



## Memo

Date: January 3, 2024

To: Mayor and City Commissioners

From: Phil Nameny, City Planner

CC: Patricia Diefenderfer, Chief Planner; Sandra Wood, Principal Planner

Re: Housing Regulatory Relief Project –Amendments to the Recommended Draft

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City Council will hold a hearing on the Housing Regulatory Relief Project on January 10, 2024. This memo includes potential amendments to the Housing Regulatory Relief Project Recommended Draft. Gray shaded text indicates where the Recommended Draft code language and accompanying commentary would be amended.

#	Amendment	Sponsor
1	33.245 Inclusionary Housing updates – Amendments align regulations with recent state law changes, remove out-of-date language, and change some regulations to align with Title 30 inclusionary housing processes.	Rubio
2	33.510.220 Central City Ground Floor Windows – Technical amendment to clarify application of the ground floor window requirement in the Central City plan district.	Rubio
3	33.825.025 Design Review Procedures – Amendment to further reduce Design Review procedures temporarily for affordable housing projects.	Rubio

**How to read this document:**

Strikethrough and underline font is used to mark changes relative to current code. Strikethrough font indicates text that will be deleted and underlined text indicates text what will be added. For amendments #2 and 3, text shading is for informational purposes to highlight where the text amendment from the Recommended Draft occurs. Code and commentary for amendment #1 is entirely new and so is not shaded (see below).

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**Amendment #1—Inclusionary Housing Clarification Amendments**

These amendments align regulations with recent state law changes, remove out-of-date language, and change some regulations to align with Title 30 inclusionary housing processes. The commentary and zoning code language amendments are new to the document and would be inserted into the exhibit as follows:

**Amendment #1a – 33.245.020:**

**Commentary:**

**33.245.020 Where These Regulations Apply**

This amendment exempts dwelling units within a Continuing Care Retirement Community (CCRC) from the zoning code requirement to provide affordable housing. The amendment brings the zoning code into conformance with ORS 197.309 (Oregon Revised Statutes). The statute allows jurisdictions to require that a covenant be recorded to ensure that the units remain part of the CCRC to be exempt. The new exemption includes language to record a covenant per standard City procedures.

**Code amendment:**

**33.245.020 Where These Regulations Apply**

The regulations of this chapter apply to the following:

- A. New buildings with 20 or more dwelling units. Dwelling units in a continuing care retirement community (CCRC), as defined in ORS 101.020, that are operated as a CCRC do not count toward the 20 unit threshold when a covenant has been executed with the City that meets the requirements of 33.700.060, and specifies that the units will be operated as a CCRC; and
- B. Alterations to existing buildings that add 20 or more dwelling units. Dwelling units in a continuing care retirement community (CCRC), as defined in ORS 101.020, that are operated as a CCRC do not count toward the 20 unit threshold when a covenant has been executed with the City that meets the requirements of 33.700.060, and specifies that the units will be operated as a CCRC.

**Amendment #1b – 33.245.040:**

**Commentary:**

**33.245.040.A Inclusionary Housing Standards**

The lower inclusionary housing rates that applied outside the Central City and Gateway plan districts during the original phase-in period have expired. The lower inclusionary housing rates that

applied outside the Central City and Gateway plan districts were part of the Inclusionary Housing Project ([No. 188162](#)) adopted by City Council in 2016. The "rate phasing" was initially set to expire on January 1, 2019. The phase-in period was extended twice—first by Ordinance No. 189303 through January 1, 2021; and second by Ordinance No. 190076 through January 1, 2022. This amendment removes the zoning code language related to the expired rates.

### **33.245.040.A.1.c & 33.245.040.C. Alternate calculation method**

Title 30 and accompanying administrative rules contain an alternate calculation method that allows the inclusionary housing units to be consolidated into fewer units with more bedrooms. This amendment clarifies that the alternate calculation method is in Title 30.

### **33.245.040.B Off-site affordable dwelling units**

This amendment also amends the off-site affordable housing options in two ways:

1. The option to provide 10 percent of the dwelling units at 30 percent of the area median family income (AMFI) is being deleted because the option has never been used. When the required affordable dwelling units are located off-site, they will be required to provide 20 percent at 60 percent AMFI.
2. The alternate inclusionary housing calculation method that is currently available when the units will provide on-site is being added as an option for off-site compliance under 33.245.040.C.

