~
 - ~~23. One paper copy of a~~A survey of the proposed PLA prepared, stamped, signed, and attested to for accuracy by a registered land surveyor, showing the location, dimensions and setbacks of all improvements on the site. This survey map must be drawn to a scale at least 1 inch = 200 feet.
 3. Site plan. If there is existing development on either property, a site plan, drawn to scale, that shows:
 - The location of existing and proposed lot and property lines;
 - All development on the site including driveways;
 - The location and size of trees that are 12 or more inches in diameter;
 - The location of utilities and services;
 - The location and dimensions of existing curb cuts abutting the site; and
 - Any additional information needed to demonstrate that the standards in 33.677.300 will be met.
- C. Legal description.** ~~Two copies of the~~Legal descriptions for each adjusted property and each exchange parcel. The legal descriptions must be ~~prepared and signed and stamped~~ by a registered land surveyor.

Commentary

33.677.300.A. Conformance with regulations

The property line adjustment regulations make general reference to "not caus[ing] the property or development to move further out of conformance".

A.4. When a property line adjustment is proposed between a lot that conforms to maximum lot size and one that exceeds maximum lot size, the current regulations stipulate that only the lot that is already non-conforming with regard to maximum lot size may remain non-conforming. This is unnecessarily restrictive and inconsistent with regulations for replats.

This change allows the other lot to exceed maximum lot size, so long as the previously non-conforming lot meets the maximum lot size standard after the property line adjustment.

A.6. and A.7. In the EG2, IG2 and IH zones the lot size standard is that most lots meet the larger Standard A lot size requirement (20,000 or 40,000 sq ft) while the remaining lot or lots meet Standard B (10,000 sq ft). In a property line adjustment between two lots that are both smaller than standard A, it is unclear how the lot size standard is to be applied.

These changes provide more clarity on how to evaluate property line adjustments in these cases. When both lots are already smaller than the size required by Standard A, then at least one lot must at least meet Standard B (i.e. 10,000 sq ft).

This also means that in cases where both lots are smaller than Standard B, one lot will need to meet Standard B after the PLA.

D. Other.

1. Verification of ownership. A report issued by a title insurance company or authorized agent to perform such services in the state verifying ownership and detailing any deed restrictions;
2. Narrative. A written narrative explaining how the regulations and approval standards of this chapter have been met; and
3. Fees. The applicable filing fees.

33.677.300 Standards

The site of a Property Line Adjustment is the two properties affected by the relocation of the common property line. A request for a Property Line Adjustment will be approved if all of the following are met:

A. Conformance with regulations. Both properties will remain in conformance with regulations of this Title, including those in Chapters 33.605 through 33.615, except as follows:

1. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation;
2. If the Property Line Adjustment will configure one of the properties as a flag lot, nonconformance with the maximum floor area ratio standard is allowed for the existing development at the time of the property line adjustment. Future alterations may not move the development further out of conformance and new development must comply with the maximum floor area ratio;
3. If both properties are already out of conformance with maximum lot area standards, they are exempt from the maximum lot area standard;
4. If one property is already out of conformance with maximum lot area standards, ~~it is then~~ one lot is exempt from the maximum lot area standard;
5. Lots with an institutional use are exempt from maximum lot size standards; ~~and~~
6. If both properties are already less than 20,000 square feet in total area and the site is in an EG1 or EG2 zone, then at least one lot must comply with Standard B stated in Table 614-1;
7. If both properties are already less than 40,000 square feet in total area and the site is in an industrial zone, then at least one lot must comply with Standard B in Table 615-1; and
8. ~~6.~~ If at least one lot is already out of conformance with the minimum lot area standards and the site is in the R5 zone, the minimum lot area is 1600 square feet and the minimum width is 36 feet, if:
 - a. At least one lot is a corner lot; and
 - b. The adjusted property line must be perpendicular to the street lot line for its entire length.

See Figure 677-1.

