

# Historic Resources Code Project

Updating Portland's regulations for inventorying, designating, and protecting historic places

DISCUSSION DRAFT | JANUARY 2019  
STAFF REPORT AND ZONING CODE AMENDMENTS

Staff Report and zoning code amendments comments due April 1, 2019. See inside cover for more information.



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## How to give feedback:

The Bureau of Planning and Sustainability thanks you for taking time out of your schedule to review proposed changes to the historic resource provisions of the City of Portland’s zoning code. This *Discussion Draft* is intended for public review of proposed zoning code amendments. Your comments will inform the development of a revised *Proposed Draft* of the zoning code that is scheduled to be released summer 2019. The *Proposed Draft* will be reviewed by the Planning and Sustainability Commission (PSC) at one or more public hearings. Following any amendments to the proposal, the PSC will vote to forward a *Recommended Draft* to the Portland City Council. Additional public hearings will be held before the City Council prior to the adoption of changes to the zoning code.

Your comments on this *Discussion Draft* are due by:

**5 p.m. on Monday, April 1, 2019**

Send your comments to:

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**Mail:** Portland Bureau of Planning and Sustainability  
Attn: Historic Resources Program  
1900 SW 4th Ave, Suite 7100  
Portland, OR 97201

**Online:** [www.portlandoregon.gov/bps/hrcp](http://www.portlandoregon.gov/bps/hrcp)

## For more information:

Visit the project webpage: [www.portlandoregon.gov/bps/hrcp](http://www.portlandoregon.gov/bps/hrcp)

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# Section I: Introduction

Initiated in late 2017, the Historic Resources Code Project (HRCP) is a zoning code project proposing changes to how the City of Portland identifies, designates, and protects historic resources. The project follows recently adopted changes to State Administrative Rule (OAR 660-023-0200), which directs the implementation of the historic resource provisions of Oregon Statewide Planning Goal 5. The changes to State Administrative Rule provides opportunities for improving Portland's historic resource programs and better aligning them with other community goals.

Although many sections of the Portland zoning code address historic resources, chapters 33.445 and 33.846 are most significant in establishing the City's framework for inventorying, designating, and protecting historic resources. The proposed amendments would result in major changes to these two chapters and, consequently, to the ways the City identifies, designates, and manages the protection of historic resources. Related changes to several additional chapters of the zoning code are also included in the amendments.

The project does not propose new district-specific guidelines or standards, inventory or designate additional resources, provide financial incentives to owners of historic resources, or change any federal or state programs regarding historic resource designation and protection. However, changes to the zoning code that result from this project may inform the Bureau of Planning and Sustainability's future historic resources projects. Future projects may include an update of the citywide Historic Resource Inventory, development of district-specific guidelines and standards, and educational materials for property owners.

## Project Significance

Portland's historic resources are integral components of the city's unique architectural, social, and cultural character. Historic structures, sites, objects, and districts help to define a sense of place shared by Portlanders of all ages, incomes, and backgrounds. They serve as physical repositories of Portland's history and tell diverse stories in tangible, interesting ways that connect people to their communities and to the urban environment. Preserving these most significant parts of Portland's past is essential for future generations to understand and more fully value Portland's rich, complex, and difficult history.

In residential contexts, historic neighborhoods are often prized for their walkability, distinctive architecture, and human scale. Recent studies by the National Trust for Historic Preservation have found that older, smaller developments often provide diverse and affordable housing options. Additionally, historic buildings are often attractive to local commercial tenants, who find vintage spaces more flexible, unique, and affordable.

Rehabilitating and reusing historic resources also has the environmental benefit of preserving embodied energy and minimizing the energy expended for new development. Avoiding demolition of important places not only reduces landfill waste, it reduces the energy needed to manufacture and transport the raw materials necessary for replacement structures. For these reasons, the City's historic resource programs play an important cultural, economic, and environmental role in the ongoing evolution of Portland.

In this moment of citywide growth and change, the current processes for identifying, designating, and protecting the city's historic resources have been called into question by members of the public with

varying perspectives on the city's future. For example, Portland's Historic Resource Inventory has not been updated since 1984 and is not reflective of the diversity of resources that are significant to the city's different communities. Additionally, local designation options are underutilized in comparison to National Register listings, and the protections associated with all designation types have grown outdated and warrant revision. By amending the zoning code to resolve these and other historic resource issues, the HRCP seeks to improve the effectiveness of Portland's preservation programs and further the goals and policies contained in the 2035 Comprehensive Plan.

The proposals contained in this document are intended to improve the ways in which Portland identifies, designates, and protects its historic resources at the local level. This begins with creating a new path for updating the City's 34-year-old Historic Resources Inventory, so that in the future it will include more diverse resources that better represent Portland's history. The HRCP further proposes to amend the processes for locally designating significant historic resources and to make local designation options more accessible to property owners and the interested public. Finally, the HRCP recommends changes to protections and incentives for designated historic resources to ensure that significant resources are managed in a manner that benefits a broad spectrum of Portland residents, while providing greater clarity and economic opportunity to owner-stewards.

## **Organization**

The HRCP Discussion Draft was prepared by staff to share preliminary proposals with the public and to gather general feedback. Project staff will consider comments on the Discussion Draft when developing the next version of the proposal, the Proposed Draft. This staff report presents the in-house and comprises six sections:

- **Section I** (this section) provides a brief introduction to the HRCP.
- **Section II** describes how the HRCP advances the five Comprehensive Plan Guiding Principles.
- **Section III** outlines the project's public engagement efforts to-date.
- **Section IV** identifies two significant project limitations.
- **Section V** introduces the HRCP proposals
- **Section VI** analyzes the proposals and describes their benefits.
- **Section VII** consists of draft zoning code amendments and commentary.

# Section II: Consistency with the 2035 Comprehensive Plan

Portland's 2035 Comprehensive Plan is a long-range plan to guide the future growth and physical development of the city. The Comprehensive Plan includes five guiding principles: equity, economic prosperity, human health, environmental health, and resilience. For success in managing the city's growth and development, implementation of these principles must be balanced, integrated, and multi-disciplinary. The zoning code amendments proposed by the HRCP advance the five guiding principles in the following ways:

## 1. 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.*

By advancing a program that recognizes, celebrates, and protects a broader variety of historic and cultural resources, the HRCP promotes a more equitable understanding of the past and creates opportunities for broader representation in future preservation efforts. Specifically, the project proposes a framework to broaden and update Portland's Historic Resource Inventory (HRI), which has not been expanded since 1984. The primary purpose of the HRI is the identification of significant resources, both for public research and for the development of planning tools to steward those significant resources. As it exists today, the HRI severely underrecognizes resources that are significant for cultural and social associations. It also includes only a few properties in East Portland, which was largely annexed after the inventory was adopted in 1984. By creating a framework for updating the HRI in the near future, HRCP proposals allow for the inclusion of these resources and honor their affiliated communities. Inventorying resources associated with underserved communities also offers a window into history, recognizing unfair treatment and notable achievements of these groups in Portland's past. In addition to updating the HRI, the proposals expand exemptions to otherwise required reviews for designated resources and provide owners with incentives to use some historic resources more intensively. Finally, the HRCP refines the existing two-tier local designation program to ensure that culturally significant resources are eligible for designation and appropriate protection at two levels, conservation and historic.

## 2. Economic Prosperity

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

The HRCP furthers this principle in several ways. Modernized protection programs and expanded use incentives will encourage rehabilitation projects, which support local labor and encourage investment in the local economy. While new construction is burdened by cost of new materials, rehabilitation projects generally allocate a greater share of the budget to skilled labor. Because of this, rehabilitation projects have been found to disproportionately support local labor for every construction dollar spent. The reuse

of existing architecture also preserves embodied energy, ensuring that the economic benefit from rehabilitation projects are simultaneously low-carbon. Furthermore, by retaining the resources that contribute to the distinctive character of Portland, preservation programs encourage tourism and attract visitors to the hotels, restaurants, and other public and private attractions of our unique city.

### **3. Human Health**

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

Areas with a high concentration of historic buildings are often recognized for their walkability, human scale, and distinctive design; these qualities encourage active human interactions and promote general human health and stability. Historic and cultural resources may also include art objects, public parks, and greenspace that directly contribute to the wellbeing and enjoyment of local residents. Furthermore, use incentives encourage rehabilitation and reuse, fostering life safety, seismic, and accessibility upgrades to historic buildings. By advancing better and more equitable ways to identify, designate, and protect these resources, the HRCP supports the selective preservation of places that can be experienced by all Portlanders.

### **4. 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.*

The HRCP advances the environmental health of Portland by encouraging the repair and rehabilitation of buildings through incentives and protections associated with local designation. Rehabilitation and adaptive reuse of existing architecture preserves embodied energy and is inherently “green,” thereby promoting the health of our region and the planet. By avoiding unnecessary demolition, usable building materials are kept out of landfills, fewer hazardous substances are released into the atmosphere, and there is a reduced need for energy to manufacture and transport materials for new construction.

### **5. 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.*

By facilitating the identification and seismic retrofit of significant historic resources, the HRCP promotes improved resilience and disaster preparedness within the city of Portland. Proposals to improve inventory and designation processes will enable the City to triage the stabilization of valuable historic and cultural resources after a catastrophic event. Additionally, the Historic Resource Code Project proposes to expand access to incentives which may defray the cost of seismic upgrades and to exempt certain kinds of seismic improvement from review, encouraging proactive protection of Portland buildings vulnerable to a seismic event.

## **Related Comprehensive Plan Policies**

The 2035 Comprehensive Plan includes a goal and numerous policies related to historic and cultural resources. Goal 4.B of the Plan states, *Historic and cultural resources are identified, protected, and rehabilitated as integral parts of an urban environment that continues to evolve.*

In addition to other policies found throughout the Plan, the following policies are specific to historic and cultural resources:

### **Policy 4.46 Historic and cultural resource protection.**

*Within statutory requirements for owner consent, identify, protect, and encourage the use and rehabilitation of historic buildings, places, and districts that contribute to the distinctive character and history of Portland's evolving urban environment.*

### **Policy 4.47 State and federal historic resource support.**

*Advocate for state and federal policies, programs, and legislation that would enable stronger historic resource designations, protections, and rehabilitation programs.*

### **Policy 4.48 Continuity with established patterns.**

*Encourage development that fills in vacant and underutilized gaps within the established urban fabric, while preserving and complementing historic resources.*

### **Policy 4.49 Resolution of conflicts in historic districts.**

*Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to take into account the character of the historic resources in the district.*

### **Policy 4.50 Demolition.**

*Protect historic resources from demolition. When demolition is necessary or appropriate, provide opportunities for public comment and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.*

### **Policy 4.51 City-owned historic resources.**

*Maintain City-owned historic resources with necessary upkeep and repair.*

### **Policy 4.52 Historic Resources Inventory.**

*Within statutory limitations, regularly update and maintain Portland's Historic Resources Inventory to inform historic and cultural resource preservation strategies.*

### **Policy 4.53 Preservation equity.**

*Expand historic resources inventories, regulations, and programs to encourage historic preservation in areas and in communities that have not benefited from past historic preservation efforts, especially in areas with high concentrations of under-served and/or under-represented people.*

### **Policy 4.54 Cultural diversity.**

*Work with Portland's diverse communities to identify and preserve places of historic and cultural significance.*

**Policy 4.55 Cultural and social significance.**

*Encourage awareness and appreciation of cultural diversity and the social significance of both beautiful and ordinary historic places and their roles in enhancing community identity and sense of place.*

**Policy 4.56 Community structures.**

*Encourage the adaptive reuse of historic community structures, such as former schools, meeting halls, and places of worship, for arts, cultural, and community uses that continue their role as anchors for community and culture.*

**Policy 4.57 Economic viability.**

*Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources.*

**Policy 4.58 Archaeological resources.**

*Protect and preserve archaeological resources, especially those sites and objects associated with Native American cultures. Work in partnership with Sovereign tribes, Native American communities, and the state to protect against disturbance to Native American archaeological resources.*

# Section III: Public Involvement

*For more information and transcriptions of all comments collected prior to the release of this in-house draft, see the [summary of public feedback received during the concept development period](#).*

## Initial Open Comment Period

The HRCP initial open comment period spanned from November 2017 through February 2018. During this period, the public were afforded a variety of opportunities to supply project feedback. Four community roundtables and two informal drop-in sessions were held on weeknights in various locations around Portland, with the intention of making these events accessible to a wide range of community members in different geographic areas. About 200 participants in total attended the community roundtables and drop-in sessions, which provided opportunities for group discussion and direct interaction with the project team.

An online survey was also made available for the entire comment period, and paper versions of the same were supplied at all project events. During the three-month open comment period, 440 respondents submitted 3,442 unique comments through survey forms. Additionally, several individuals and organizations sent their comments directly to the Historic Resources Program by emailing [historic.resources@portlandoregon.gov](mailto:historic.resources@portlandoregon.gov). A collective record of these comments can be found on the [HRCP project website](#).

The feedback received at events, through survey results, and in letters directly informed the code proposals included in this Discussion Draft.

## Next Steps

This winter, project staff are sharing the Discussion Draft code amendments with the public and collecting comments to inform a revised Proposed Draft to present to the Planning and Sustainability Commission in summer 2019. The public will be invited to testify on the Proposed Draft at one or more hearings before the Planning and Sustainability Commission in summer 2019. A revised Recommended Draft will be forwarded from the Planning and Sustainability Commission for additional public hearings and a decision by the Portland City Council.

## Section IV: Project Limitations

Although the proposed zoning code amendments incorporate many of the concepts proffered by the public and developed by staff, State regulations limit the City's authority to make some changes to the historic resource designation and protection program.

Portland's local authority to manage historic resources exists within the context of Oregon's unique-in-the-nation regulations for designating and protecting historic resources. ORS 197.772 requires owner consent before a local government can designate a historic resource. No other state preempts local governments from designating historic landmarks and districts against the objection of the owner(s). Statewide Planning Goal 5 requires local governments to automatically protect resources that have been designated on the federal National Register of Historic Places. No other state requires local governments to automatically apply demolition protections to National Register resources.

If not for these two State regulations, the proposed zoning code amendments would eliminate owner consent requirements for legislative historic resource designations and provide only automatic 120-day demolition delay to future National Register listings. These changes would treat new National Register Resources the same as Significant Resources that have not been designated and give the Portland City Council the authority to make designation and protection decisions against individual owner objections when appropriate.