### **Code amendment:**

#### **33.245.040 Inclusionary Housing Standards**

Affordable dwelling units must be provided as follows, or a fee-in-lieu of providing affordable dwelling units must be paid. Adjustments are prohibited:

- A. On-site affordable dwelling units.** When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates. For the purpose of this Section, affordable dwelling units located within the boundaries of a Central City Master Plan are considered to be on-site:
- ~~1. Central City and Gateway plan districts. Inside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:~~
    - ~~a.1. 10 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or~~
    - ~~b.2. 20 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income; or~~
    - ~~c. Alternate calculation method. As a way to encourage the creation of larger affordable dwelling units, using one of the percentages stated above, the number of affordable dwelling units required may be calculated based on the total number of bedrooms in the new or altered building. For example, using the 10 percent rate, a new building with 60 two-bedroom dwelling units could provide 6 two-bedroom affordable units or 4 three-bedroom affordable units.~~

~~2. Outside the Central City and Gateway plan districts. Outside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:~~

~~a. Rates before January 1, 2022:~~

- ~~(1) 8 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or~~
- ~~(2) 15 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income.~~
- ~~(3) Alternate calculation method. As a way to encourage the creation of larger affordable dwelling units, using one of the percentages stated above, the number of affordable dwelling units required may be calculated based on the total number of bedrooms in the new or altered building. For example, using the 10 percent rate, a new building with 60 two-bedroom dwelling units could provide 6 two-bedroom affordable units or 4 three-bedroom affordable units.~~

~~b. Rates on and after January 1, 2022. The rates shown in Paragraph A.1. apply outside the Central City and Gateway plan districts on and after January 1, 2022.~~

**B. Off-site affordable dwelling units.** When the affordable dwelling units will be located off-site, affordable dwelling units must be provided at one of the following rates:

1. New dwelling units. When the affordable dwelling units will be provided by constructing new dwelling units off-site, 20 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income~~one of the following rates apply~~. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:

~~a. 10 percent of the total number of dwelling units in the new building or alteration must be affordable to those earning no more than 30 percent of the area median family income; or~~

~~b. 20 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.~~

2. Existing dwelling units. When the affordable dwelling units will be provided by dedicating existing dwelling units as affordable, 25 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income~~one of the following rates apply~~. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:

~~a. 15 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 30 percent of the area median family income; or~~

- b. ~~25 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.~~

**C. Alternate calculation method.** As a way to encourage the creation of larger affordable dwelling units, Title 30 allows reconfiguration based on the total number of bedrooms in the new or altered building. See Title 30.01.120.D.

### **Amendment #2—Ground Floor Window Technical Amendment**

This technical amendment clarifies the application of the ground floor window requirement in the Central City plan district. The commentary and zoning code language are replaced as follows:

#### **Commentary**

##### **33.510.220.B. Ground Floor Windows:**

There are two amendments to this Subsection; one is a temporary suspension and the other is a permanent clarification.

In certain locations in the Central City, the ground floor of a building must have windows covering 60% of the wall. This is an increased percentage over the ground floor window requirement in the base zones. This amendment suspends the higher ground floor window requirement in the Central City for 5 years for development that include residential uses. The base zones ground floor window standard will instead apply.

The second amendment is a permanent clarification. The ground floor window requirements in the Central City Plan District and the commercial/mixed use zones were updated as part of the update of the city's Comprehensive Plan and the Central City 2035 projects. The standards were updated to be in alignment. However, there has been confusion about the relationship between the standards in the plan district and those in the base commercial and EX zones. This is partially due to differences in measurements in the EX zone, and partially due to what development the plan district regulations apply and whether they supersede the base zone.

This amendment clarifies that these standards apply to all proposals in the Central City so that it is clear where the ground floor window standard of 33.510.220.B applies, thus superseding the base zone.