B-D. [No change]

Commentary

33.677.300 Standards

E. Overlay Zones

This subsection was amended to reflect the inclusion of other natural resource zones (River Environmental and Pleasant Valley Natural Resource)

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

- E. ~~Environmental~~**Overlay zones**. If any portion of either property is within an Environmental, River Environmental, or Pleasant Valley Natural Resources environmental overlay zone, the provisions of Chapter 33.430, ~~Chapter 33.465, or Chapter 33.475 as applicable~~ must be met. Adjustments are prohibited.
- F-G. [No change]

Commentary

33.730 Quasi-Judicial Procedures

Summary of changes to this chapter:

- Revised application submittal requirements to allow electronic submittals
- Changed to reflect the ability to meet approval standards in lieu of approval criteria
- Updated cross references
- Updated neighborhood contact submittal requirements
- Revised the Landslide Hazard Study submittal requirements
- Added a land suitability documentation requirement
- Clarified when a Transportation Impact Study is required

33.730.060.D. Application requirements

Previously, the land division application required variable numbers of copies.

- 1 reduced size copy of all plans/maps
- 3 copies of the application form
- 2 copies of the written statement
- 3 copies of a vicinity map
- Unspecified number of copies of the proposed land division:
- Unspecified number of copies of tree information
- 1 landslide hazard study (if applicable)
- 2 copies of neighborhood contact info (if applicable)
- 2 copies of pre app notes (if applicable)
- 1 phase I site assessment [NEW] (if applicable)
- 3 copies of transportation impact study (if applicable)

BDS' current practice is to accept electronic submittals. Multiple copies are no longer necessary for distribution as applications are disseminated to reviewers electronically. Consequently, this section has been revised to require just a single paper copy of all materials or an electronic submittal.

33.730 Quasi-Judicial Procedures

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33.730.060 Application Requirements

A-B. [No change]

C. **Required information for land use reviews except land divisions.** Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, 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. The applicant is responsible for the accuracy of all information submitted with the request.

1. ~~Two copies of a~~The completed application form bearing an accurate legal description, tax account number(s) and location of the property. The application must include the name, address, and telephone number of the applicant, the name and addresses of all property owners if different, the signature of the applicant, and the nature of the applicant's interest in the property.
2. ~~One copy of a~~A written statement that includes the following items:
 - A complete list of all land use reviews requested;
 - A complete description of the proposal including existing and proposed use(s) or change(s) to the site or building(s);
 - A description of how all approval criteria for the land use review(s) are met. As an alternative and where appropriate, this information may be placed on the site plan; and
 - Additional information needed to understand the proposal, or requested at the pre-application conference, if applicable.
3. ~~Four copies of a~~ site or development plan. At least one complete copy must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:
 - All property lines with dimensions and total lot area;
 - North arrow and scale of drawing;
 - Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
 - Existing natural features such as watercourses including the ordinary high water line and top of the bank;
 - The location, size, and species of all trees 6 inches and larger in diameter. On sites where the development impact area option for large sites in Chapter 11.50 will be used, only trees within that area must be shown;
 - Trees proposed to be preserved, including protection methods meeting the requirements of Chapter 11.60, and trees proposed to be removed;

Commentary

- Easements and on-site utilities;
 - Existing and proposed development with all dimensions;
 - Building elevations;
 - Location of adjacent buildings;
 - Distances of all existing and proposed development to property lines;
 - Types and location of vegetation, street trees, screening, fencing, and building materials;
 - Percentage of the site proposed for building coverage, and landscaping coverage;
 - Motor vehicle and pedestrian access and circulation systems, including connections off-site;
 - Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas;
 - Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site; and
 - Additional requirements of the specified land use review.
4. In the case of a land use review that requires a pre-application conference, a copy of the completed pre-application conference summary or proof of participation, if available.
5. A transportation impact study, if required by the Office of Transportation at a pre-application conference.
6. In the case of a zone change within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, the application must include verification from the school district that there is adequate enrollment capacity to serve the zone change site.
- 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. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, 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. 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. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include one copy~~all~~ of the following:
- a. Application form. ~~Three copies of t~~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

33.730.060.D.1.b.

Reference to demonstrating how approval standards are met has been added. Also, in consideration of the revised land suitability standards in 33.635, additional information regarding prior uses on the land division site is requested.

33.730.060.D.1.d.