# Section V: Summary of Proposed Amendments

The overarching goal of the Historic Resources Code Project is to improve the City of Portland’s historic preservation programs by better aligning procedures and regulations with the guiding policies described in the 2035 Comprehensive Plan. This intention is reflected in revised purpose statements for Zoning Code chapters 33.445 and 33.846, which deal with the Historic Resource Overlay Zone and Historic Resource Reviews. The amendments proposed by the Historic Resources Code Project implement these purpose statements and advance change in three principal areas:

1. **Inventorying** significant historic resources.
2. **Designating** local landmarks and districts.
3. **Protecting** designated historic resources.

Staff recommendations and public comment collected during the concept development phase informed these proposals, which are listed below and described in detail across the following pages.

## Inventory

1. Expand the Historic Resource Inventory
2. Establish procedures for adding and removing significant resources from the Historic Resource Inventory

## Designation

3. Better differentiate Historic Landmarks from Conservation Landmarks and Historic Districts from Conservation Districts
4. Incorporate historic preservation best practice into the designation process
5. Lower the owner consent thresholds for local historic resource designations

## Protection

6. Align protections for future National Register listings with State regulations
7. Increase the demolition protections that apply to locally designated historic resources
8. Refine the design protections that apply to designated historic resources
9. Increase incentives for reuse and rehabilitation

## Administration

10. Revise Historic Landmarks Commission powers and duties

# Section VI: Analysis of Proposed Amendments

## Historic Resource Inventory

Portland’s Historic Resource Inventory (HRI) was adopted in 1984 to provide documentation of historic resources that may be worthy of landmark or district designation. While the effort was comprehensive—over 5,000 resources were documented—it was never intended to be definitive. The HRI has served as a valuable information tool since the 1980s, but because it has not been updated its utility for planning and research has become inadequate. City staff are proposing several changes to the zoning code to facilitate the HRI becoming a dynamic and useful tool in the future.

### 1. Expand the HRI

#### The proposal:

- Broaden the term HRI to include all historic resources (both documented and designated).
- Include resources identified in area surveys (including “unranked” resources) in the HRI even though they may not be subject to regulations.
- Rename “rank I, II, III” resources as “Significant Resources” for clarity.
- Provide documentation on all resources on the HRI, but clearly differentiate those that are regulated from those that are not.

#### What is the intended benefit?

Making significant changes to the Historic Resource Inventory naming conventions, listing processes, and de-listing processes provides the opportunity to update and maintain a citywide roster of historic places, including resources that are merely documented, resources that have been determined to have historic significance, and resources that have been designated and are subject to protections.

Broadening the term “HRI” to be an umbrella resolves public confusion that exists today about resources that are and are not on the HRI. Since 1984, the HRI has served as a classification of resource, rather than a roster of all resources. Transitioning the HRI into an umbrella term will be most successful by establishing clearer names for “rank I, II, III” (determined to be important) and “unranked” (interesting but not determined to be important) resources that were identified in 1984. The code amendments rename “rank I, II, III” resources “Significant Resources” and remove “unranked” resources from the zoning code all together. Although these documented, but not determined significant resources, will no longer be addressed by the zoning code, they will remain on the HRI for research and public information purposes.



### **What else about the proposal should I know?**

The name changes will not in and of themselves result in any significant regulatory changes for properties included in the 1984 HRI but are intended to provide more accurate and approachable language for use in future HRI updates.

An interactive map of Historic Landmarks, Conservation Landmarks, Historic Districts, Conservation Districts, and Ranked and Unranked Resources on the HRI can be found at the following link:  
<https://www.portlandoregon.gov/bps/article/643850>

## **2. Establish procedures for adding and removing significant resources from the HRI**

### **The proposal:**

- Require City Council vote to add or remove Significant Resources from the HRI.
- Eliminate owner consent requirement for listing and de-listing Significant Resources.
- Apply 120-day demolition delay requirement to Significant Resources.
- Require a formal designation process to apply demolition or design protections beyond 120-day demolition delay.

### **What is the intended benefit?**

Changing the process for listing and de-listing significant resources on the HRI is intended to make the broader HRI a more useful research tool for the public, property owners, development teams, and policy-makers. Requiring City Council to vote on listing and delisting Significant Resources provides the public an opportunity to be involved in decisions about what places are identified as significant.

State Administrative Rule requires local governments to apply a 120-day demolition delay regulation to resources evaluated and determined to be significant. This provision currently exists in the zoning code and will not be substantively changed. However, Portland has allowed owners of Significant Resources (Rank I, II, and III resources) to request removal from the HRI as a property right. The proposed zoning code changes eliminate this opt-out provision to ensure the integrity of the HRI as a public research and planning tool. Delisting a Significant Resource under the proposed code amendments would require a City Council decision or demolition of the resource.

### **What else about the proposal should I know?**

When new Significant Resources are proposed for listing in the HRI, the Historic Landmarks Commission will hold a public hearing to evaluate information presented to them regarding the proposed listings. After evaluating the possible significance of resources at the hearing, the Commission may vote to recommend the listings to the Portland City Council. Following an additional public hearing, the City Council may vote to add the Significant Resources to the HRI. The same process would apply to proposals to remove resources from being identified as Significant Resources.

Significant Resources are generally deemed eligible for a local historic resource designation. Designation as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District is a separate decision and comes with demolition and design protections (see pages that follow).

## Historic Resource Designation

Oregon has long relied on the federal National Register of Historic Places designation for the protection of historic resources. In 2017, changes were made to State Administrative Rule to give cities more flexibility in designating and protecting historic resources. The Proposed Zoning Code changes would modernize Portland's designation processes in alignment with those rules.

### 3. Better differentiate Historic Landmarks from Conservation Landmarks and Historic Districts from Conservation Districts

#### The proposal:

- Portland has two tiers of designated historic resources: historic and conservation. These proposals would retain this two-tier approach to designation but refine the listing process and protections that apply.
- Clarify the definitions of the different local designation types.
- Refine the design and demolition regulations that apply to local designation types.

#### What is the intended benefit?

Since the 1970s, the Portland zoning code has proffered a two-tier classification system of locally-designated historic resources: 1) Historic Landmark and Historic District and 2) Conservation Landmark and Conservation District. The proposed changes retain and enhance the two-tier system to allow for designation and protection options that are responsive to different resource types, different levels of historic significance, and the appropriateness of demolition and design protections. Changes to the resource type descriptions establish that Historic Landmarks and Districts have archaeological, architectural, historical, or cultural importance at the local, state, or national level; Conservation Landmarks and Districts have archaeological, architectural, historical, or cultural interest importance at the district, or neighborhood, or community level.

Enhancing the two-tier classification system will provide the Historic Landmarks Commission and City Council within an intentional menu of options for the local designation and protection of resources.

#### What else about the proposal should I know?

Resources listed in the National Register of Historic Places were automatically identified as Historic Landmarks and Historic Districts in Portland's zoning code prior to these amendments. National Register Resources listed prior to the adoption of a new State Administrative Rule in January 2017 will continue to be mapped and regulated as Historic Landmarks and Historic Districts. Resources listed in the National Register of Historic Places after January 2017 will be identified and regulated as "National Register Resources Listed After January 27, 2017." These new and future National Register listings will be subject to baseline State regulations for demolition and relocation review and will not be designated or regulated as Historic or Conservation Landmarks or Districts without a subsequent local land use process.

See pages that follow for details on the design and demolition regulations that apply to the different designation types.

### 4. Incorporate historic preservation best practice into the designation process

**The proposal:**

- Incorporate National Park Service evaluation criteria into the local designation process.
- Allow Historic and conservation Districts smaller than 16 lots to be designated by the Historic Landmarks Commission.
- Require Historic and Conservation Districts larger than 16 lots to be designated by the City Council with recommendations from the Historic Landmarks Commission and the Planning and Sustainability Commission.
- Revise the process for amending or removing local designations.

**What is the intended benefit?**

Portland's existing designation and designation removal criteria are not aligned with State Administrative Rule or Comprehensive Plan polices. The changes are intended to modernize the criteria used by the Historic Landmarks Commission and City Council in establishing, amending, and removing Historic Landmark, Conservation Landmark, Historic District, and Conservation District listings, including the documentation materials that back up such designations.

The proposals allow the Historic Landmarks Commission to designate Historic and Conservation Landmarks quasi-judicially when the property owner is seeking the designation. The proposals also allow the Historic Landmarks Commission to designate Historic and Conservation Districts quasi-judicially when there are 16 or fewer properties and all property owners agree to the designation.

The proposals also allow the City Council to make designation decisions for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts. In the case of proposed landmarks, the Historic Landmarks Commission would make a recommendation directly to City Council as they do in the identification of Significant Resources. However, in the case of proposed districts, the Historic Landmarks Commission would make a recommendation to the Planning and Sustainability Commission who would then make a recommendation to City Council.

**What else about the proposal should I know?**

The proposed changes add clarity regarding established boundaries of and contributing historic resources within Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts. This clarity is important in determining which specific resources and what areas are subject to demolition and design regulations. Additionally, the designation and designation removal processes have been expanded to include changes to boundaries and contributing resource status.

**5. Lower the owner consent thresholds for local historic resource designations****The proposal:**

- To align with State rules, lower the owner-consent threshold to 50 percent+1 affirmative owner consent for all local landmark and district designations.

**What is the intended benefit?**

Since 1996, Portland has required unanimous owner consent for local historic resource designation. This threshold has largely shifted designation decisions to the National Park Service where only an implied majority of owners are needed to support a designation (primary at the district scale). By lowering the owner consent threshold necessary to designate new Historic and Conservation Landmarks and Districts, the City Council will be able to weigh property owner interests with broader community goals and policies in the designation process.

### **What else about the proposal should I know?**

Should State law change in the 2019 legislative session, the Proposed Draft code amendments will propose elimination of all owner consent requirements for Historic and Conservation Landmarks and Districts that are designated by the City Council through a legislative process.

## **Historic Resource Protection**

Portland's regulations for protecting historic resources have not been holistically updated since the mid-1990s and do not adequately protect locally designated resources from demolition. Proposed changes would expand demolition review beyond National Register listed resources to all locally designated resources as well as modify design protections for all designated resource types.

### **6. Align protections for future National Register listings with State regulations**

#### **The proposal:**

- Retain protections for all resources listed in the National Register prior to 2017.
- Apply only demolition review to resources listed in the National Register after 2017.
- Require subsequent local designation to apply design protections to National Register resources listed after 2017.

#### **What is the intended benefit?**

These changes are intended to bring Portland's regulations into compliance with a State Administrative Rule adopted in January 2017. The new Rule requires jurisdictions in Oregon to review at a public hearing demolition and relocation applications for all resources listed in the National Register of Historic Places. Conversely, the Rule requires a subsequent local land use procedure to add additional protections to resources listed in the National Register after January 2017.

### **What else about the proposal should I know?**

Should State law change in the 2019 legislative session, the Proposed Draft code amendments will propose making future National Register listings tantamount to the Significant Resource identification (subject to only 120-day demolition delay) unless or until the resource is designated locally as a Historic or Conservation Landmark or District.

### **7. Increase the demolition protections that apply to locally designated historic resources**

#### **The proposal:**

- Apply demolition review protection to locally-designated Historic Landmarks (currently only a 120-day demolition delay applies).
- Apply a new type of staff-level demolition review to Conservation Landmarks and contributing resources in Conservation Districts (currently only a 120-day demolition delay applies).
- Reduce requirements and process for demolition of accessory structures, such as garages, where they are currently subject to City Council review.
- Specify the activities that trigger demolition protections (such as removing an entire street-facing wall).

#### **What is the intended benefit?**

Portland's program for meaningfully protecting resources from demolition has been tied to National Register listing since 2005. Except for resources that are listed in the National Register, Historic Landmarks, Conservation Landmarks, and resources in Conservation Districts are only subject to 120-day demolition delay with no opportunity for public involvement or denial. The proposed changes are intended to elevate the level of demolition protection for all locally-designated Historic and Conservation Landmarks and Districts to create meaningful local alternatives to National Register listing, establish equal protection of resources within the same classification, and ensure that the public and property owner have adequate opportunities to consider alternatives to demolition of important resources. Information, by resource type, is below:

#### Historic Landmarks

Since 2005, Historic Landmarks listed on the National Register of Historic Places have been subject to Type IV demolition review, with the possibility of City Council denying a demolition permit. However, locally-designated Historic Landmarks that are not also listed on the National Register are only subject to 120-day demolition delay. The proposed changes apply the same Type IV demolition review to locally-designated Historic Landmarks as has applied to National Register-listed Historic Landmarks since 2005 to provide equal protection to all Historic Landmarks.

Additionally, current regulations require City Council to review and approve applications to demolish contributing accessory structures associated with Historic Landmarks that are listed in the National Register. The proposed changes would reduce the time and cost of these demolition requests by creating a new Type II staff-level demolition review for demolition of contributing garages and sheds. When accessory structures are proposed for replacement with a new building, the demolition and new construction proposals would be reviewed as a package.

#### Conservation Landmarks

Demolition of Conservation Landmarks is subject to a 120-day delay. This demolition delay period rarely results in buildings being saved. The proposed changes would require a new type of demolition review before Conservation Landmarks could be approved for demolition. This staff-level Type II review would penalize demolition by generally requiring mitigation before a demolition permit is issued. Such mitigation could include on- or off-site building rehabilitation, public history, cultural preservation, or affordability dollars. Accessory structures, such as garages and sheds, would be exempt from the new demolition review requirements.

#### Historic Districts

Contributing resources in Historic Districts, those listed in the National Register and those locally designated, are subject to Type IV demolition review, with the possibility of City Council denying a demolition application. As such, current regulations require City Council to review and approve applications to demolish contributing accessory structures in Historic Districts. The proposed changes would reduce the time and cost of these demolition requests by creating a new Type II staff-level demolition review for demolition of contributing garages and sheds. When accessory structures are proposed for replacement with a new building, the demolition and new construction proposals would be reviewed as a package.

#### Conservation Districts

Demolition of contributing resources in Conservation District is subject to a 120-day delay. This demolition delay period rarely results in buildings being saved. The proposed changes would require a new type of demolition review before contributing resources in Conservation Districts could be approved for demolition. This staff-level Type II review would penalize demolition by generally requiring mitigation before a demolition permit is issued. Such mitigation could include on- or off-site building rehabilitation, public history, cultural preservation, or affordability dollars that stay within the specific Conservation District. Accessory structures, such as garages and sheds, would be exempt from the new demolition review requirements.