#### **Code Amendment**

##### **33.510.220 Ground Floor Windows**

- A. [No change]
- B. **Ground floor windows.** The following ground floor window standards apply in the RX, CX and EX zones. ~~The standards of B.1 and B.2 apply to new development and major remodeling projects. B.3. only applies to major remodeling projects.~~ To meet the standards, ground floor windows must be windows that allow views into work areas or lobbies, or be windows in pedestrian entrances. Windows into storage areas, vehicle parking areas, garbage and recycling

areas, mechanical and utility areas and display cases attached to outside walls do not qualify. Windows into bicycle parking areas are allowed to qualify for up to 25 percent of the ground floor windows coverage requirement. The bottom of the windows of nonresidential spaces must be no more than 4 feet above the finished grade:

1. Ground level facades that face a street or open area shown on Map 510-8 must have windows that cover at least 60 percent of the ground level wall area. For the purposes of this standard, ground level wall area includes all exterior wall area from 2 feet to 10 feet above the finished grade. Until January 1, 2029, the standard for development that includes a residential use is 40 percent of the ground level wall area.
2. All other ground level facades that face a street lot line, sidewalk, plaza, or other publicly accessible open area or right-of-way must have windows that cover at least 40 percent of the ground level wall area. For street facing facades of dwelling units the regulations of 33.130.230.B.4 apply. For the purposes of this standard, ground level wall area includes all exterior wall area from 2 feet to 10 feet above the finished grade.
3. Optional artwork. Projects proposing to use artwork as an alternative to the ground floor window requirements may apply for this through the adjustment procedure. Projects may also apply for a modification through design review if they meet the following qualifications. Buildings having more than 50 percent of their ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters), may be allowed to use the design review process. Artwork and displays relating to activities occurring within the building are encouraged. In these instances, the artwork will be allowed if it is found to be consistent with the purpose for the ground floor window standard.

### **Amendment #3 – Design review reduction for affordable housing**

This amendment further reduces Design Review procedures temporarily for affordable housing projects. The commentary and zoning code language is replaced as follows:

#### **Commentary:**

#### **33.825.025 Review Procedures**

#### **Table 825-1**

Currently, there is an option for some affordable housing projects to choose to go through a Type II Design Review after meeting with the Design Commission through a Design Advice Request. This is an alternative to the Type III review procedure which requires a pre-application conference with staff and a formal hearing with the Design Commission. The alternative was added during the Design Overlay Zone Amendments (DOZA) project in 2021. During the DOZA deliberation, the DAR was considered a critical component in the review process and provided the opportunity for bureaus and stakeholders to provide comments to allow issues to be identified and addressed earlier in the process.

Comments by the development community in the housing survey and information from the Inclusionary Housing study showed potential costs and time commitments for projects that did not meet the affordability criteria and required the full hearing. There was a concern about the impact

across all housing types, not just specified affordable housing. Similar to suggestions for relief from development standards, the Housing Regulatory Relief project was tasked with providing some process relief for projects subject to Design Review.

These amendments reduce the Design Review procedure type for 5 years for projects that include residential uses. For projects normally subject to a Type III review, there are two additional options available: First, for any projects with housing, the applicant will now be able to choose a Type II review in conjunction with a design advice request (DAR), similar to the current process allowed only for an affordable housing project. Second, for projects that meet the current thresholds in the chapter for an affordable housing project, the applicant will be able to choose either a Type II review or a Type Ix review (which does not provide for local appeal). The affordable housing projects would not need to go through a DAR prior to submitting.

For all housing projects that are normally subject to a Type II review, and applicant could choose to be subject to a Type Ix review.

These temporary allowances provide added flexibility for projects subject to a design review, and may reduce some time/cost commitments. This special provision would expire on January 1, 2029. At that point, the review process would return to current options.

It should be noted that in all these cases, an applicant can still choose to go through the current review processes and/or apply for a Design Advice Request or Pre-application conference on a voluntary basis.

#### **Code Amendment:**

#### **33.825.025 Review Procedures**

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

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

- A.** Proposals subject to design review are reviewed according to the procedure type listed in Table 825-1.
  1. When a proposal is subject to more than one procedure type, the higher procedure type applies. For example, a proposal may include both an alteration and an addition to a building. If the alteration is subject to a Type II procedure, but the addition is subject to a Type III procedure, the proposal would be subject to a Type III procedure.
  2. Until January 1, 2029, when a proposal includes a residential use, the proposal may be subject to a lower procedure type as follows:

- a. If the proposal is subject to a Type III procedure, the applicant may choose a Type II procedure. A design advice request is required before the application for design review is submitted. See 730.050.B;
- b. If the proposal is subject to a Type III procedure, the applicant may choose a Type Ix or Type II procedure if at least 50 percent of the total number of dwelling units on the site are affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. If a Type Ix or Type II review procedure is chosen, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement and any administrative requirements of the Portland Housing Bureau; and
- c. If the proposal is subject to a Type II procedure, the applicant may choose a Type Ix procedure.