To provide more clarity for scaled drawings, a range of allowable scale is specified, consistent with the scale requirements that currently apply to property line adjustments (33.677.200.B.1)

- b. Written statement. ~~Two copies of a~~ A written statement that includes the following:
- A complete list of all land use reviews requested;
 - 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 and criteria are met for the land division and any concurrent land use reviews;
 - Additional information needed to understand the proposal, or requested at the pre-application conference;
 - Names and address of land division designer or engineer and surveyor;
 - Proposed maintenance agreements or Conditions, Covenants and Restrictions; ~~and~~
 - If Preliminary Plan phasing is proposed, a description and timeline of each phase and timing of associated improvements;
 - If more than 3 lots are proposed, the proposed name of the land division;
 - Proposed names of all streets;
 - A description of the type and location of any known potential geologic hazards such as liquefaction hazards, seismic hazards and faults, landfills, contamination; and
 - A description of past uses on the site that may affect the suitability of the site for development, such as industrial uses, landfills, railroad yards, mining, dry cleaners, outdoor firing ranges, and Quick Vehicle Servicing;
- c. Vicinity map. ~~Three copies of a~~ A vicinity map. ~~The map must cover an area~~ extending at least 800 feet in each direction from the land division site, and shows the following existing conditions for both the site and the vicinity:
- Zoning and Comprehensive Plan designations;
 - Streets;
 - Transit, pedestrian, and bicycle facilities and connections; and
 - Water bodies, wetlands, special flood hazard areas, floodways, and potential landslide hazard areas; and
 - Location of utilities and services;
- d. ~~Copies of t~~ The proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet ~~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:
- (1) Base map. The following information must be on all maps:
- Surveyed information:
- Boundary lines of the site with dimensions and total site area;
 - North arrow and scale of map;
 - Identification as the Preliminary Plan Map;
 - Stamp of surveyor; and

Commentary

33.730.060.D.1.d.(2) Survey Information (trees)

The exemption for showing trees on the survey when the tree canopy preservation option is proposed has been deleted. This option was deleted from Chapter 33.630.

Wetlands have been added to correct an omission to the list of features that require a wetland delineation.

- If more than 3 lots are proposed, the proposed name of land division;

Additional information:

- Proposed lot layout with sizes, dimensions, and lot 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; and
- Proposed location, dimensions, and purpose of all easements;

- (2) Existing conditions map. The following existing site conditions must be shown:

Surveyed information:

- Ground elevations shown by contour lines at 5-foot vertical intervals for slopes greater than 10 percent, and at 2-foot vertical intervals for ground slopes of 10 percent or less;
- Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;
- All trees completely or partially on the site that are 6 inches or more in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. ~~On sites where the proposal is to preserve tree canopy under Option 5 or 6 of the Tree Preservation Standards in 33.630.100.A.5 or 6, the trees do not have to be surveyed;~~
- Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
- Seeps and springs, wetlands, watercourses, and all water bodies including the ordinary high water line and top of bank; if there is a seep, ~~or~~ spring, or wetland on the site, a wetland delineation is required to determine the edge of the seep, ~~or~~ spring, or wetland. This delineation must be performed by an environmental scientist;
- The centerline of existing drainageways, including ditches, swales, and other areas subject to wet weather inundation; and
- Location of flood hazard areas, including elevations of the special flood hazard area and floodway boundaries. Sites that contain a water body not shown on the special flood hazard area maps must identify the location of the special flood hazard areas;

Additional information:

- Zoning and Comprehensive Plan designations; and
- Location, dimensions, and purpose of existing easements on and abutting the site;

Commentary

33.730.060.D.1.d.(3) Proposed Improvements Map

Previously, lot widths could be reduced when a number of requirements (largely relating to garages and parking) could be met. These have been rendered irrelevant now that some of those requirements are embedded in the base zone for narrow lots, and also because minimum parking no longer applies. This additional information is no longer necessary at the land division stage. If onsite parking is expected, location of driveways should be shown to better ensure that future development will be able to meet street access requirements.

33.730.060.D.1.d.(4) Preliminary Clearing and Grading Plan

This was amended to reflect the inclusion of other natural resource zones (River Environmental and Pleasant Valley Natural Resource) that had been erroneously omitted.

Additional information is needed to determine whether more than 10 cubic yards will be deposited or removed from the site in order to meet approval standards in 33.635.