### **What else about the proposal should I know?**

State Administrative Rule defines demolition of historic resources as “any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost.” The proposed code amendments provide a list of measurable activities that would qualify as “demolition” for historic resources. This definition of demolition would not apply to structures that are not historic resources.

Additionally, State Administrative Rule requires review of relocation of National Register Resources. Relocation of historic resources is relatively rare but does happen on occasion. A new relocation review has been developed following the specifics of the Rule. Historic resource relocation review would apply in situations where Historic Landmarks, contributing resources in Historic Districts, and some contributing resources in Conservation Districts were proposed to be moved 10 or more feet.

## **8. Refine the design protections that apply to designated historic resources**

### **The proposal:**

- Expand list of improvements that are exempt from historic resource review, such as:
  - Some solar energy systems.
  - Electrical outlets, meters, and mechanical structures.
  - Seismic straps on foundation walls.
  - Replacement of non-historic windows with wood windows.
- Adjust review type thresholds to streamline the review process for smaller projects.
- Refine design approval criteria to resolve technical issues related to design compatibility and replacement accessory structures.
- Revise limits on allowed façade changes in Conservation Districts and to Conservation Landmarks.
- Allow greater flexibility for additions to Conservation Landmarks.
- Possibly require more rigorous review of larger new construction projects in Conservation Districts.

### **What is the intended benefit?**

New construction and alterations to Historic Landmarks, Conservation Landmarks, and properties in Historic and Conservation Districts is subject to historic resource review (AKA design review). Conservation Landmarks and properties in Conservation Districts have the option of meeting clear and objective design standards as an alternative to historic resource review. The proposals retain this general approach but refine review thresholds and exemptions for all designated resource types to streamline approval of minor changes to designated historic resources and ensure their long-term preservation. Proposed changes generally fall within the following categories:

#### Exemptions from review

New and expanded exemptions from review and proposed for Historic Landmarks, Conservation Landmarks, and properties in Historic Districts and Conservation Districts. These proposals respond to requests from the public, from Neighborhood Associations representing Historic Districts, and Bureau of Development Services staff. The changes are intended to ensure the ongoing protection of historic resources, while eliminating unnecessary reviews for minor changes, many of which regular occur today without permit applications being submitted.

#### Review type thresholds

Modifications to the review types (i.e. Type I, Type II, etc.) that apply to different types of projects are proposed to streamline the review of minor changes and elevate the level of review for projects that require extensive staff time and knowledge to approve.

#### Approval criteria

Minor changes are proposed to the approval criteria that apply to alterations to Historic Landmarks and alterations and new construction in Historic Districts that do not have district-specific design guidelines. These changes provide added clarity, accommodate flexibility for accessory structure replacement projects, allow—but not require—designers to propose more compatible designs, and require new construction in districts to respond to broad district patterns rather than immediately adjacent properties. New approval criteria are provided for Conservation Landmarks that require preservation of historic materials but allow for larger and more aesthetically differentiated design approaches than is allowed for Historic Landmarks.

An additional change would apply the Central City Fundamental Design Guidelines to the Russell Street Conservation District as additional approval criteria that must be met since that Conservation District is within the Central City Plan District.

#### **What else about the proposal should I know?**

City staff heard conflicting viewpoints regarding the successfulness of current regulations that apply to new construction in Conservation Districts. The Discussion Draft includes language that would exempt new construction in Conservation District larger than 2500 square feet from taking advantage of the clear and objective design standards alternative to historic resource review. More public feedback is needed on this topic to arrive at a proposal for inclusion in the Proposed Draft.

## **9. Increase incentives for reuse and rehabilitation**

#### **The proposal:**

- Expand housing unit flexibility in historic districts.
- Reduce barriers to transferring unused density from historic resources.
- Eliminate parking requirements for all designated historic resources.
- Increase adaptive reuse flexibility, including allowing limited commercial uses in residential zones.

#### **What is the intended benefit?**

Zoning code incentives have the potential of increasing the economic viability of historic resources that are purpose-built, vulnerable in a seismic event, in a deteriorated condition, or well-suited for broader public access and use. Although zoning code incentives exist today, they are rarely used. The proposed amendments would expand the regulatory incentives available to designated historic resources and eliminate redundant barriers to use of the incentives. Additionally, the incentives would eliminate

parking requirements for Historic and Conservation Landmarks and in Historic and Conservation Districts. The incentives are intended to provide maximum flexibility for use, while also minimizing off-site impacts and generally aligning with adopted area plans.

**What else about the proposal should I know?**

Historic resource owners that take advantage of incentives are still be required to meet the demolition and design protections that apply to the resource.

## **Historic Resource Administration**

The Bureau of Development Services has requested several minor changes to the Historic Landmarks Commission makeup and responsibilities.

### **10. Revise Historic Landmarks Commission powers and duties**

**The proposal:**

- Change the commission makeup, responsibilities, and annual report schedule to resolve administrative challenges.

**What is the intended benefit?**

The proposals are intended to provide the Bureau of Development Services with more options in recruiting new members to serve on the Historic Landmarks Commission as well as to align the Commission’s annual report to City Council with calendar year data and budgeting. The proposals also provide specificity on the role and responsibility of the Commission in identifying Significant Resources and designating Historic Landmarks, Conservation Landmarks, Historic Districts and Conservation Districts.

**What else about the proposal should I know?**

The City of Portland has been a Certified Local Government (CLG) since 1996, a designation which 50 other cities in Oregon share for their commitment to managing historic resources. CLGs must have a historic landmarks commission. Oregon’s CLG performance standards provide the following regarding commissions: “The CLG must seek the expertise necessary to make informed decisions about historic and prehistoric cultural resources. This is normally provided by a landmarks commission composed of professional and lay members; however, qualified staff members and/or consultants may be relied upon as needed. At a minimum, the CLG must make a reasonable effort to seat commissioners with a demonstrated positive interest in historic preservation, the majority of whom should meet the federal historic preservation professional standards.”

# 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.

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## Commentary

### **33.10.050.A Content of Official Zoning Maps**

This change clarifies that many different historic resource types are shown on the Official Zoning Maps, including National Register Resources, Historic Landmarks, Historic Districts, Conservation Landmarks, and Conservation Districts.

## 33.10 Legal Framework and Relationships

# 10

### 33.10.050 Official Zoning Maps

- A. Content of Official Zoning Maps.** The boundaries of the base zones, overlay zones, and plan districts are shown on the Official Zoning Maps of the City of Portland. The maps also show the location of ~~historical landmarks~~historic and conservation landmarks and districts, special street setbacks, and existing and planned major public trails. The Official Zoning Maps are a part of the zoning code, but are published separately. Maps that delineate areas subject to additional zoning regulations may be included in the zoning code, attached to the adopting ordinance, or adopted by reference. The Bureau of Planning and Sustainability maintains the Official Zoning Maps.
- B. Changes to Official Zoning Maps.** A proposed change to the Official Zoning maps is subject to the amendment process described in Chapter 33.855, Zoning Map Amendments.
- C. Boundary lines.**
1. Where a zoning line is shown on the Official Zoning Maps as being within an existing or vacated right-of-way, utility corridor, railroad line, or a water course, the line is in the center unless specifically indicated otherwise.
  2. The location of a zoning line is determined with a scale when a zoning line does not follow a lot line or identifiable landmark and its location is not specifically indicated.

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## **Commentary**

### **33.120.205.G. Transfer of density or FAR**

This subsection is being amended such that floor area and density may be transferred from sites containing a Historic Landmark, Conservation Landmark, contributing resource in Historic District, or contributing resource in a Conservation District.

## 33.120 Multi-Dwelling Zones

120

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### 33.120.205 Density

#### A.-F. [No change]

- G. Transfer of density or FAR.** Density or FAR may be transferred from one site to another subject to the following:
1. Calculating the amount of density or FAR transferred. In the R3, R2, and R1 zones, transferable density is calculated in terms of dwelling units. In the RH and RX zones, transferable density is calculated by FAR.
  2. Development standards. Buildings on sites receiving transferred density or FAR must meet the development standards of the base zone, overlay zone, or plan district, except for maximum density, which is regulated by Subsection E.
  3. General standards for transfers of density or FAR.
    - a. Except for transfers from the sites of Historic Landmarks, Conservation Landmarks, contributing resources in Historic Districts, or contributing resources in Conservation Districts, the transfers may be only between sites within a block or between sites that would be abutting except for a right-of-way.
    - b. Density or FAR from the site of a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District may be transferred to any site allowed by Paragraph 4 below, within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark.

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## **Commentary**

### **33.120.205.G. Transfer of density or FAR (cont.)**

Changes to Paragraph 4 implement the changes described on the previous page.

Paragraph 5, covenants, is being amended for accuracy and to eliminate a covenant that is currently required for use of historic resource incentives. See commentary related to changes to 33.445.710 for additional context on the elimination of this covenant.

4. Zoning.
  - a. RX Zone. In the RX Zone:
    - (1) Transfer of commercial development rights is regulated by Subparagraph 33.120.100.B.3.f;
    - (2) Density or FAR may be transferred from a site zoned RX to a site zoned RX, RH, CX, or EX. Density may be transferred from the site of a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District zoned RX to a site zoned RX, RH, C, or EX.
  - b. RH Zone. Density or FAR may be transferred from a site zoned RH to a site zoned RX or RH. Density may be transferred from the site of a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District zoned RH to a site zoned RX, RH, or EX.
  - c. R3, R2, and R1 Zones. Density may be transferred among sites zoned R3, R2, and R1.
5. Covenants. The property owner must execute a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenants ~~for the receiving both sites~~ must meet the requirements of Section 33.700.060. ~~The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.~~

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## Commentary

### **33.130.205.C. Transfer of floor area from historic resources**

This subsection is being amended to provide clarity and consistency that floor area may be transferred from sites containing a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District.

## 33.130 Commercial/Mixed Use Zones

130

### 33.130.205 Floor Area Ratio

#### A.-B. [No change]

#### C. **Transfer of floor area from historic resources.** Floor area ratios may be transferred from a site ~~that contains a historic resource~~, as follows:

1. Sending sites. ~~Sites~~ The following sites are eligible to transfer floor area ~~must contain~~:
  - ~~a. A Historic or Conservation landmark; or~~
  - ~~b. A contributing resource in a Historic District or a Conservation District.~~
  - a. Sites containing a Historic Landmark;
  - b. Sites containing a Conservation Landmark;
  - c. Sites containing a contributing resource in a Historic District; and
  - d. Sites containing a contributing resource in a Conservation District.
2. Receiving site. The transfer must be to a site that is zoned CM1, CM2, CM3, CE or CX. Transferring to a site that is zoned CR is prohibited. The receiving site must be within the same recognized neighborhood as the sending site, or within two miles of the transfer site, and must not be within a Historic or Conservation District.

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## Commentary

### **33.130.205.C. Transfer of floor area from historic resources (cont.)**

Paragraph 6 is being amended for accuracy and to eliminate a covenant that is currently required for use of historic resource incentives. See commentary related to changes to 33.445.710 for additional context on the elimination of this covenant.

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

3. Maximum increase in FAR in the CM1, CM2, CM3, and CE zones. In the CM1, CM2, CM3, and CE zones, the total FAR on the receiving site may not exceed the maximum FAR with bonuses identified on Table 130-3. This total FAR includes FAR transferred from historic resources, and any additional FAR allowed at the receiving site from bonus options, or from other transfers. In addition, an increase on the receiving site of more than the following due to a historic resource transfer is prohibited:
  - a. 0.5 to 1 in the CM1 zone;
  - b. 0.75 to 1 in the CM2 zone;
  - c. 1 to 1 in the CM3 zone;
  - d. 0.5 to 1 in the CE zone.
4. Maximum increase in FAR in the CX zone. In the CX zone, an increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from historic resources, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;
5. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Paragraphs C.2 and C.3 above;
6. The property owner must execute a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density. The covenant must reflect the respective increase and decrease of potential density. The covenants for the receiving both sites must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the historic resource transferring the density must meet the requirements of 33.445.610.D, Covenant.~~

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## Commentary

### **33.140.205.D. Transfer of FAR from historic resources in the EX Zone**

This subsection is being amended to allow floor area to be transferred from sites containing a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District.

Paragraph 4 is being amended for accuracy and to eliminate a covenant that is currently required for use of historic resource incentives. See commentary related to changes to 33.445.710 for additional context on the elimination of this covenant.

## 33.140 Employment and Industrial Zones

140

### 33.140.205 Floor Area Ratio

#### A.-C. [No change]

- D. Transfer of FAR from ~~Landmarks~~ historic resources in the EX Zone.** Floor area ratios may be transferred from a site zoned EX that contains a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District as follows:
1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from ~~Landmarks~~ historic resources, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers.
  2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Subsection C;
  3. Receiving site. The transfer must be to a site that is:
    - a. Zoned C or EX; and
    - b. Within the recognized neighborhood where the Landmark or contributing resource is located, or to any site within two miles of the Landmark; and
  4. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenants for the receiving both sites must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.~~

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## Commentary

### **33.140.205.E. Transfer of FAR from Landmarks in the EG Zones**

This subsection is being amended to allow floor area to be transferred from sites containing a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District.

Paragraph 4 is being amended for accuracy and to eliminate a covenant that is currently required for use of historic resource incentives. See commentary related to changes to 33.445.710 for additional context on the elimination of this covenant.

- E. Transfer of FAR from Landmarks in the EG Zones.** Floor area ~~ratios~~ may be transferred from a site zoned EG1 or EG2 that contains a Historic Landmark, Conservation Landmark, contributing resource in a Historic District, or contributing resource in a Conservation District as follows:
1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from ~~Landmarks~~ historic resources, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers.
  2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Subsection C;
  3. Receiving site. The transfer must be to a site that is:
    - a. Zoned EG1 or EG2; and
    - b. Within the recognized neighborhood where the Landmark or contributing resource is located, or to any site within two miles of the Landmark; and
  4. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenants for both sites must meet the requirements of Section 33.700.060, Covenants with the City. ~~The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.~~

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## Commentary

No changes to this page.