**B.-C.** [No change]





## Memo

Date: January 9, 2024

To: Mayor and City Commissioners

From: Phil Nameny, City Planner

CC: Patricia Diefenderfer, Chief Planner; Sandra Wood, Principal Planner

Re: Housing Regulatory Relief Project – 2<sup>nd</sup> set of amendments to the Recommended Draft

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City Council will hold a hearing on the Housing Regulatory Relief Project on January 10, 2024. This memo consists of a second set of potential amendments to the Housing Regulatory Relief Project Recommended Draft. As a result, they are numbered as #4-6 below to augment the first memo dated Jan. 3, 2024.

#	Amendment	Sponsor
4	33.475.235.B & 333.510.223.B. Bird-safe glazing – Reinstatement of staff’s original proposal to temporarily suspend bird-safe glazing requirement in the River overlay zone and Central City plan district when a proposal includes a residential use.	Gonzalez
5	33.510.243.B. Ecoroof– Replace Planning Commission’s ecoroof recommendation with staff’s original proposal to temporarily suspend the ecoroof requirement in the Central City plan district when a proposal includes a residential use.	Gonzalez
6	33.705.020. Neighborhood Contact Steps – When a proposal includes a residential use, temporarily suspend the 35 day deadline to post the neighborhood contact sign and send notification to recognized organizations.	Gonzalez

## ***How to read this document:***

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### **Amendment #4 – Bird-safe Glazing 33.475.235.B. and 33.510.223.B**

These amendments provide a temporary suspension of the bird-safe glazing standards that apply in the River Overlay zone and the Central City plan district. The suspensions apply to proposals with residential uses. The bird-safe glazing suspensions were included in the staff Proposed Draft, but they were removed after the public hearing and deliberation by the Planning Commission.

#### **Amendment #4a – 33.475.235.B. (River overlay zone)**

##### **Commentary:**

##### **33.475.235.B. Development subject to the bird-safe glazing standards**

This amendment will suspend the bird safe glazing standard for 5 years if the project includes residential uses. The bird safe glazing standard was identified in the Housing Production Survey as being among standards that add cost to housing developments.

##### **Code Amendment:**

##### **33.475.235 Bird-safe Glazing**

- B. Development subject to the bird-safe exterior glazing standards.** The bird-safe glazing standards apply to new buildings and major remodeling projects in the South Reach. Development that includes a residential use is exempt from the standards until January 1, 2029. See Map 475-1. For new buildings, the standards apply per facade when the façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the façade. For major remodeling projects, the standards apply per façade when at least 75 percent of the façade is altered and the altered façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the facade. The standards also apply to glazing located directly adjacent to an ecoroof, roof garden, or other vegetated or landscaped roof area. The standards do not apply to houses, attached houses, manufactured homes, accessory dwelling units, duplexes, attached duplexes, triplexes, historic landmarks, and contributing resources in historic or conservation districts.

#### **Amendment #4b – 33.510.223.B. (Central City plan district)**

##### **Commentary:**

##### **33.510.223.B Development subject to the bird-safe exterior glazing standards**

There are two amendments related to this section; one is a temporary suspension, and one is a clarification.

The first amendment suspends the bird-safe glazing requirement for 5 years for development that includes residential uses. This temporarily removes and reduces regulations for housing projects.

The second amendment is a permanent clarification. The bird safe exterior glazing standard was added to the Central City plan district with the adoption of the CC2035 plan. Subsequently, the bird safe glazing standard was added to the River Overlay zones when the River Plan / South Reach was adopted. The standards are identical except that the River Overlay zone bird safe glazing standard (33.475.235) clarified that the standard applies “per facade when the façade has 30 percent or more glazing, including spandrel glazing...”—the words “including spandrel glazing” were added to the River overlay zone standard.