- (3) Proposed improvements map. The following proposed improvements must be shown:
- ~~Enough information to determine that minimum lot width requirements are met for each proposed lot including footprint of structures and~~ Proposed locations of driveways ~~if necessary~~;
 - Distances of all known proposed development to proposed lot lines;
 - Proposed pedestrian connections;
 - If proposed lots are within a special flood hazard area or landslide hazard area, proposed building locations; ~~and~~
 - If Preliminary Plan phasing is proposed; boundaries of sequence of the proposed phasing;
 - Existing and proposed services and utilities; and
 - Preliminary Stormwater Plan that meets the requirements of the Stormwater Management Manual and the BES Sewer Design Manual. This plan must show the capacity, type, and location, as well as the land area required, of the stormwater management system and stormwater disposal facilities proposed. The plan must also provide information on the feasibility of the stormwater management system being proposed;
- (4) Preliminary Clearing and Grading Plan. A Preliminary Clearing and Grading Plan that identifies all areas of clearing and grading. The plan must show the following:
- Existing contours and drainage patterns;
 - Existing drainageways, wetlands, streams, seeps and springs, and other water bodies;
 - Existing trees and vegetation;
 - Areas of the site where fill has been placed;
 - Boundaries of Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zones ~~Overlay Zones~~;
 - Proposed areas of clearing and grading, including grading and clearing for:
 - Rights-of-way;
 - Services and utilities; and
 - Structures, such as retaining walls, necessary for the construction of these elements. Proposed areas of clearing and grading for individual lots and tracts may also be shown;
 - Proposed contours within areas to be cleared and graded;
 - Proposed stormwater and sedimentation control devices to be used during construction;
 - Proposed stockpile areas;
 - Proposed trees and vegetation to be preserved;
 - Proposed location and material of construction fencing for proposed tree preservation tract;
 - Proposed location and material of construction fence;
 - Proposed amount (cubic yards) of soil to be disturbed, deposited or removed from the site; and
 - Proposed structures necessary to construct streets or pedestrian connections;

Commentary

- e. Tree information, as follows:
- (1) Existing tree map and preservation plan showing the following:
 - Existing and proposed lots, tracts, rights-of-way, and utilities;
 - Surveyed location of all trees completely or partially on the site required to be surveyed by D.1.d(2);
 - The location, species and size of trees located in adjacent rights-of-way;
 - The approximate location, species, and size of trees on adjacent sites, within 15 feet of proposed or future disturbance areas;
 - Heritage trees on or adjacent to the site;
 - Tree numbers corresponding to the arborist report;
 - Location, type, and size of trees to be removed;
 - Location, type, and size of trees to be preserved and tree protection meeting the requirements of Chapter 11.60, Technical Specifications; and
 - Existing and proposed tree preservation tracts.
 - (2) Tree planting information, including:
 - Conceptual planting plan showing general area where trees will be planted on the lots as mitigation and/or to satisfy the tree density standards of Chapter 11.50, Trees in Development Situations;
 - A preliminary street tree planting plan; and
 - (3) A written statement describing how the requirements of Chapter 33.630, Tree Preservation, are met; and
 - (4) A written report prepared by an arborist that includes the following:
 - Trees located on the development site. The information listed below must be provided for all trees required to be shown on the existing tree map, as described in e.(1) above. Trees must be numbered consistent with the tree survey:
 - Evaluation of tree health and condition;
 - Identification of tree groves and Heritage Trees;
 - Identification of nuisance, dead, dying, and dangerous trees;
 - Evaluation of the suitability of each tree for preservation based on proposed or future development on the site, including consideration of grading and utility plans;
 - Identification of trees to be preserved and trees to be removed;
 - Root protection zone and tree protection methods specified for each tree to be preserved, as required by Chapter 11.60, Technical Specifications;
 - A discussion of activities that will be prohibited within root protection zones during construction, and any other relevant construction management needs; and
 - Recommendations for short or long-term tree care.
 - ~~Trees in adjacent rights-of-way or on adjacent sites.~~ Trees on adjacent rights-of-way or on adjacent sites that may be affected by the proposed or future development on the land division or planned development site must be identified. Recommendations for tree protection and methods to limit impacts on adjacent trees must be included in the arborist report.

Commentary

33.730.060.D.1.e(4) Trees on adjacent sites

With revisions to separate the tree preservation standards from criteria, consideration of impacts to adjacent trees is only applicable when the criteria are being considered and weighed. Therefore, this information is not needed for applications that will be meeting the preservation standards alone.