## 33.207 Accessory Short-Term Rentals

# 33.207

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### 33.207.040 Type A Accessory Short-Term Rentals

- A. **[No change]**
- B. **Standards.** The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:
1. Maximum size. A Type A accessory short-term rental is limited to renting a maximum of 2 bedrooms to overnight guests.
  2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit, but the maximum number of bedrooms on the site that can be rented to overnight guests is 2.
  3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.
  4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:
    - a. Met the building code requirements for a sleeping room at the time it was created or converted. Bedrooms in multi-dwelling structures and in triplexes are exempt from this requirement;
    - b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway that is in the dwelling unit; and
    - c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.
  5. Number of residents and guests. The total number of residents and guests occupying a dwelling unit with a Type A accessory short-term rental may not exceed the number allowed for a household. For sites with an accessory dwelling unit, the total number of residents and guests occupying both dwelling units may not exceed the number allowed for a household.
  6. Employees. Nonresident employees are prohibited. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed.
  7. Services to overnight guests and visitors. Serving alcohol and food to overnight guests and visitors is allowed and may be subject to other county or state requirements.

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## Commentary

### **33.207.040.B Standards**

The section on commercial meetings is being amended for accuracy due to the elimination of the previous open house requirement of the Oregon Special Assessment of Historic Property Program. Although the Special Assessment Program no longer requires annual open houses, some historic preservation grants and incentive programs do require open houses as a condition of participation. National Register Resources, Historic Landmarks, Conservation Landmarks, and resources in Historic and Conservation Districts may participate in such historic preservation programs.

8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. ~~A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year.~~ Historic resources may be open to the public for 4 hours one day each year as a requirement of historic preservation grant and incentive programs. This is not considered a commercial meeting.
9. A Type B accessory home occupation is prohibited with a Type A accessory short-term rental.

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

**33.207.050 Type B Accessory Short-Term Rentals**

**A. [No change]**

**B. Standards.**

1. Maximum size. Type B accessory short-term rental is limited to renting a maximum of 5 bedrooms to overnight guests. In the single-dwelling zones, a Type B accessory short-term rental over this size limit is prohibited.
2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit.
3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.
4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:
  - a. Met the building code requirements for a sleeping room at the time it was created or converted. Bedrooms in multi-dwelling structures and in triplexes are exempt from this requirement;
  - b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway that is in the dwelling unit; and
  - c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.
5. Number of residents and overnight guests. The total number of residents and overnight guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

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## Commentary

### **33.207.050.B Standards**

The section on commercial meetings is being amended for accuracy due to the elimination of the previous open house requirement of the Oregon Special Assessment of Historic Property Program. Although the Special Assessment Program no longer requires annual open houses, some historic preservation grants and incentive programs do require open houses as a condition of participation. National Register Resources, Historic Landmarks, Conservation Landmarks, and resources in Historic and Conservation Districts may participate in such historic preservation programs.

6. Employees. Nonresident employees for activities such as booking rooms and food preparation may be approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.
7. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements.
8. Commercial meetings.
  - a. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are regulated as follows:
    - (1) In the single-dwelling zones, commercial meetings are prohibited;
    - (2) In all other zones, up to 24 commercial meetings per year may be approved as part of a conditional use review. The maximum number of visitors or guests per event will be determined through the conditional use review. Adjustments to the maximum number of meetings per year are prohibited.
  - b. ~~Historic resources/landmarks. A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year.~~ Historic resources may be open to the public for 4 hours one day each year as a requirement of historic preservation grant and incentive programs. This does not count as a commercial meeting.
  - c. Meeting log. The operator must log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.
9. Appearance. Residential structures may be remodeled for the development of an accessory short-term rental. However, structural alterations may not be made that prevent the structure being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.
10. A Type B accessory home occupation is prohibited with a Type B accessory short-term rental.

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

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## Commentary

### **33.266.110.D. Exceptions to the minimum number of parking spaces**

A minor change adds the word "spaces" for technical accuracy.

A new exception to minimum parking requirements is being added to provide designated historic resources with greater flexibility for continued use, adaptive reuse, alterations, and new development. Many of Portland's historic resources were built during a time when automobile use and parking was non-existent or less commonplace than it has been in more recent decades. Providing this exception allows for removal of unused parking pads, reuse of garages as ADUs or other uses, and flexibility for Historic and Conservation Landmarks and contributing and noncontributing resources in Historic and Conservation Districts to adapt to a more intensive use without the need for paving site area or harming the historic resource to accommodate vehicles. This exception also allows for the construction of new buildings in Historic and Conservation Districts to more closely follow the design patterns of development seen prior to the proliferation of the automobile. Because accommodating parking spots may require designs that depart from historic patterns, reducing required parking to zero in Historic and Conservation Districts provides designers of new structures with greater flexibility to gain historic resource review approval in districts that did not historically include on-site vehicular storage.

## 33.266 Parking, Loading, And Transportation And Parking Demand Management

266

### 33.266.110 Minimum Required Parking Spaces

#### A.-C. [No change]

- D. Exceptions to the minimum number of parking spaces.** The minimum number of required parking spaces may be reduced as follows:
1. Affordable housing exceptions:
    - a. Exception for sites close to transit. The minimum number of required parking spaces may be reduced to zero when the following are met:
      - (1) The site is located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service; and
      - (2) The applicant demonstrates compliance with the on-site or off-site affordable dwelling unit requirements of Chapter 33.245, Inclusionary Housing, or the on-site or off-site affordable dwelling unit requirements of an applicable voluntary inclusionary housing bonus. This exception does not apply if the applicant pays a fee-in-lieu of complying with the requirements of Chapter 33.245, Inclusionary Housing, or makes a payment into the Affordable Housing Fund in exchange for bonus density or FAR.
    - b. Exception for sites far from transit. Affordable dwelling units are not counted toward the total number of dwelling units when calculating the number of required parking spaces when the following are met:
      - (1) The site is located more than 1500 feet from a transit station, or more than 500 feet from a transit street with 20-minute peak hour service; and
      - (2) The applicant demonstrates compliance with the on-site or off-site affordable dwelling unit requirements of Chapter 33.245, Inclusionary Housing, or the on-site or off-site affordable dwelling unit requirements of an applicable voluntary inclusionary housing bonus. This exception does not apply if the applicant pays a fee-in-lieu of complying with the requirements of Chapter 33.245, Inclusionary Housing, or makes a payment into the Affordable Housing Fund in exchange for bonus density or FAR.
  2. Historic resource exception. The minimum number of required parking spaces may be reduced to zero on sites that contain a Historic Landmark or Conservation Landmark and on sites located within a Historic District or Conservation District.

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## Commentary

**33.266.110.D. Exceptions to the minimum number of parking spaces (cont.)**  
Changes reflect renumbering.

23. Other exceptions. The minimum number of required parking spaces may not be reduced by more than 50 percent through the exceptions of this Paragraph. The 50 percent limit applies cumulatively to all exceptions in this Paragraph:
- a. Exceptions for sites where trees are preserved. Minimum parking may be reduced by one parking space for each tree 12 inches in diameter and larger that is preserved. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision.
  - b. Bicycle parking may substitute for up to 25 percent of required parking. For every five non-required bicycle parking spaces that meet the short or long-term bicycle parking standards, the motor vehicle parking requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.
  - c. A transit-supportive plaza may substitute for up to 10 percent of the required parking on sites where at least 20 parking spaces are required, and where at least one street lot line abuts a transit street. Existing parking areas may be converted to take advantage of these provisions. The plaza must meet the following regulations. Adjustments to the regulations of this paragraph are prohibited:
    - (1) The plaza must be adjacent to and visible from the transit street. If there is a bus stop along the site's frontage, the plaza must be adjacent to the bus stop;
    - (2) The plaza must be at least 300 square feet in area and be shaped so that a 10 foot x 10 foot square will fit entirely in the plaza;
    - (3) The plaza must be open to the public. The owner must record a public access easement that allows public access to the plaza; and
    - (4) The plaza must include all of the following elements:
      - A bench or other sitting area with at least 5 linear feet of seating;
      - A shelter or other weather protection that covers at least 20 square feet. If the plaza is adjacent to the bus stop, TriMet must approve the shelter; and
      - Landscaping. At least 10 percent, but not more than 25 percent of the transit-supportive plaza must be landscaped to the L1 standard of Chapter 33.248, Landscaping and Screening. This landscaping is in addition to any other landscaping or screening required for parking areas by the Zoning Code.
  - d. Motorcycle parking may substitute for up to 5 spaces or 5 percent of required automobile parking, whichever is less. For every 4 motorcycle parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle space must be at least 4 feet wide and 8 feet deep. Existing parking may be converted to take advantage of this provision.

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## Commentary

### **33.266.110.D. Exceptions to the minimum number of parking spaces (cont.)**

No changes to this page.

- e. Car-sharing parking spaces may substitute for required parking if all of the following are met:
  - (1) For every car-sharing parking space that is provided, the motor vehicle parking requirement is reduced by two spaces, up to a maximum of 25 percent of the required parking spaces;
  - (2) The car-sharing parking spaces must be shown on the building plans; and
  - (3) A copy of the car-sharing agreement between the property owner and the car-sharing company must be submitted with the building permit.
  
- f. City of Portland bike-sharing stations may substitute for required parking if all of the following are met:
  - (1) A City of Portland bike-sharing station providing 15 docks and 10 shared bicycles reduces the motor vehicle parking requirement by 3 spaces. The provision of each addition of 4 docks and 2 shared bicycles reduces the motor vehicle parking requirement by an additional space, up to a maximum of 25 percent of the required parking spaces;
  - (2) The bike-sharing station must be adjacent to, and visible from the street, and must be publicly accessible;
  - (3) The bike-sharing station must be shown on the building plans; and
  - (4) A copy of the signed agreement between the property owner and the Portland Bureau of Transportation must be submitted before the building permit is approved.

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## Commentary

### **33.445 Historic Resource Overlay Zone**

This chapter is being substantially amended. Renumbering and section heading changes correspond to additions, changes, and deletions in the chapter.

## 33.445 Historic Resource Overlay Zone

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### Sections:

#### General

- 33.445.010 Purpose
- 33.445.020 Historic Resource Inventory
- 33.445.0~~2~~30 Where These Regulations Apply
- 33.445.0~~3~~40 Types of Historic Resources and Map Symbols
- 33.445.04~~5~~50 Adoption of Design Guidelines
- 33.445.05~~6~~60 Modifications that Enhance Historic Resources
- 33.445.06~~7~~70 Notice of Building and Housing Code Violations

#### National Register Resources listed after January 27, 2017

- 33.445.100 Designation of a National Register Resource
- 33.445.110 Removal of a National Register Resource Listing
- 33.445.120 Historic Preservation Agreements and Incentives for National Register Resources
- 33.445.130 Relocation of a National Register Resource
- 33.445.150 Demolition of a National Register Resource

#### Historic Landmarks

- 33.445.~~1~~200 Designation of a Historic Landmark
- 33.445.~~1~~210 Removal of a Historic Landmark Designation
- 33.445.~~1~~220 Historic Preservation Agreements and Incentives for Historic Landmarks
- 33.445.~~1~~230 Relocation of a Historic Landmark
- 33.445.~~1~~240 Development Alterations towithin a Historic Landmark Boundary
- 33.445.~~1~~250 Demolition of a Historic Landmark

#### Conservation Landmarks

- 33.445.~~2~~300 Designation of a Conservation Landmark
- 33.445.~~2~~310 Removal of a Conservation Landmark Designation
- 33.445.~~2~~320 Historic Preservation Agreements and Incentives for Conservation Landmarks
- 33.445.330 Relocation of a Conservation Landmark
- 33.445.~~2~~3~~0~~340 Development Alterations towithin a Conservation Landmark Boundary
- 33.445.~~2~~4~~0~~350 Demolition of a Conservation Landmark

#### Historic Districts

- 33.445.~~3~~400 Designation of a Historic District
- 33.445.~~3~~410 Removal of a Historic District Designation
- 33.445.~~3~~1~~5~~420 Historic Preservation Agreements and Incentives in Historic Districts
- 33.445.430 Relocation of a Historic Resource in a Historic District
- 33.445.~~3~~2~~0~~440 Development and Alterations in a Historic District
- 33.445.~~3~~3~~0~~450 Demolition of Historic Resources in a Historic District

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## Commentary

### **33.445 Historic Resource Overlay Zone (cont.)**

This chapter is being substantially amended. Renumbering and section heading changes correspond to additions, changes, and deletions in the chapter.

Conservation Districts

33.445.4500 Designation of a Conservation District

33.445.4510 Removal of a Conservation District Designation

33.445.415~~5~~20 Historic Preservation Agreements and Incentives in Conservation Districts

33.445.530 Relocation of a Historic Resource in a Conservation District

~~33.445.420~~540 Development and Alterations in a Conservation District

~~33.445.430~~550 Demolition of Historic Resources in a Conservation District

~~Historic Resource Inventory Listing~~Significant Resources

33.445.5600 ~~Listing in the Historic Resource Inventory~~Identifying a Significant Resource

33.445.5610 Removal of ~~Historic Resource Inventory Listing~~Significant Resource Identification

33.445.515~~6~~20 Historic Preservation Agreements for Resources Listed in the Historic Resource InventorySignificant Resources

33.445.630 Relocation of a Significant Resource

~~33.445.520~~650 Demolition of ~~Properties Listed in the Historic Resource Inventory~~a Significant Resource

Historic Preservation Agreements and Historic Preservation Incentives

33.445.6700 Historic Preservation Agreements

33.445.6710 Historic Preservation Incentives

Community Design Standards

33.445.7800 Purpose

33.445.7810 When Community Design Standards May Be Used

~~33.445.7820~~ ~~When Community Design Standards May Not Be Used~~

~~120-Day Delay~~Demolition and Relocation

33.445.8900 Types of Procedures

33.445.8905 Supplemental Application Requirements

33.445.8910 120-Day Delay

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## Commentary

### 33.445.010 Purpose

The purpose section of the Historic Resource Overlay Zone is being amended to more accurately reflect the importance and scope of historic resource inventory, designation, and protection programs. The changes, reflected throughout this and other chapters, elevate cultural, historical, and architectural significance as primary areas of importance for historic resources. The changes also incorporate "environmental health" as a purpose to recognize the value of embodied energy retained and landfill waste avoided when existing buildings are retained and reused.