While spandrel glass is an opaque glass that conceals views within, it still contains the reflective quality of standard glass and creates the same issues for birds outside of the building.

In order to ensure that the policy objectives related to bird safe glazing are carried out in the zoning code consistently, this amendment updates the Central City bird-safe glazing standards to include spandrel glazing consistent with the standard in the River overlay zone.

**Code Amendment:**

**33.510.223 Bird-Safe Exterior Glazing**

- B. Development subject to the bird-safe exterior glazing standards.** The bird-safe glazing standards apply to new buildings and major remodeling projects. Development that includes a residential use is exempt from this standard until January 1, 2029. For new buildings, the standards apply per façade when the façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the façade. For major remodeling projects, the standards apply per facade when at least 75 percent of the façade is altered and the altered façade has 30 percent or more glazing, including spandrel glazing, within the first 60 feet measured from the grade adjacent to the facade. The standards also apply to glazing located directly adjacent to an ecoroof, roof garden, or other vegetated or landscaped roof area. The standards do not apply to houses, attached houses, manufactured homes, accessory dwelling units, duplexes, attached duplexes, triplexes, historic landmarks, and contributing resources in historic or conservation districts.

**Amendment #5 – Ecoroof 33.510.243.B**

This amendment removes the Planning Commission’s recommendation to allow solar panels in lieu of ecoroofs and provides a temporary suspension of the ecoroof requirement for proposals with residential uses. The ecoroof suspension was included in the staff Proposed Draft but was removed after the public hearing and deliberation by the Planning Commission. The commentary and zoning code language are replaced as follows:

**Commentary:**

**33.510.243.B. Ecoroofs**

There are two amendments to this Subsection; one is a temporary suspension and the other is a permanent clarification.

The first amendment suspends the ecoroof standard for 5 years if the development includes residential uses. The intent is to reduce the number of regulatory standards that apply to development with residential uses. Some of these standards can increase the cost of building or create additional review delays.

The second amendment is a permanent clarification. The ecoroof standard in 33.510.243.B.1 allows 40% of the roof to be covered with something other than an ecoroof. The standard includes a list of items that can count toward the 40% allowance including common outdoor area, but private outdoor area is not currently included on the list. This amendment adds private outdoor area that is accessible from the dwelling unit to the list as a way to reduce the number of modifications requested for residential developments.

**Code Amendment:**  
**33.510.243 Ecoroofs**

- A. Purpose. Ecoroofs provide multiple complementary benefits in urban areas, including stormwater management, reduction of air temperatures, mitigation of urban heat island impacts, air quality improvement, urban green spaces, and habitat for birds, plants and pollinators. The standards are intended to:
- Maximize the coverage of ecoroofs;
  - Allow for the placement of structures and other items that need to be located on roofs; and
  - Support the architectural variability of rooftops in the Central City.
- B. Ecoroof standard. In the CX, EX, RX, and IG1 zones, new buildings with a net building area of 20,000 square feet or more must have an ecoroof that meets the following standards. Development that includes a residential use is exempt from the ecoroof standard until January 1, 2029:
1. The ecoroofs, including required firebreaks between ecoroofs areas, must cover 100 percent of the building roof area, except that up to 40 percent of the building roof area can be covered with a combination of the following. Roof top parking does not count as roof area. Roof area that has a slope greater than 25% does not count as roof area:
    - a. Mechanical equipment, housing for mechanical equipment, and required access to, or clearance from, mechanical equipment;
    - b. Areas used for fire evacuation routes;
    - c. Stairwell and elevator enclosures;
    - d. Skylights;
    - e. Solar panels;
    - f. Wind turbines;
    - g. Equipment, such as pipes and pre-filtering equipment, used for capturing or directing rainwater to a rainwater harvesting system; ~~or~~
    - h. Uncovered common outdoor areas. Common outdoor areas must be accessible through a shared entrance; or

- i. Uncovered individual unit outdoor area directly accessible to the dwelling unit.
2. The ecoroof must be approved by the Bureau of Environmental Services as meeting the Stormwater Management Manual's *Ecoroof Facility Design Criteria*.