33.730.060.D.1.f. Landslide Hazard Studies.

Additional specificity has been added to better ensure that the studies submitted are relevant to current site conditions and building code requirements.

The additional items in the list were derived from supplementary guidance provided to applicants during early assistance appointments and are also necessary to accompany the standards in Chapter 33.632, Sites in Potential Landslide Hazard Areas

- Trees on adjacent sites. For applications that are meeting the approval criteria in 33.630.200, trees on adjacent sites that may be affected by the proposed or future development on the land division or planned development site must be identified. Recommendations for tree protection and methods to limit impacts on adjacent trees must be included in the arborist report.
- f. Landslide Hazard Study. If any part of the site is in a potential-landslide hazard area as shown on ~~Map 632-1, the City's Potential Landslide Hazard Areas, Map~~ the application must include a Landslide Hazard Study prepared by a Certified Engineering Geologist and a Geotechnical Engineer based on current geotechnical professional standards and practices. If the study was prepared more than 2 years ago, an addendum must be provided that confirms that the study and any recommendations reflect current site conditions and conforms to current building code requirements.

The Landslide Hazard Study must identify landslide hazard areas within the site and identify the part or parts of the site suitable for development in terms of the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site. The Landslide Hazard Study should make recommendations for the layout and design of the land division and development. The Landslide Hazard Study should include:

- Identification of the safest portion(s) of the site for development;
- Hazardous or No-Build areas within the land division site, if any;
- Recommended building setback distances from slopes, if any;
- Recommendations for the location of driveway and/or street locations;
- Utility trench locations;
- Retaining walls, associated drainage and discharge systems, if any;
- Grading requirements for building sites, vehicle areas, streets and services,;
- Estimated effect of tree removal on slope stability;
- Estimated effect of the development on stormwater and groundwater runoff, as well as evaluation of runoff and stormwater disposal from adjacent property as they relate to slope stability and landslide hazard;
- Recommendations for stormwater and groundwater disposal methods;
- Recommendations and corresponding design calculations for slope stabilization.

If any of the above items are not applicable to the proposal, the Landslide Hazard Study must describe why they are not applicable. The study must provide adequate detail to show the design of all proposed structures and improvements, and must include a statement of on-site slope stability after the proposed development is complete. ~~The study must also include a statement of the estimated effect of the developments on stormwater and groundwater runoff as it relates to slope stability and landslide hazard, and a proposed method of control.~~

The study may also include

- Review of LIDAR or aerial photography including stereo views;
- Review of geologic literature or previous reports;

Commentary

33.730.060.D.1.h. Neighborhood Contact. This referred to outdated neighborhood contact letter requirements. The code citation reference has been updated, and now refers to submitting a copy of "required information" which is consistent with how the neighborhood contact requirements are written.

33.730.060.D.1.j Land Suitability Documentation. To address the land suitability approval standards or criterion, additional documentation may be necessary, such as a Phase I Environmental Assessment or documentation from DEQ that identifies known contaminants and any pending or completed decontamination projects. These sites are ineligible to use the standards in 33.635, so the approval criteria may require additional remediation in these cases.

33.730.060.D.1.k. Transportation Impact Study. A threshold is added for when a transportation impact study is not required. For land divisions in single-dwelling zones, 10 lots is roughly equivalent to 250 or fewer trips. When these land divisions occur on local residential streets, the potential traffic impact does not warrant a transportation impact study. This is consistent with the applicability thresholds in Title 17.88.050.

33.730.060.D.1.k. School District Capacity. The School District Enrollment requirement (Chapter 33.655) is being deleted. This application requirement no longer is necessary.