### 33.445.020 Historic Resource Inventory

A new section is being added to describe a broader interpretation of the Historic Resource Inventory (HRI) than has been included in the past. Although this chapter previously identified the HRI as a classification of historic resource, HRI is more accurately the name of the complete roster of documented and designated historic resources in Portland. Recasting the HRI as a broader umbrella of historic resources allows the following to all be included the HRI:

- Resources that have been documented for their historic qualities, but which have not been determined significant or designated (formerly call "unranked" resources. These documented resources are no longer addressed by this chapter).
- Resources that have been documented and determined to be significant through a legislative procedure (formerly called "rank I, II, III" resources. Now called Significant Resources and addressed by this chapter).
- Resources locally-designated as Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts, including their constituent contributing and noncontributing parts (locally-designated resources are addressed by this chapter).
- Resources listed in the National Register of Historic Places (National Register Resources are addressed by this chapter).
- Demolished resources that had been previously documented or designated (resources that have been demolished, unless designated as an archaeological site, are not addressed by this chapter).

Broadening the HRI to be an umbrella term amounts to a significant change in nomenclature but does not, in and of itself, represent a major policy change.

### 33.445.030 Where These Regulations Apply

Changes to this section include renumbering to reflect changes to other sections, addition of a new section for resources listed in the National Register of Historic Places, and clarifications as to where the regulations for different resources apply. The changes reflect a hierarchy of protections that apply to National Register Resources, Historic Landmarks, Historic Districts, Conservation Landmarks, Conservation Districts, and Significant Resources differently. These changes are generally consistent with current practice for the different resource types.

All National Register Resources listed before January 27, 2017 are either a Historic Landmark or a Historic District (see additional commentary on page that follows).

## General

### **33.445.010 Purpose**

This chapter protects ~~certain historic resources in the region and preserves~~ historic resources that are significant parts of the to the city's and region's heritage. The regulations implement Portland's Comprehensive Plan policies that address historic preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's ~~citizens~~ residents in their city and its diverse history, architecture, and culture heritage. Historic preservation beautifies the city, promotes ~~the city's~~ economic and environmental health, honors social and cultural history, and helps to preserve and enhance the value of historic properties. ~~stewards significant resources for the use and enjoyment of future generations.~~

### **33.445.020 Historic Resource Inventory**

Portland's Historic Resource Inventory is a record of structures, sites, objects, places, and districts that have been documented as having or potentially having architectural, historical, or cultural significance.

### **33.445.0230 Where These Regulations Apply**

- Sections 33.445.010 through ~~.810~~ .070 and .700 through .910 apply to all historic resources.
- Sections 33.445.100 through .150 apply within the boundaries of National Register Resources listed after January 27, 2017, except National Register Resources that are Historic Landmarks or are contributing resources in Historic Districts.
- Sections 33.445.~~.1200~~ .1250 through .1250 apply ~~to~~ within the boundaries of Historic Landmarks, including National Register Resources listed after January 27, 2017 and those within Historic Districts and Conservation Districts.
- Sections 33.445.~~.2300~~ .240350 apply ~~to~~ within the boundaries of Conservation Landmarks, including those within Historic Districts and Conservation Districts, except those that are contributing resources in Historic Districts.
- Sections 33.445.~~.3400~~ .330450 apply ~~to~~ within Historic Districts including Conservation Landmarks that are contributing resources in Historic Districts and to the portions of Conservation Districts that are within a Historic District.
- Sections 33.445.~~.4500~~ .430550 apply ~~to~~ within Conservation Districts, except the portions of Conservation Districts that are not within a Historic District.
- Sections 33.445.~~.5600~~ .520650 apply to Significant Resources that are not National Register Resources listed after January 27, 2017, Historic Landmarks, Conservation Landmarks, or contributing resources in Historic Districts or Conservation Districts. ~~historic resources listed in the City's Historic Resource Inventory.~~

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## Commentary

### **33.445.040 Types of Historic Resources and Map Symbols**

Significant amendments have been made to this section to reflect recently-adopted State Administrative Rule (OAR 660-023-0200), national best practice, Comprehensive Plan policies, and to provide better descriptions of the differences between the historic resource types.

#### **A. National Register Resource**

A new subsection has been added for resources listed in the National Register of Historic Places by the National Park Service. All resources listed in the National Register prior to January 27, 2017 were automatically added to the Official Zoning Maps as a Historic Landmark or Historic District depending on the type of resource. The majority of Portland's Historic Landmarks and Historic Districts are National Register Resources that have not been City-designated through a local land use procedure. This automatic addition of National Register Resources to the Official Zoning Maps has been a foundational element of Portland's historic resource protection program since 1996, but changes in State Administrative Rule in January 2017 no longer allow Portland to apply design protections (historic resource review) to new National Register Resources without a subsequent land use process. Therefore, National Register Resources listed after the effective date of the Rule, January 27, 2017, will no longer be mapped as Historic Landmarks or Historic Districts.

Unless a change in state law occurs, National Register Resources listed after January 27, 2017, will be added to the Official Zoning Maps as a National Register Resource automatically upon listing by the Keeper of the National Register of Historic Places. These new listings will not be shown as Historic Landmarks or Historic Districts unless the resource is also locally designated.

#### **B. Historic Landmark**

The Historic Landmark subsection has been amended to incorporate national best practice for designation of historic resources. These changes are informed by National Register of Historic Places listing criteria, State Administrative Rule, and City of Portland Comprehensive Plan policies. An additional resource type, "place," has been added to allow for businesses, interiors, and other special areas or spaces to be considered for designation. Additional information has been added to explain that Historic Landmarks have many significant physical features, such as building materials, site arrangement, architectural style, and porch orientation. Additional information has been added to explain that Historic Landmarks are not necessarily stand-alone structures, but may include landscape features or detached structures that are located within a designated geographic boundary. Because many locally-designated Historic Landmarks have no identified boundary in the documentation done in support of the designation, the changes provide that the site is the default boundary for such resources.

The changes also establish that individual resources (such as a building or park) that were listed in the National Register prior to January 27, 2017 are Historic Landmarks.

### 33.445.0340 ~~Types of Historic Resources Designations and Map Symbols~~

A. **National Register Resource.** This type of significant resource is listed by the federal Keeper of the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966. National Register Resources may be a structure, object, site, or district. There are two types of National Register Resource; those listed by the Keeper on or before January 27, 2017 and those listed by the Keeper after January 27, 2017. Information supporting a specific resource's listing is found in its National Register nomination. National Register Resources have boundaries that are described in the resource's National Register nomination.

AB. **Historic Landmark.** This type of significant designated resource may be an individual structure, site, tree, landscape, place, or other object that is of archaeological, architectural, historical, or cultural importance/significance at the local, state, or national level. A Historic Landmark generally retains many physical features from the historic period, and derives its significance/importance from at least two/one or more of the following:

- ~~The importance of its designer, previous owners, or builder in local, state, or national history;~~
- ~~The quality of its architecture or landscaping;~~
- ~~The fact that it is one of a few remaining examples of a building type that is of significance in local, state, or national history;~~
- Association with a significant community, cultural, or ethnic group;~~or~~
- ~~The role it has played in shaping local, state, or national history.~~
- Association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- Association with persons significant to local, regional, state, or national history;
- Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity; or
- A high likelihood that, if preserved, would yield information important in prehistory or history.

Information supporting a specific resource's ~~designation/significance~~ is found in the City's Historic Resource Inventory, its National Register nomination, or the ~~local evaluation documentation done in support of the resource's~~ the City designation. Individual National Register Resources listed by the Keeper on or before January 27, 2017 are Historic Landmarks. Historic Landmarks may have boundaries that are described in the resource's National Register nomination or the documentation done in support of the City designation. If no boundary is provided in the nomination or designation documentation, the boundary is the lot or lots that contain the Historic Landmark's contributing resources.

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## Commentary

### 33.445.040 Types of Historic Resources and Map Symbols (continued)

#### C. Conservation Landmark

The Conservation Landmark subsection has been amended to more clearly differentiate this designation from the Historic Landmark designation. Unlike the Historic Landmark designation, a Conservation Landmark may be of extremely localized significance or lack the high level of historic significance or physical integrity from the historic period that is required for Historic Landmark listing. Additional information has been added to explain that Conservation Landmarks may have as few as one significant physical feature, such as a prominent arcade or sign, that is significant. Additional information has also been added to explain that Conservation Landmarks are not necessarily stand-alone structures, but may include landscape features or detached structures that are located within a designated geographic boundary. Because many locally-designated Conservation Landmarks have no identified boundary in the documentation done in support of the designation, the changes provide that the site is the default boundary for such resources.

**BC. Conservation Landmark.** This type of significant designated resource may be an individual structure, site, ~~tree,~~ landscape, place, or other object that is of archaeological, architectural, historical, or cultural interest importance at the local district, or neighborhood, or community level. ~~Conservation Landmarks are examples of developments that have helped create the character of the region's districts, and neighborhoods.~~ A Conservation Landmark generally retains one or more specific physical features from the historic period, and derives its significance importance from at least two one or more of the following:

- Association with establishing the architectural, cultural, or historical character, use, or pattern of the area where it is located;
- Representative of a building type, architectural style, or design expression that has been minimally altered since the time it was built; or
- Representative of or associated with a community, cultural, or ethnic group.
- ~~The importance of its designer, previous owners, or builder in local, state, or national history;~~
- ~~The quality of its architecture or landscaping;~~
- ~~The fact that it is one of a few remaining examples of a building type that is of significance in the neighborhood's history;~~
- ~~Association with a significant cultural or ethnic group; or~~
- ~~The role it has played in creating the historic character of the area where it is located.~~

Information supporting a specific resource's ~~designation~~ significance is found in the City's Historic Resource Inventory or the ~~local evaluation~~ documentation done in support of the resource's City designation. Conservation Landmarks may have boundaries that are described in the documentation done in support of the City designation. If no boundary is provided in the designation documentation, the boundary is the lot or lots that contain the Conservation Landmark's contributing resources.

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## Commentary

### 33.445.040 Types of Historic Resources and Map Symbols (continued)

#### D. Historic District

The Historic District subsection has been amended to incorporate national best practice for designation of historic resources. The changes are informed by National Register of Historic Places listing criteria, State Administrative Rule, and City of Portland Comprehensive Plan policies. Additional information has been added to explain that Historic Districts have many significant physical features, such as building materials, site arrangements, architectural styles, and porch orientations.

The changes also establish that districts (such as a commercial strip or larger residential area) that were listed in the National Register prior to January 27, 2017 are Historic Districts.

#### E. Conservation District

The Conservation District subsection has been amended to more clearly differentiate this designation from the Historic District designation. Unlike the Historic District designation, Conservation Districts may be of extremely localized significance or lack the high level of historic significance or physical integrity from the historic period required for Historic District listing. Additional information has been added to explain that Conservation Districts may have as few as one significant physical feature, such as an series of arcades or signs, that is significant.

**ED.** **Historic District.** This type of significant designated resource is a collection of individual resources that ~~are, as a group, is of historical or cultural significance~~ archaeologically, architecturally, historically, or culturally important at the local, state, or national level. The collection of resources is generally geographically contiguous. A Historic District generally retains many specific physical features from the historic period, and derives importance from one or more of the following:

- Association with a significant community, cultural, or ethnic group;
- Association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- Association with the lives of persons significant to local, regional, state, or national history;
- Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or,
- A high likelihood that, if preserved, would yield information important in prehistory or history.

Information supporting a specific district's ~~designation~~ significance is found in the City's Historic Resource Inventory, its National Register nomination, or the ~~documentation~~ local evaluation done in support of ~~the district's~~ the City designation. National Register Resources listed by the Keeper as districts on or before January 27, 2017 are Historic Districts.

**DE.** **Conservation District.** This type of significant designated resource is a collection of individual resources that ~~are, as a group, is of~~ archaeologically, architecturally, historically, or culturally significance important at the ~~district~~ local, or-neighborhood, or community level. The collection of resources is generally geographically contiguous. A Conservation District generally retains one or more specific physical features from the historic period, and derives its importance from one or more of the following:

- An architectural, cultural, or historical character, use, or pattern that is significant to the area where it is located;
- A collection of building types, architectural styles, or design expressions that have been minimally altered since the time they were built; or
- A collection of resources or uses representative of or associated with a cultural, ethnic, or community group;

Information supporting a specific district's ~~designation~~ significance is found in the City's Historic Resource Inventory or the ~~local evaluation~~ documentation done in support of the ~~district's~~ City designation.

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## Commentary

### 33.445.040 Types of Historic Resources and Map Symbols (continued)

#### F. Significant Historic Resource

A new section has been added to replace the previous "Historic Resource Inventory" classification with a more accurately worded "Significant Resource" classification. This type of resource, formerly referred to as "Rank I, II, and III" in the Historic Resource Inventory, has been determined to be significant but has not been designated as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District. Significant Historic Resources are likely eligible for a local historic resource designation.

The change in naming convention is intended to restructure the term "Historic Resource Inventory" to encompass more resources than just those that are significant, but not designated. This change will provide clarity to the public and more closely align with guidance from the Oregon State Historic Preservation Office. Significant, but undesignated, resources previously addressed by this chapter—Rank I, II, III resources identified in the 1984 Historic Resources Inventory—are included in the Significant Resource classification.

This change is one of several in this chapter intended to allow for meaningful and periodic updates to the Historic Resources Inventory as directed by the City of Portland Comprehensive Plan.

#### G. Map symbols

Two changes have been made to the map symbol subsection to ensure National Register Resources are mapped and to ensure that the boundaries of individual Historic and Conservation Landmarks are shown on the Official Zoning Maps. Showing the boundaries will reduce confusion when land divisions occur within the boundary of an City-designated landmark or National Register Resource.

### 33.445.050 Adoption of Design Guidelines

This section has been amended to add clarity that design guidelines are approval criteria that are recommended by the Historic Landmarks Commission and adopted by the City Council. Adopted design guidelines for historic resource review may apply to both new development and alterations to existing development.