#### **Amendment #6 – Neighborhood Contact 33.705.020.A & B**

These amendments further edit the neighborhood contact requirements to temporarily suspend the requirement that a sign be posted on the development site and a letter be sent to recognized organizations 35 days prior to submitting for a permit or land use review. The 35-day requirement occurs in several places within the neighborhood contact regulations, so the same language is inserted into each of those instances. Note that the permanent removal of Neighborhood Contact III (33.705.020.C) does not change and will be removed as shown in the Recommended Draft. The commentary and zoning code language is replaced as follows:

#### **Amendment #6a – 33.705.020.A Neighborhood Contact I**

##### **Commentary:**

##### **33.705.020.A.1. & A.2.**

Currently, all neighborhood contact process steps begin by the applicant posting the site and sending an email notifying the relevant associations at least 35-days before submitting a permit or land use review to the city. When the development includes a residential use, this amendment temporarily suspends, for 5 years, the requirement that any contact letter or sign posting be sent or put up at least 35 days before applying for a building permit or land use review. This will allow the steps to be taken any time before filing an application but not more than one year before filing. This temporarily allows greater flexibility between the timing for initial posting and for submitting the application.

##### **33.705.020.A.3.**

The neighborhood contact regulations contain a standard directing the applicant to submit information via an email or online submittal form prior to applying for a permit or land use review. The standard also directs the Bureau of Development Standards to make information available in a certain online format. The zoning code regulates development and development-related activities, not which kinds of online formats BDS should use. This particular regulation is too prescriptive and not appropriate for the zoning code. BDS has administrative procedures that they follow for how they post neighborhood contact information online. Therefore, this amendment moves the standard directing what the applicant for a development permit or land use review must do to the paragraph related to "required information" and deletes the direction to BDS regarding online formats. This provides flexibility for BDS to utilize technology in the most efficient way, especially as new options develop.

In addition, the reference to contacting the Bureau of Development Services at least 35 days in advance of submitting the permit or land use review is suspended for 5 years if the proposal includes a residential use. See 33.705.020.A.1 & 2 for additional commentary.

**Code Amendment:**

**33.705.020 Neighborhood Contact Steps**

**A. Neighborhood contact I.** Neighborhood contact I requires the following notification and posting steps:

1. Notification. The applicant must contact via email or mail the neighborhood association, district neighborhood coalition, and business association for the area, and any neighborhood association, district neighborhood coalition, or business association within 400 feet of the proposal site. The email or letter must be sent at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to email or mail the contact letter before, but not more than one year before, applying for a land use review or building permit. A copy of the email or letter, and a list of the email or postal addresses to which the email or letter was sent, must be submitted as part of the application for a land use review or building permit. The email or letter must contain the following information:

a.-d. [No change]

2. Sign. The applicant must post at least one sign on the proposed development site at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to post at least one sign before, but not more than one year before, applying for a land use review or building permit.

a.-e. [No change]

~~3. Online Access~~

- ~~a. The applicant must contact the Bureau of Development Services via email, or an online information submittal tool, at least 35 days, but not more than one year, before applying for a land use review or building permit. The email, or online submittal, must contain the following information:~~

~~(1) The name, telephone number, and email address of the applicant;~~

~~(2) The address of the site of the proposed development;~~

~~(3) A summary of the proposed development; and~~

~~(4) A site plan that includes the proposed development.~~

- ~~b. The Bureau of Development Services must make the information required by Subparagraph A.3.a available in an accessible online format and as an open data set. The bureau will also provide a way for community members to subscribe to get proactive notification of new information.~~

34. Required information.

- a. The applicant must contact the Bureau of Development Services via email, or an online information submittal tool, at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to contact BDS before, but not more than one year before, applying for a land use review or

building permit. The email, or online submittal, must contain the following information:

- (1) The name, telephone number, and email address of the applicant;
- (2) The address of the site of the proposed development;
- (3) A summary of the proposed development; and
- (4) A site plan that includes the proposed development.

b. The following information must be submitted as part of the application for a land use review or building permit:

- (1)a- A copy of the email or letter that was sent as required by Paragraph A.1.;
- (2)b- A list of the email or postal addresses to which the email or letter required by Paragraph A.1. was sent;
- (3)c- A photograph of the sign required by Paragraph A.2. posted on the site;
- (4)d- A signed statement certifying that the required email or letter was sent, and the required signs were posted, at least 35 days, but not more than one year, before applying for a land use review or building permit.