- Site reconnaissance including mapping of observable geologic features or hazards;
 - Additional field explorations as necessary; and
 - Laboratory testing;
 - Subsurface exploration logs; and
 - Slope stability calculations;
- g. Final Plat staging. When the Final Plat for a land division is to be submitted in stages, the application must include the number of stages, the areas each stage includes, and the sequence and time schedule for application for Final Plat approval of the various stages;
- h. ~~Neighborhood Contact letters.~~ Information. When neighborhood contact is required, the applicant must submit a copy of the required information as specified in Section 33.705.020, Neighborhood Contact Steps. Two copies of letters required by Section 33.700.025, Neighborhood Contact;
- i. Pre-application conference summary. In the case of a land division that requires a pre-application conference, ~~two copies~~ a copy of the completed pre-application conference summary or proof of participation; and
- ~~j.~~ Land suitability documentation. When there is evidence that Quick Vehicle Servicing, outdoor firing range, dry cleaner or any use in the Industrial Use category other than wholesale sales currently or previously existed on the site, a Phase I Environmental Site Assessment or documentation from the Oregon Department of Environmental Quality regarding any known contaminants is required.
- ~~k.~~ Transportation Impact Study. Three copies A copy of the Transportation Impact Study, ~~if required; and.~~ The study must be prepared by an Oregon Licensed Traffic Engineer. For land divisions in single-dwelling zones, a Transportation Impact Study is not required for land divisions in single-dwelling zones when 10 or fewer lots are proposed and vehicle access will either be solely from a local public street or is not proposed.
- ~~k.~~ When the land division site is within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, and the land division will create eleven or more lots, the application must include verification from the school district that there is adequate enrollment capacity to serve the development site.

Commentary

33.730.060.D.3.g. Verification of Ownership.

The required documentation to demonstrate property ownership may not be limited to Title Insurance companies, or specifically called "Title Reports". This change refers more generally to the documentation that is required and is responsive to any changes that may occur in state legislation as to who may prepare such reports.

2. Preliminary Plan for Land Divisions on Large Sites in I Zones. An application for a Preliminary Plan taking advantage of Chapter 33.664, Land Divisions on Large Sites in Industrial Zones, must include all the elements listed in Paragraph D.1., above, except the lot and proposed building locations. Block pattern layout with dimensions and areas and all required tracts must be shown.
3. Final Plat. An application for a Final Plat must include all of the following:
 - a. Final Plat Survey. A copy~~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...”;
 - 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 copy of the 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, a copy~~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. A copy~~Three copies~~ of each required maintenance agreement or Conditions, Covenants and Restrictions;
 - f. Performance Guarantees. A~~One~~ copy of each Performance Guarantee;
 - g. Verification of ownership. A report issued by a title insurance company or authorized agent to perform such services in the state verifying ownership and detailing any deed restrictions~~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.

Commentary

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

4. Final Plat for Land Divisions on Large Sites in Industrial Zones. An application for a Final Plat taking advantage of Chapter 33.664, Land Divisions on large Sites in Industrial Zones, must include all the elements listed in Paragraph D.3., above, for the area being platted. The application must also include enough information for the balance of the site to show how the approval criteria will be met.

Commentary

33.854 Planned Development Review

Summary of changes to this chapter:

- Added greater flexibility to address site constraints for accessible routes
- Made minor corrections and changes to align with changes in other chapters

33.854.310 Approval Criteria for Planned Developments in All Zones

The current criterion for accessible routes is absolute, requiring accessible connections between all buildings, parking areas, streets and open areas. Accessible route in the zoning code is defined as "A route that can be used by a disabled person using a wheelchair and that is also safe for and usable by people with other disabilities." This generally means a hard surfaced walkway with no more than a 5 to 8.3 percent grade. Achieving a 5 foot grade differential would require a ramp at least 60 feet long, which can be exceedingly difficult on sites with more significant slopes. The addition of the phrase "to the extent practicable" means that the requirement can be reviewed in context of "taking into consideration cost, existing technology, and logistics in light of overall project purposes."

33.854.340 Proposals without a land division

A. Services

2. Correcting reference to the connectivity criteria, now that Subsection D includes both standards and approval criteria
5. The school district capacity requirement (Chapter 33.655) is being deleted

33.854 Planned Development Review

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33.854.310 Approval Criteria for Planned Developments in All Zones

Criteria A through E apply to proposals for additional height or FAR in the CM2, CM3, CE, and CX zones that are taking advantage of 33.270.100.I. If the Planned Development is not proposing additional height or FAR as allowed by 33.270.100.I, then only criteria E through H apply.

A.-F. [No change]

G. **Accessible connections.** To the extent practicable, provide one or more accessible routes that connect all buildings on the site to adjacent streets, common open areas, and parking areas. Use landscaping and site furnishings to ensure the accessible route provides a pleasant user experience.