- E. ~~Historic Resource Inventory Listing.~~** This type of resource is listed in the City's Historic Resource Inventory. The Inventory is a catalogue of historic resources that may be eligible for landmark or district designation. Most resources listed in the Inventory are given a ranking of I, II, or III; some are unranked. Rank I and II resources may be eligible for listing in the National Register; Rank I resources are given the highest priority for listing. Rank III resources may be eligible for listing in the National Register as part of a Historic District.
- F. Significant Resource.** This type of undesignated resource has been determined by the City to be significant for archaeological, architectural, historical, or cultural importance. A significant resource is generally a structure, site, object, place, or district that is deemed likely eligible for Historic Landmark, Conservation Landmark, Historic District, or Conservation District designation. Information supporting the resource's significance can be found in the City's Historic Resource Inventory or the documentation done in support of the resource's determination of significance. Rank I, II, and III resources identified in the 1984 Historic Resources Inventory are included as Significant Resources.
- FG. Map symbols.** Boundaries of National Register Resources listed after January 27, 2017, Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts are shown on the Official Zoning Maps. ~~Historic Landmarks and Conservation Landmarks are also shown on the Official Zoning Maps.~~

### **33.445.0450 Adoption of Design Guidelines**

Design guidelines for Historic Districts and Conservation Districts are ~~reviewed and approved~~ recommended by the Historic Landmarks Commission and adopted by City Council. These guidelines are used for historic resource review, which is required for some alterations and new development proposals affecting certain to historic resources. Historic resource review ensures the conservation and enhancement of the special characteristics of historic resources.

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## **Commentary**

### **33.445.060 Modifications that Enhance Historic Resources**

This section is being changed to allow the historic resource review process to consider modifications to parking and loading regulations within the Central City Plan District. This change is intended to provide more flexibility to adaptively reuse Historic and Conservation Landmarks without harming historic materials. This change is also intended to provide more flexibility for new construction projects in Historic and Conservation Districts that must achieve compatibility with their historic environments to gain historic resource review approval.

### **33.445.070 Notice of Building and Housing Code Violations**

This section is being changed to provide the Historic Landmarks Commission with notice of National Register Resources and contributing historic resources in Historic and Conservation Districts when the Bureau of Development Services declares certain building and housing code violations. As per a request by the Bureau of Development Services, the notice time period has been extended from five to ten days.

### **33.445.0560 Modifications that Enhance Historic Resources**

The review body may grant modifications to site-related development standards, including the sign standards of Chapters 32.32 and 32.34 of the Sign Code, as part of the historic resource review process. However, the review body may not consider modifications ~~to a parking and loading regulation within the Central City plan district, or modifications to~~ development standards for which an adjustment is prohibited. Modifications made as part of historic resource review are not required to go through a separate adjustment process. To obtain approval of a modification to site-related development standards, the applicant must show that the proposal meets the approval criteria stated in Section 33.846.070, Modifications Considered During Historic Resource Review. Modifications to all other standards are subject to the adjustment process. Modifications that are denied through historic resource review may be requested through the adjustment process.

### **33.445.0670 Notice of Building and Housing Code Violations**

When the Bureau of Development Services declares a National Register Resource listed after January 27, 2017, Historic Landmark or, Conservation Landmark, or contributing resource in a Historic District or Conservation District to be a dangerous building or posts a landmark to remain vacant, ~~they~~ the Bureau of Development Services will notify the Historic Landmarks Commission of such action and of the specific code violations. The notice must be sent within ~~five~~ ten working days of the action. The notice provides the Historic Landmarks Commission and the community the opportunity to inform the owner of potential rehabilitation programs and benefits or to pursue public or private acquisition and restoration of the ~~landmark~~ historic resource.

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## Commentary

### **National Register Resources listed after January 27, 2017**

A new section has been added to provide clarity that structures, sites, objects, and districts listed in the National Register of Historic Places are subject to the regulations of Portland's zoning code upon federal listing. Resources listed in the National Register prior to January 27, 2017 were mapped as Historic Landmarks or Historic Districts, and subject to the regulations that apply to Historic Landmarks or Historic Districts. State Administrative Rule (OAR 660-023-0200) requires local governments to apply demolition and relocation review to all National Register Resources, but does not allow local governments to automatically apply additional protections to National Register Resources listed after January 27, 2017. Because of this change, National Register Resources listed after January 27, 2017 will not be mapped as Historic Landmarks or Historic Districts unless or until they receive a local designation. Because of Oregon's owner consent law (ORS 197.772), the City cannot locally designate National Register Resources without owner consent (see commentary related to 33.846.040).

### **33.445.100 Designation of a National Register Resource**

This section describes the process for listing a resource in the National Register. Other than providing advisory comments on nominated resources, the City of Portland has no regulatory role in the National Register listing process.

### **33.445.110 Removal of a National Register Resource Listing**

This section describes the process for removing a resource in the National Register. Other than providing advisory comments on proposals to remove listings, the City of Portland has no regulatory role in the National Register removal process. The only caveat to this is the reclassification of individual contributing and noncontributing resources within National Register districts. In the case of such contributing resources, the City can initiate a reclassification request and provide advisory comments but, as with listing and removal of a resource, the Keeper of the National Register of Historic Places is the decision-maker. Such reclassification requests change the National Register nomination materials, but do not change the Official Zoning Maps.

### **33.445.120 Historic Preservation Agreements and Incentives for National Register Resources**

National Register Resources that are not Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts are not eligible for incentives because National Register Resources listed after January 27, 2017 do not have automatic historic resource review protections to ensure the historic significance and physical integrity of the resource isn't damaged by the new use. National Register Resources, like all other historic resources, can use historic preservation agreements.

### **National Register Resources listed after January 27, 2017**

#### **33.445.100 Designation of a National Register Resource**

National Register Resources listed by the Keeper after January 27, 2017 are automatically identified on the Official Zoning Maps. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

#### **33.445.110 Removal of a National Register Resource Listing**

National Register Resources listed after January 27, 2017 that are removed from the National Register of Historic Places by the federal government are automatically removed from the Official Zoning Maps. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

#### **33.445.120 Historic Preservation Agreements and Incentives for National Register Resources**

National Register Resources listed by the Keeper after January 27, 2017 are eligible to use historic preservation agreements. National Register Resources listed by the Keeper after January 27, 2017 are not eligible to use historic preservation incentives. See Sections 33.445.700 through 710.

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## Commentary

### **33.445.130 Relocation of a National Register Resource**

This subsection establishes historic resource relocation review for National Register Resources. This is a new review type and provides a clearer path for the relocation of many types of historic resources and aligns with the requirements of State Administrative Rule (OAR 660-023-0200). The approval criteria for historic resource relocation review can be found in 33.846.090, historic resource relocation review.

National Register Resources that are moved 10 or fewer feet and remain within the resource boundary are not subject to relocation review. This allowance accommodates minor site changes, such as lifting a house for a new foundation or making room for a wider driveway.

The subsection also allows for relocation of detached accessory structures without historic resource relocation review as long as the structures stay within the resource boundary. This flexibility allows a garage or flagpole to be moved to accommodate other site needs without triggering a public review.

The subsection allows National Register Resources to be moved and maintain their National Register listing on the receiving site. However, if the National Park Service de-lists the resource, it would be removed from the map at the time of delisting.

### **33.445.130 Relocation of a National Register Resource**

Relocating a National Register Resource listed after January 27, 2017 requires historic resource relocation review to ensure the resource’s historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to relocation.

- A. When historic resource relocation review is required.** Unless exempted by Subsection B, relocating a National Register Resource listed after January 27, 2017, including relocating a contributing resource, is subject to historic resource relocation review.
- B. Exempt from historic resource relocation review.** The following are exempt from historic resource relocation review:
1. Relocating a National Register Resource listed after January 27, 2017, including contributing resources, 10 feet or less in any direction; and
  2. Relocating a detached accessory structure if the structure is relocated within the boundary of the National Register Resource listed after January 27, 2017.
- C. Automatic zoning map amendment.** When a National Register Resource listed after January 27, 2017 is relocated, the zoning map designation is automatically removed from the sending site and is automatically added to the receiving site. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

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## Commentary

### **33.445.150 Demolition of a National Register Resource**

This new section applies demolition review to National Register Resources, consistent with State Administrative Rule (OAR 660-023-0200), which provides the following: "a local government: (a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination."

The review types provided in 33.846.080 differentiate between primary structures and detached accessory structures. See code and commentary in 33.846.080 for more details.

### **33.445.150.A Demolition review**

This section applies thresholds for what qualifies as "demolition" for all historic resource types. This codifies State Administrative Rule (OAR 660-023-0200), which provides the following: "'Demolition" means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition."

Due to the discretionary nature of the OAR definition of "demolition" and the broadness of the existing Title 24 building regulation definition of "demolition," the OAR definition has been incorporated into consistent thresholds for demolition review and 120-day demolition delay throughout the chapter. Because new listings in the National Register are not be subject to historic resource review, but must be subject to demolition review, the thresholds attempt to capture all activities that would result in a consequence where the resource's "historic, cultural, or architectural character and significance is lost."

### **33.445.150 Demolition of a National Register Resource**

Demolition of a National Register Resource listed after January 27, 2017 requires demolition review to ensure the resource's historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to demolition.

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection B, demolition of a National Register Resource listed after January 27, 2017, and demolition of a resource identified as contributing to a National Register Resource listed after January 27, 2017 is subject to demolition review. For the purposes of this Chapter, demolition is defined as:
  - a. Total demolition;
  - b. Alterations requiring a demolition permit;
  - c. Alterations that result in removal of more than 50 percent of a structure that is not a building;
  - d. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
  - e. Alterations that result in:
    - (1) Removal of more than 50 percent of the total exterior wall area of a structure; and
    - (2) Removal of more than 50 percent of the total roof area of a structure.
2. Issuance of a demolition permit after demolition review. If the review body approves demolition of the resource, a permit for demolition will not be issued until the following are met:
  - a. The demolition review decision is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for new structures required as a condition of the demolition review has been issued. The demolition and building permits may be issued simultaneously.

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## **Commentary**

### **33.445.150.B Exempt from demolition review**

Exemptions are provided for resources that must be demolished for life safety reasons and resources that are not identified as contributing to the National Register Resource.

**B. Exempt from demolition review.** The following are exempt from demolition review:

1. Demolition of National Register Resources listed after January 27, 2017, and demolition of contributing resources, required to be demolished because:
  - a. The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
  - b. The Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
2. Demolition of noncontributing resources.

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## Commentary

### **33.445.200 Designation of a Historic Landmark**

Changes to this section are intended to clarify that Historic Landmark designation can be applied through either a legislative process where City Council is the decision-maker or a quasi-judicial process where the Historic Landmarks Commission is the decision-maker. Additional clarity and reference has been added that individually-listed National Register Resources listed before January 27, 2017, are shown on the Official Zoning Maps as Historic Landmarks and are subject to the regulations that apply to Historic Landmarks.

Additional text has been added to establish that increases to the boundaries of Historic Landmarks and classifying additional resources as "contributing" can be achieved through the designation process. See code and commentary in 33.846.030 for more details.

### **33.445.210 Removal of a Historic Landmark Designation**

Additional text has been added to establish that decreases to the boundaries of Historic Landmarks and classifying "contributing" resources as noncontributing can be achieved through the designation removal process.

Changes also address National Register Resources that were mapped as Historic Landmarks, but which have not been locally designated.

Changes to this section also reflect changes to the demolition protections that apply to Historic Landmarks (see code and commentary on pages that follow) and provide references to the Automatic Map Amendments section.

### **33.445.220 Historic Preservation Agreements and Incentives for Historic Landmarks**

Changes to this section reflect heading consistency and renumbering.

## Historic Landmarks

### 33.445.1200 Designation of a Historic Landmark

- A. National Register Resource listing.** National Register Resources listed on or before January 27, 2017 that are not districts are automatically designated as Historic Landmarks on the Official Zoning Maps. See 33.855.075, Automatic Map Amendments for Historic Resources.
- B. Local City designation.** Local City designation of Historic Landmarks may be established by the Historic Landmark Commission through a legislative or quasi-judicial procedure. Designating a City Historic Landmark means establishing new Historic Landmarks, expanding the boundaries of existing Historic Landmarks, and reclassifying noncontributing resources as contributing resources within the boundary of existing Historic Landmarks.
- ~~1. A. Designation by Historic Landmark Commission~~ Legislative designation. Historic Landmark designation may be established ~~by the Historic Landmark Commission~~ through a legislative procedure; using the approval criteria of Section 33.846.030. ~~CD.~~
- ~~2. B.~~ Quasi-judicial designation. Historic Landmark designation may be established through a quasi-judicial procedure; historic designation review is required.

### 33.445.1210 Removal of a Historic Landmark Designation

- A.** Requests for removal. Removal of a resource's designation as a ~~local~~ City Historic Landmark requires ~~a~~ historic designation removal review, except when the resource is destroyed or demolished ~~relocated as specified in Subsections BC and CD, below.~~ Removing a resource's designation means removing an existing Historic Landmark's designation, reducing the boundary of an existing Historic Landmark, and reclassifying a contributing resource as a noncontributing resource within the boundary of an existing Historic Landmark.
- B.** Removal by the Keeper of the National Register of Historic Places. For Historic Landmarks that have not been designated by the City, removal of a resource's designation as a Historic Landmark requires the resource to be removed from the National Register of Historic Places by the Keeper of the National Register of Historic Places, except when the resource is destroyed or demolished as specified in Subsections C and D. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- BC.** Removal after destruction. If the resource is destroyed by causes beyond the control of the owner, its Historic Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- CD.** Removal after demolition. If the resource is demolished ~~or relocated~~, after approval of demolition through demolition review ~~or after demolition delay~~, its Historic Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

### 33.445.1220 Historic Preservation Agreements and Incentives for Historic Landmarks

Historic Landmarks are eligible to use historic preservation incentives and preservation agreements. See Sections 33.445.6700 through ~~6710~~.

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## Commentary

### **33.445.230 Relocation of a Historic Landmark**

Changes to this section establish a new review, historic resource relocation review, and applies it to Historic Landmarks that are moved more than 10 feet and to significant “contributing” detached accessory structures that are moved outside of the Historic Landmark boundary. This new review provides a clearer path for relocation of Historic Landmarks and aligns with State Administrative Rule (OAR 660-023-0200) requirements for those Historic Landmarks that are listed on the National Register. Because most Historic Landmarks are also listed in the National Register, the State Administrative Rule baseline is being applied to all Historic Landmarks. New approval criteria for historic resource relocation review can be found in 33.846.090, historic resource relocation review.

Historic Landmarks that are moved 10 or fewer feet and remain within the resource boundary are not subject to relocation review to accommodate minor site changes, such as lifting a house for a new foundation. Historic resource review may still be required for alterations to contributing and non-contributing resources that are relocated but are exempt from relocation review.

The changes also allow a Historic Landmark to be moved and retain its designation without having to be designated again on the receiving site.