#### **Amendment #6b – 33.705.020.B Neighborhood Contact II**

##### **Commentary:**

##### **33.705.020.B.1. & B.2.**

Currently, all neighborhood contact process steps begin by the applicant posting the site and sending an email notifying the relevant associations at least 35 days before submitting a permit or land use review application to the city. When the development includes a residential use, this amendment temporarily suspends, for 5 years, the requirement that any contact letter or posting be sent or put up at least 35 days before filing for the building permit or land use review. This will allow the steps to be taken any time before filing an application but not more than one year before filing. This temporarily allows greater flexibility between the timing for initial posting and for submitting the application.

##### **33.705.020.B.3 Online access**

See previous commentary (33.705.020.A.3) regarding neighborhood contact online access requirements.

##### **33.705.020.B.3 Meeting**

This amendment suspends the meeting requirement of Neighborhood Contact II for five years, when the proposal includes a residential use. Neighborhood Contact II gets engaged when a development exceeds 25,000 s.f. In addition to posting the site, the current standard requires the applicant hold a meeting within the neighborhood of the proposal prior to the submission of a building permit or land use review. While there is a benefit in providing this initial engagement, it can also increase the amount of time before a development is approved. The Planning Commission determined that the posting requirement was a marginal added step, but that the scheduling of a meeting potentially adds the greatest delay. The posting is kept, but the meeting requirement is

waived for projects with a residential component until January 1, 2029. This suspension works in conjunction with the waiver of the 35 day lead time so that the timing of the posting occurs anytime before application submission, but not more than 1 year prior.

### 33.705.020.B.3.b and B.3.c

At the beginning of the COVID pandemic, the zoning code was amended to allow the required neighborhood contact meeting to be held remotely. The allowance was initially intended to be short-term because no one knew how long the pandemic would last. Because many meetings continue to be held remotely, or as a combination of in-person and electronic format, this amendment allows this to continue permanently as an option. While there is no requirement for meetings to be one-way or the other, the amendment allows the flexibility for both the developer and neighborhood association to hold a meeting in a format that they are currently using or that is most comfortable given the uncertainty of future situations. The change also provides the option for the meeting to be held outside of the evening/weekend times if it is part of the neighborhood association meeting. This option is being moved from the Neighborhood Contact III which is being eliminated and incorporated into the Neighborhood Contact II thresholds.

#### Code Amendment:

**B. Neighborhood contact II.** Neighborhood contact II requires the following meeting, notification and posting steps:

1. Notification. The applicant must contact via email or mail the neighborhood association, district neighborhood coalition, and business association for the area, and any neighborhood association, district neighborhood coalition, or business association within 400 feet of the proposal site. The email or letter must be sent at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to email or mail the contact letter before, but not more than one year before, applying for a land use review or building permit. A copy of the email or letter, and a list of the email or postal addresses to which the email or letter was sent, must be submitted as part of the application for a land use review or building permit. The email or letter must contain the following information:

a.-e. [No change]

2. Sign. The applicant must post at least one sign on the proposed development site at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to post at least one sign before, but not more than one year before, applying for a land use review or building permit.

a.-e. [No change]

~~3. Online Access~~

- ~~a. The applicant must contact the Bureau of Development Services via email, or an online information submittal tool, at least 35 days, but not more than one year, before applying for a land use review or building permit. The email, or online submittal, must contain the following information:~~



- ~~(1) The name, telephone number, and email address of the applicant;~~
- ~~(2) The address of the site of the proposed development;~~
- ~~(3) A summary of the proposed development; and~~
- ~~(4) A site plan that includes the proposed development.~~

~~b. The Bureau of Development Services must make the information required by Subparagraph B.3.a available in an accessible online format and as an open data set. The bureau will also provide a way for community members to subscribe to get proactive notification of new information.~~

34. Meeting. The applicant must schedule and attend one public meeting. Until January 1, 2029, the applicant is not required to schedule or attend a meeting if the development includes a residential use. Notes from the meeting and an explanation of any changes made to the proposal as a result of comments received at the public meeting must be emailed or mailed to the neighborhood association, district neighborhood coalition, business association, school district and any meeting attendees who provide an email or postal address, before an application for a land use review or building permit can be accepted. The meeting must:

- a. [No change]
- b. Be held at a location within the neighborhood where the proposed development is located or at a location that is not more than two miles from the boundary of the neighborhood within which the proposed development is located and within the boundaries of the district neighborhood coalition in which the proposed development is sited. Meetings ~~held between March 8, 2020 and January 1, 2024~~ may be held in person, remotely using online video conferencing technology, or a combination of both. ~~The selected technology must have a phone-in option available to those without access to a computer or mobile device;~~
- c. Be held at a time between 6 p.m. and 9 p.m. Monday through Friday, ~~or~~ between 1 p.m. and 6 p.m. on Saturday or Sunday, or during a scheduled neighborhood association meeting and which does not conflict with a scheduled neighborhood association meeting unless held in conjunction with a neighborhood association meeting; ~~and~~
- d.-e. [No change]

45. Required information.

a. The applicant must contact the Bureau of Development Services via email, or an online information submittal tool, at least 35 days, but not more than one year, before applying for a land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the applicant is required to contact BDS before, but not more than one year before, applying for a land use review or building permit. The email, or online submittal, must contain the following information:

- (1) The name, telephone number, and email address of the applicant;
- (2) The address of the site of the proposed development;
- (3) A summary of the proposed development; and

(4) A site plan that includes the proposed development.

b. The following information must be submitted as part of the application for a land use review or building permit:

~~(1)a-~~ A copy of the email or letter that was sent as required by Paragraph A.1.;

~~(2)b-~~ A list of the email or postal addresses to which the email or letter required by Paragraph A.1. was sent;

~~(3)c-~~ A photograph of the sign required by Paragraph A.2. posted on the site;

~~(4)d-~~ A signed statement certifying:

~~(1)~~ That the required email or letter was sent at least 35 days, but not more than one year, before applying for the land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the signed statement must certify that the required email or letter was sent before, but not more than one year before applying for a land use review or building permit;

~~(2)~~ That the required signs were posted, at least 35 days, but not more than one year, before applying for the land use review or building permit. Until January 1, 2029, if the proposed development includes a residential use, the signed statement must certify that the required signs were posted before, but not more than one year before applying for a land use review or building permit;

~~(3)~~ That the required meeting was held at least 14 days before applying for the land use review or building permit, and at least 14 days after sending the email or letter and posting the required signs; and

~~(4)~~ That the notes from the required public meeting were emailed or mailed to the neighborhood association, district neighborhood coalition, business association, school district and any meeting attendees who provide an email or postal address, prior to applying for the land use review or building permit.



## Memo

Date: January 12, 2024

To: Mayor and City Commissioners

From: Phil Nameny, City Planner

CC: Patricia Diefenderfer, Chief Planner; Sandra Wood, Principal Planner

Re: Housing Regulatory Relief Project – Amendment to Directive D of the Ordinance

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City Council held a hearing on the Housing Regulatory Relief Project on January 10, 2024. As part of the hearing, they also moved six amendments: three from Commissioner Rubio and three from Commissioner Gonzalez. At the hearing, a seventh amendment was moved to revise Directive D of the proposed Ordinance. This memo includes the revised language for that Directive. This revised directive and the other six amendments are scheduled to be considered at the Council meeting on January 17, at 2:00 p.m.

### Amendment moved by Commissioner Gonzalez

Amend Directive D of the Ordinance as shown below: The shaded areas indicate the added code references subject to the directive:

- D. Notwithstanding 33.700.080.A.2, nor 33.700.090.A, development with a residential use that has been or will be approved by a land use review that was deemed complete prior to March 1, 2024 and has not expired, and building or development permits with a residential use submitted prior to March 1, 2024 that have not expired and have not received final inspection, may be subject to the following zoning code provisions as shown in Exhibit B:
1. 33.258.070.D.2.;
  2. 33.266.200.B, Table 266-6, 33.266.210.D., and 33.266.310.C.1.;
  3. 33.415.200;
  4. 33.475.235.B.;
  5. 33.510.223.B., 33.510.225.C.1., 33.510.243.B., and 33.510.255.I.;
  6. 33.562.270.C.;
  7. 33.595.130.B.