H. [No change]

33.854.340 Proposals Without a Land Division

The approval criteria of this section apply to Planned Developments that do not include a land division, except Planned Developments that are only using the commercial/mixed use zones Planned Development bonus. The approval criteria are:

A. Services.

1. The proposed use must be in conformance with the Arterial Streets Classifications and Policies of the Transportation Element of the Comprehensive Plan;
2. The approval criteria of Section 33.654.110.D, Connectivity and Location of Rights-of-Way, must be met;
3. The standards of Section 33.651.020, Water Service Standards, must be met;
4. The standard of Section 33.652.020, Sanitary Sewer Disposal Service Standard, must be met; and
- ~~5. The standard of Section 33.655.100, School District Enrollment Capacity Standard, must be met; and~~
56. The standard of Section 33.653.020, Stormwater Management Standard, must be met. ~~application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.~~

B. [No change]

Commentary

33.854.340 Proposals Without a Land Division

C. Flood hazards

The reference to flood hazard omitted "special". While this term is being replaced as part of the Floodplain Resilience Project, this fixes the omission in the interim.

The RM1 zone and CI zone were also erroneously omitted from these regulations.

F. Streams, springs, seeps, and wetlands

2.a. These changes align with revisions that were made in Chapter 33.640

C. Flood hazard areas.

1. RF through R2.5 zones. In the RF through R2.5 zones, all proposed building locations must be outside of the special flood hazard area.
2. ~~RM1RM2~~ through RX, C, E, I, CI and IR zones. In the ~~RM1RM2~~ through RX, C, E, I, CI and IR zones, all proposed building locations must be outside of the flood hazard area where possible. Where it is not possible to have all building locations outside of the special flood hazard area, all proposed building locations must be configured to reduce the impact of flooding and to provide the greatest protection for development from flooding. Proposed building locations must be clustered on the highest ground and near the highest point of access, and they must be configured in a manner that will minimize obstruction of floodwaters.

D-E. [No change]

F. Streams, springs, seeps, and wetlands.

1. If there is a stream, spring, seep, or wetland outside of an Environmental Overlay Zone on the site, then the stream, spring, seep, or wetland must be preserved in an easement. The edges of the easement must be at least 15 feet from the edges of the stream, spring, seep, or wetland. The edges of a seep, spring, or wetland are determined through a wetland delineation, performed by an environmental scientist, and approved by BDS. For seeps and springs, if one or more wetland characteristics are absent from the resource, the delineation will be based on the wetland characteristics present. The edges of a stream are defined as the top-of-bank. ~~ww~~Where the edge of the stream, spring, seep, or wetland is less than 15 feet from the edge of the site, the easement boundary will be located along the edge of the site.
2. The following development, improvements, and activities are allowed in the easement:
 - a. Disturbance associated with discharging stormwater to the stream channel or wetland, if when BES has approved the stormwater system design ~~determined that the site's storm water cannot discharge to a storm sewer and BDS has determined that on-site infiltration is not an option;~~
 - b. Removal of non-native invasive species with hand held equipment;
 - c. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;
 - d. Erosion control measures allowed by Title 10 of Portland City Code;
 - e. Construction of required driveway connections or required connections to services when there is no practicable alternative to locating the driveway or service connections within the easement; and
 - f. Maintenance and repair of existing utilities, services, and driveways;

3.-4. [No change]

G. [No change]

Commentary

33.930 Measurements

Summary of changes to this chapter:

- Updated reference to R2.5 zone lot standards

33.930.100 Measuring Lot Widths

Update reference to reflect R2.5 width standards have been incorporated into chapter 33.610

33.930 Measurements

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33.930.100 Measuring Lot Widths

- A. Single-Dwelling zones.** In the single-dwelling zones, lot width is measured by placing a rectangle along the minimum front building setback line. Where the setback line is curved, the rectangle is placed on the line between the intersection points of the setback line with the side lot lines. See Figure 930-20.

The rectangle must have a minimum width equal to the minimum lot width specified for the zone in Chapters 33.610 ~~and 33.611~~. The rectangle must have a minimum depth of 40 feet, or extend to the rear property line, whichever is less. The rectangle must fit entirely within the lot. See Figure 930-20.

- B. All other zones.** In all other zones, lot widths are measured from the midpoints of opposite lot lines. See Figure 930-15.