The changes also remove the requirement for historic resource review for resources subject to historic resource relocation review as the relocation review will consider alterations necessary to accommodate the relocation and historic resource review will apply to the receiving site upon the Historic Landmark's arrival.

### **33.445.1230 Relocation of a Historic Landmark**

When a Historic Landmark is relocated, the following apply: Relocation of a Historic Landmark requires historic resource relocation review to ensure the resource's historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to relocation.

- A. Historic resource relocation review.** Unless exempted by Subsection B, relocating a Historic Landmark, including relocating a contributing resource, is subject to historic resource relocation review. Relocating a noncontributing resource does not require historic resource relocation review.
- B. Exempt from historic resource relocation review.** Relocating a Historic Landmark, including relocating contributing resources, 10 feet or less in any direction within the boundary of the Historic Landmark is exempt from historic resource relocation review.
- C. When there is a preservation agreement that requires demolition review before demolition or relocation will be allowed, the sending site is also subject to Section 33.846.080, Demolition Review.**
- ~~**A.** The receiving site is subject to Section 33.846.060, Historic Resource Review. If the applicant wishes to retain the Historic Landmark designation at the receiving site, the receiving site is also subject to Section 33.846.030, Historic Designation Review.~~
- ~~**DB.** The When a Historic Landmark designation or contributing resource is relocated, the designation is automatically removed from the sending site and is automatically added to the receiving site. ~~;~~ ~~s~~See Section 33.855.075, Automatic Map Amendments ~~F~~for Historic ~~R~~Resources.~~
- ~~**C.** When there is a preservation agreement that requires demolition review before demolition or relocation will be allowed, the sending site is also subject to Section 33.846.080, Demolition Review.~~

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## Commentary

### **33.445.240 Development within a Historic Landmark Boundary**

Several changes have been made to this section to clarify when historic resource review is required and increase the list of alteration and new development proposals that are exempt from review. Clarification that new development and alterations within the boundary of the Historic Landmark are subject to historic resource review has been added, consistent with current practice, so that development activities on all sites within a Landmark boundary is subject to review.

The reference to modifications has been moved for readability and consistency with other sections.

### **33.445.240.A When historic resource review for a Historic Landmark is required**

The reference to modifications has been moved for readability.

Changes to this section include adding clarity that new structures within the boundary of a Historic Landmark are subject to review (unless exempted by the section that follows), removing reference to the Historic Resources Inventory since the Historic Landmark documentation and/or National Register nomination provide the most accurate specifics on the designation, and removal of unnecessary language related to review in certain zones.

### **33.445.1240 Development Alterations to within a Historic Landmark Boundary**

~~Alterations to~~ New development and alterations to existing development within the boundary of a Historic Landmark requires historic resource review to ensure the landmark's historic value is considered prior to or during the development process. ~~Some modifications to site-related development standards may be reviewed as part of the historic resource review process; see Section 33.445.060.~~

- A. When historic resource review for a Historic Landmark is required.** Unless exempted by Subsection B, ~~below,~~ the following proposals within the boundary of a Historic Landmark are subject to historic resource review. ~~Some modifications to site-related development standards may be reviewed as part of the historic resource review process; see Section 33.445.050:~~
1. Exterior alterations;
  2. Building a new structure within the Historic Landmark boundary;
  - ~~3.~~ Change of exterior color when:
    - a. Exterior color or material is specifically listed in the ~~Historic Resources Inventory,~~ Historic Landmark documentation nomination, or National Register nomination as an attribute that contributes to the resource's historic significance ~~value;~~ or
    - b. Other proposed alterations to the landmark require review and the proposed alterations include a change of exterior color; or
    - c. Exterior color has been specifically required through a land use review.
  - ~~4.~~ Installation or alteration of exterior signs; and
  - ~~5.~~ Alteration of an interior space when that interior space is designated as a Historic Landmark;
  - ~~5.~~ Proposals using any of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080; and
  - ~~6.~~ Proposals in the Albina Community plan district using the provisions of Section 33.505.220, Parking Requirement Reduction, or Section 33.505.230, Attached Residential Infill on Vacant Lots in R5 Zoned Areas.

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## Commentary

### **33.445.240.B Exempt from historic resource review**

A small change in the side street setback for exempt accessory structures has been made to align with other sections of the code.

Changes to this section include grammatical changes for readability and consistency and removing references to the Historic Resources Inventory since the Historic Landmark documentation and/or National Register nomination provide the most accurate specifics on the designation.

**B. Exempt from historic resource review.**

1. Construction of a detached accessory structure with 200 square feet or less of floor area ~~when the accessory structure~~and is at least 40 feet from a front property line and, if on a corner lot, at least ~~25~~20 feet from a side street lot line;
2. Alterations that do not require a building, site, zoning, or sign permit from the City, and that will not alter the exterior features of a resource having such features specifically listed in the ~~Historic Resource Inventory~~, Historic Landmark documentation~~nomination~~, or National Register nomination as attributes that contribute to the resource's historic significance~~value~~;
3. Alterations in landscaping unless the landscaping is identified in the ~~Historic Resource Inventory~~, Historic Landmark documentation~~nomination~~, or National Register nomination as an attribute that contributes to the resource's historic significance~~value of a Historic Landmark~~;
4. Parking lot landscaping that meets the standards of this Title and does not include a wall or a fence;
5. Repair;
6. Maintenance;
7. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, that is added to the roof of an existing building if the following are met:
  - a. The area where the equipment will be installed must have a pitch of 1/12 or less;
  - b. No more than 8 mechanical units are allowed, including both proposed and existing units;
  - c. The proposed mechanical equipment must be set back at least 4 feet from the edge of the roof for every 1 foot of height of the equipment above the roof surface or top of parapet; and
  - d. The proposed equipment must have a matte finish or be painted to match the roof.

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## Commentary

### **33.445.240.B Exempt from historic resource review (continued)**

This section includes a significant change that would allow certain solar energy systems added to the roof of Historic Landmarks to be exempt from historic resource review. To be exempt, the solar system would need to be largely obscured from the street, be on a flat roof or parallel to a pitched roof, and be set back from roof edges and ridgelines. To be exempt, the solar energy system could not be installed on wood, slate, clay, or other historic roof materials. This exemption is similar to an exemption currently provided in Historic Districts that has not resulted in the degradation of the physical integrity or historic significance of resources within those districts.

Proposed solar systems that do not meet the exemption may still be considered through historic resource review.

8. Rooftop vents installed on roofs if the vent and associated elements such as pipes, conduits and covers meet the following:
  - a. The area where the vent and associated elements will be installed must have a pitch of 1/12 or less;
  - b. The proposed vent and associated elements must not be more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
  - c. The proposed vent and associated elements must be set back at least 4 feet from the edge of the rooftop for every 1 foot of height above the roof surface or top of parapet; and
  - d. The proposed vent and associated elements must have a matte finish or be painted to match the roof.
  
9. Solar energy systems meeting the following:
  - a. On a flat roof, the horizontal portion of a mansard roof, or a roof that is entirely surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface, the solar energy system must be mounted flush or on racks, with the system extending no more than 5 feet above the top of the highest point of the roof. The solar energy system must also be screened from the street by:
    - (1) A parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
    - (2) Setting the solar energy system back from the roof edges facing the street 4 feet for each foot of solar energy system height.
  - b. On a pitched roof, the solar energy systems must be on a roof surface that is clad in composition shingles and the roof must face a rear lot line or face within 45 degrees of the rear lot line. See Figure 445-1. The system must be mounted flush, with the plane of the system parallel to the roof surface, with the system no more than 8 inches from the surface of the roof at any point. The solar energy system must also be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.
  
910. Public Art as defined in Chapter 5.74;

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## Commentary

### **Figure 445-1. Solar Energy System, Skylight, and Roof Hatch Location on Rooftop**

This figure has been moved from the Historic Districts section to be closer to the first reference of solar energy systems.

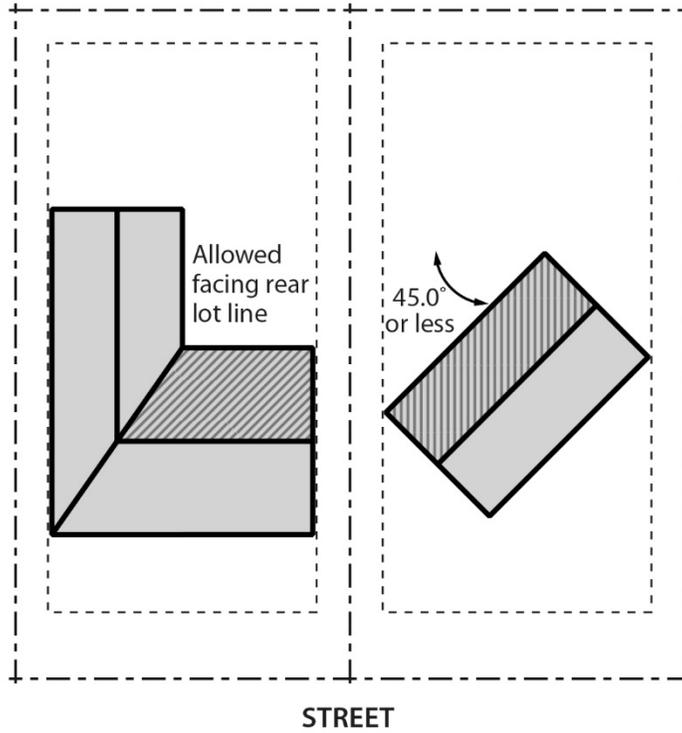
### **Figure 445-2 Solar Energy Systems on a Pitched Roof**

This figure has been moved from the Historic Districts section to be closer to the first reference of solar energy systems. This figure has also been amended to reduce the height allowed and increase the area allowed for solar systems to be exempt on a pitched roof.

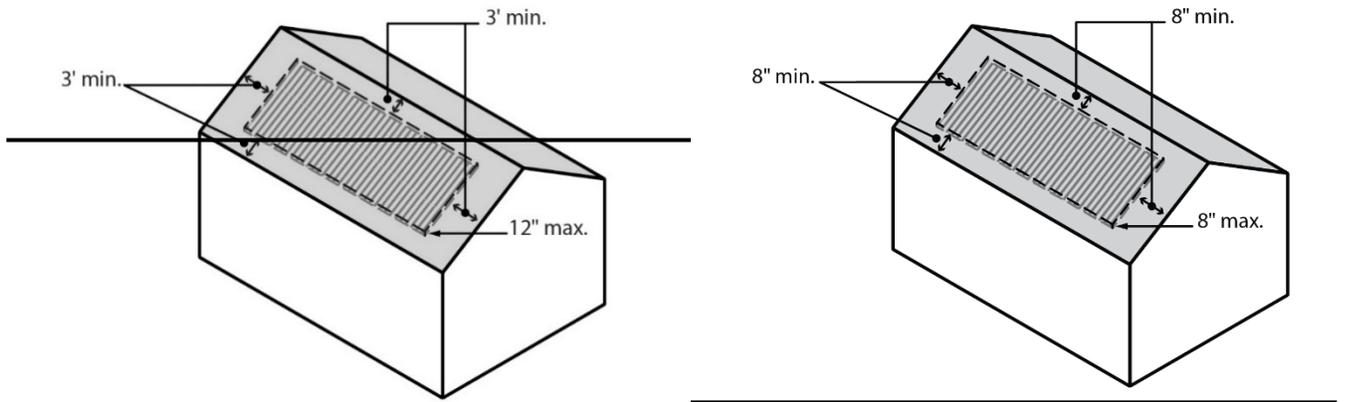
Allowing solar systems to occupy a larger area, but limiting the amount of projection allowed, will minimize visual impacts and allow for more productive solar energy systems.

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

**Figure 445-~~21~~**  
**Solar Energy System, Skylight and Roof Hatch Location on Rooftop**



**Figure 445-~~32~~**  
**Solar Energy Systems on a Pitched Roof**



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## Commentary

### **33.445.240.B Exempt from historic resource review (continued)**

Several additional exemptions to historic resource review have been added:

#15. A new exemption provides for fire escapes to be decommissioned through the removal of ladders and closure of openings. This exemption intends to allow elements of historically significant fire escapes to remain on Historic Landmarks, even when they are unfit for use in a fire. Any new materials would need to match the materials present on the rest of the fire escape.

#16. A new exemption provides for non-historic windows on non-street-facing facades to be replaced with more historically-appropriate wood windows. This exemption is intended to limit change to the area exactly within a window opening that contains non-historic materials.

#17. A new exemption allows for outlets and meters to be added or altered, provided the outlet or meter is no more than 2 square feet in area and located on a non-street-facing façade.

#18. A new exemption provides for hoses, conduits, tubes, or pipes to be installed or altered on non-street-facing facades. The work must be near the bottom of the resource and may not affect more than 1 square foot of façade. The intent is to allow detached mechanical units, such as an air conditioner or heater, to be connected to a house.

#19. A new exemption provides for the ability to add an air conditioner or heater to the site, provided it is ground-mounted and not larger than 4 feet by 4 feet by 4 feet. This exemption allows the mechanical unit to be connected to the house.

#20. Several trees were designated as Historic Landmarks prior to the establishment of the Heritage Tree program. An exemption allows trees to be pruned or altered without historic resource review, provided the tree is subject to the heritage tree provisions of Title 11.

- ~~1011.~~ Exterior Alterations to accommodate persons with disabilities in accordance with Chapter 11 of the Oregon Structural Specialty Code, when such alterations can be installed and removed without destroying existing materials;
- ~~1112.~~ Light wells when fully surrounded by the existing walls of the building;
- ~~1213.~~ Installation or removal of storm windows and doors; ~~and~~
- ~~1314.~~ Installation or removal of screen windows and doors;
15. Removal of ladders between fire escapes and closure of ladder openings with materials that match the adjacent fire escape surface;
16. Replacement of vinyl, fiberglass, or aluminum windows with wood windows when:
  - a. The structure was built before 1940;
  - b. The windows are on non-street-facing facades;
  - c. The replacement windows are installed exactly within the existing window openings; and
  - d. The window glass is recessed at least 2 inches from the outside edge of the exterior wall;
17. Installation or alteration of electrical, gas, or water meters or outlets that are no more than 2 square feet in area and located on a non-street-facing facade;
18. Installation or alteration of hoses, conduits, tubes, or pipes when:
  - a. The hose, conduit, tube, or pipe is no more than 6 inches in diameter;
  - b. The hose, conduit, tube, or pipe is located no more than 4 feet above the adjacent grade;
  - c. The hose, conduit, tube, or pipe is located on a non-street-facing facade; and
  - d. No more than 1 square foot of façade area is affected by the installation or alteration of the hose, conduit, tube or pipe;
19. Ground mounted mechanical units that are no more than 4 feet in width, length, and height, and are not located closer to a street than any street-facing façade;
20. Historic Landmark trees subject to Section 11.20.060 of Title 11, Heritage Trees;

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## Commentary

### **33.445.240.B Exempt from historic resource review (continued)**

Several additional exemptions to historic resource review have been added:

*#21. A new exemption allows for the exact replacement of the fabric and replacement of signs on existing fabric awnings.*

*#22. A new exemption allows for the exact replacement of driveways and paths that are not historically significant.*

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

21. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased; and
22. Replacement of existing driveways or paths with the same material in the same location unless the driveway or path is specifically identified in the Historic Landmark documentation or National Register nomination as an attribute that contributes to the resource's historic significance.

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## Commentary

### **33.445.250 Demolition of a Historic Landmark**

Changes to this section increase demolition protections on locally-designated Historic Landmarks from 120-day demolition delay to demolition review. This change brings City-designated Historic Landmarks to the same level of demolition protection as is provided to National Register-listed resources.

#### **33.445.250.A Demolition review**

These amendments apply several significant changes. First, a change applies demolition review to all locally-designated Historic Landmarks. For local historic designation to be a viable alternative to National Register listing, local Historic Landmark listing must come with similar demolition protections to what is afforded to National Register listings. Currently, locally-designated Historic Landmarks can be demolished after a 120-day delay, the same protection that currently applies to Conservation Landmarks and ranked structures on the Historic Resource Inventory (renamed "Significant Resources" in these code amendments). Second, a change applies thresholds for when demolition review applies. This change responds to State Administrative Rule (OAR 660-023-0200), which provides the following: "'Demolition' means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition." Because most of the locally designated Historic Landmarks in Portland are also National Register Resources, a single set of demolition review thresholds are being applied for Historic Landmarks that are locally or federally designated resources. Due to the discretionary nature of the OAR definition of "demolition" and the broadness of the Title 24 building regulation definition of "demolition," the OAR definition has been incorporated into this chapter through several thresholds for demolition review.

An additional change confirms that associated elements, like accessory structures, that contribute to the historic significance of Historic Landmarks ("contributing resources") are also subject to demolition review. A Type II demolition review has been added for accessory structures (see code and commentary in 33.846.080) and an exemption from demolition review has been provided for certain accessory structure replacement projects (see page that follows).

Additional changes include clarifying what is meant by the "final" and confirming that a new replacement building is not always required for demolition to be approved.

Finally, reference to 120-day delay has been deleted because demolition review applies to all Historic Landmarks and contributing resources within Historic Landmark boundary.

### **33.445.1250 Demolition of a Historic Landmark**

Demolition of a Historic Landmark requires ~~one of two types of review to~~ demolition review to ensure the landmark's historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to demolition.

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection ~~CB, below,~~ demolition of a Historic Landmark, and demolition of contributing resources, is subject to demolition review.~~if: For the purposes of this Chapter, demolition is defined as:~~
  - a. Total demolition;
  - b. Alterations requiring a demolition permit;
  - c. Alterations that result in removal of more than 50 percent of a structure that is not a building;
  - d. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
  - e. Alterations that result in:
    - (1) Removal of more than 50 percent of the total exterior wall area of a structure;  
and
    - (2) Removal of more than 50 percent of the total roof area of a structure.~~a. It is individually listed in the National Register of Historic Places; or~~  
~~b. There is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the Historic Landmark.~~
2. Issuance of a demolition permit after demolition review. If the review body ~~for demolition review~~ approves demolition of the resource ~~Historic Landmark,~~ a permit for demolition will not be issued until the following are met:
  - a. The demolition review ~~decision in the demolition review~~ is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for ~~a new building~~ structures required as a condition of the demolition review on the site has been issued. The demolition and building permits may be issued simultaneously.

~~**B. 120 day delay.** Unless addressed by Subsection A, above, or exempted by Subsection C, below, all Historic Landmarks are subject to 120 day delay.~~

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## Commentary

### **33.445.250.B Exempt from demolition review**

Changes have been made to reflect the elimination of the 120-day delay regulation (replaced by demolition review) and clarify that contributing resources within a Historic Landmark boundary are subject to demolition review. Additional changes eliminate references to the Historic Resource Inventory as the local designation documentation and/or National Register nomination provide the specifics on the features included in the designation.

A new exemption addresses Historic Landmark trees. Several trees were designated as Historic Landmarks prior to the establishment of the Heritage Tree program. This exemption allows a Historic Landmark tree to be removed without demolition review, provided the tree is subject to the Heritage Tree provisions of Title 11.

A new exemption allows for the replacement of historically-significant accessory structures through historic resource review rather than demolition review. Allowing for an exemption for accessory structure replacement saves applicants from going through two land use reviews, while still allowing for consideration of the accessory structure's historic significance during the replacement process. New review types and historic resource review approval criteria have been made pertaining to replacement of accessory structures (see code and commentary in 33.846.060).

A final new exemption relates to the new thresholds for demolition review. This exemption intends to allow certain major rehabilitation or addition, alteration, or new construction projects that help preserve a resource, but which may require removal of walls, to be reviewed through historic resource review instead of demolition review. This exemption is intended to allow for major projects that are not tantamount to demolition to be reviewed by a more appropriate review body using more appropriate approval criteria than would be required in a demolition review.

**CB. Exempt from demolition review and ~~120-day delay~~.** The following are exempt from demolition review and ~~120-day delay~~:

1. Demolition of Historic Landmarks, and demolition of contributing resources, required to be demolished because:
  - a. The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
  - b. The ~~Code~~ Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
2. Demolition of noncontributing resources~~detached accessory structures no larger than 200 square feet, unless the accessory structure is~~ resources identified in the Historic Resource Inventory, Historic Landmark nomination, or National Register nomination as an attribute that contributes to the historic value of the Historic Landmark;
3. Historic Landmark trees subject to Section 11.20.060 of Title 11, Heritage Trees;
4. Demolition of accessory structures identified as a contributing resource when:
  - a. A replacement structure has been approved through historic resource review;
  - b. The historic resource review decision is final; and
  - c. All appeals have been resolved;
5. Alterations to a Historic Landmark or contributing resource that meet the definition of demolition in Paragraph A.1. when:
  - a. The alterations are approved through historic resource review;
  - b. The historic resource review decision is final; and
  - c. All appeals have been resolved.

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## Commentary

### **33.445.300 Designation of a Conservation Landmark**

Changes to this section are intended to clarify that Conservation Landmark designation can be applied through either a legislative process where City Council is the decision-maker or a quasi-judicial process where the Historic Landmarks Commission is the decision-maker.

Additional text has been added to establish that increases to the boundaries of Conservation Landmarks and classifying additional resources as "contributing" can be achieved through the designation process. See code and commentary in 33.846.030 for more details.

### **33.445.310 Removal of a Conservation Landmark Designation**

Additional text has been added to establish that decreases to the boundaries of Conservation Landmarks and classifying "contributing" resources as noncontributing can be achieved through the designation removal process.

Changes to this section also reflect changes to the demolition protections that apply to Conservation Landmarks and provide references to the Automatic Map Amendments section.

### **33.445.320 Historic Preservation Agreements and Incentives for Conservation Landmarks**

Changes to this section reflect consistency of section naming and renumbering.

## Conservation Landmarks

### **33.445.2300 Designation of a Conservation Landmark**

Conservation Landmarks may be designated ~~by the Historic Landmark Commission through a legislative procedure or through a quasi-judicial procedure.~~ Designating a Conservation Landmark means establishing new Conservation Landmarks, expanding the boundaries of existing Conservation Landmarks, and reclassifying noncontributing resources as contributing resources within the boundary of existing Conservation Landmarks.

- A. ~~Designation by Historic Landmark Commission~~Legislative designation. Conservation Landmark designation may be established ~~by the Historic Landmark Commission through a legislative procedure, using the approval criteria of Section 33.846.030.~~CD.
- B. **Quasi-judicial designation.** Conservation Landmark designation may be established through a quasi-judicial procedure; historic designation review is required.

### **33.445.2310 Removal of a Conservation Landmark Designation**

- A. **Requests for removal.** Removal of a resource's designation as a Conservation Landmark requires a historic designation removal review, except when the resource is destroyed or ~~demolished~~relocated as specified in Subsections B and C, below. Removing a resource's designation means removing an existing Conservation Landmark's designation, reducing the boundary of an existing Conservation Landmark, and reclassifying a contributing resource as a noncontributing resource within the boundary of an existing Conservation Landmark.
- B. **Removal after destruction.** If the resource is destroyed by causes beyond the control of the owner, its Conservation Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.
- C. **Removal after demolition.** If the resource is demolished ~~or relocated~~, after either approval of demolition through demolition review ~~or after 120-day delay~~, its Conservation Landmark designation is automatically removed. See Section 33.855.075, Automatic Map Amendments for Historic Resources.

### **33.445.2320 Historic Preservation Agreements and Incentives for Conservation Landmarks**

Conservation Landmarks are eligible to use historic preservation incentives and preservation agreements. See Sections 33.445.~~6700~~ through ~~.6710~~.

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## Commentary

### **33.445.330 Relocation of a Conservation Landmark**

Changes to this section allow for Conservation Landmarks to be relocated without having to be designated again upon relocation. Unlike for National Register Resources, Historic Landmarks, and contributing buildings in Historic Districts, historic resource relocation review is not required for Conservation Landmarks.

Additional changes provide for clarity and technical accuracy. Accessory structures, including those identified as contributing to the historic significance of a Conservation Landmark, are not subject to historic resource relocation review and may be relocated without relocation review. Historic resource review may still be required for alterations to Conservation Landmarks and contributing resources that are relocated but exempt from relocation review.

### **33.445.340 Development within a Conservation Landmark Boundary**

Several changes have been made to this section to clarify when historic resource review is required and increase the list of alteration and new development proposals that are exempt from review. The reference to modifications has been moved for readability and consistency with other sections.

#### **33.445.340.A When historic resource review for a Conservation Landmark is required**

The reference to modifications has been moved for readability.

Clarity has been added that new structures within the boundary of a Conservation Landmark are subject to review.

Review of color has been removed to lessen the regulations that apply to reversible changes to Conservation Landmarks and further differentiate Conservation Landmarks from Historic Landmarks. Redundant language related to review in certain zones has been eliminated.

### **33.445.225330 Relocation of a Conservation Landmark**

When a Conservation Landmark is relocated, the following apply:

- ~~A.~~ The receiving site is subject to Section 33.846.060, Historic Resource Review. If the applicant wishes to retain the Conservation Landmark designation at the receiving site, the receiving site is also subject to Section 33.846.030, Historic Designation Review.
- ~~BA.~~ When a Conservation Landmark designation is relocated, the designation is automatically removed from the sending site and is automatically added to the receiving site; see Section 33.855.075, Automatic Creation or Removal of Map Amendments for Historic Resources Designation.
- ~~CB.~~ When there is a preservation agreement that requires demolition review before demolition or relocation will be allowed, the sending site is also subject to Section 33.846.080, Demolition Review.
- C. Relocating a Conservation Landmark may require historic resource review. See Section 33.445.340, Development and Alterations Within a Conservation Landmark Boundary.

### **33.445.230340 Development Alterations to within a Conservation Landmark Boundary**

~~Alterations to~~ New development and alterations within the boundary of a Conservation Landmarks requires historic resource review to ensure the landmark's historic value is considered prior to or during the development process. Some modifications to site-related development standards may be reviewed as part of the historic resource review process. See Section 33.445.060. When historic resource review is required, the Community Design Standards may be used as an alternative for some proposals. See Section 33.445.810.

- A. When historic resource review for a Conservation Landmark is required.** Unless exempted by Subsection B, ~~below,~~ the following proposals are subject to historic resource review. ~~Some may be eligible to use the Community Design Standards as an alternative; see Section 33.445.710:~~
  - 1. Exterior alteration;
  - 2. Building a new structure within the Conservation Landmark boundary;
  - ~~2. Change of exterior color when:~~
    - ~~a. Exterior color or material is a character defining features that is specifically listed in the Historic Resource Inventory, Conservation Landmark nomination, or National Register nomination; or~~
    - ~~b. Other proposed alterations to the landmark require review and the proposed alterations include a change of exterior color; or~~
    - ~~c. Exterior color has been specifically required through a land use review.~~
  - 3. Installation or alteration of exterior signs; and
  - 4. Alteration of an interior space when that interior space is designated as a Conservation Landmark;
  - ~~5. Proposals using one of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080; and~~
  - ~~6. Proposals in the Albina Community plan district using the provisions of Section 33.505.220, Parking Requirement Reduction, or Section 33.505.230, Attached Residential Infill on Vacant Lots in R5-Zoned Areas.~~

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## Commentary

### **33.445.340.B Exempt from historic resource review**

A small change in the side street setback for exempt accessory structures has been made to align with other sections of the code.

Changes to this section include grammatical and consistency changes and removing references to the Historic Resources Inventory because the Conservation Landmark documentation provides the most accurate specifics on the designation. Although no National Register Resources are currently designated as Conservation Landmarks, it is possible in the future so the reference to National Register has been retained.

**B. Exempt from historic resource review.**

1. Construction of a detached accessory structure with 200 square feet or less of floor area when the accessory structure and is at least 40 feet from a front property line and, if on a corner lot, at least 25~~20~~ feet from a side street lot line;
2. Alterations that do not require a building, site, zoning, or sign permit from the City, and that will not alter the exterior features of a resource having such features specifically listed in the ~~Historic Resource Inventory, Historic Conservation Landmark documentation nomination,~~ or National Register nomination as attributes that contribute to the resource's historic significance value;
3. Alterations in landscaping unless the landscaping is identified in the ~~Historic Resource Inventory, Conservation Landmark documentation nomination,~~ or National Register nomination as an attribute that contributes to the resource's historic significance value ~~of a Conservation Landmark~~;
4. Parking lot landscaping that meets the standards of this Title and does not include a wall or fence;
5. Repair;
6. Maintenance;
7. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, that is added to the roof of an existing building if the following are met:
  - a. The area where the equipment will be installed must have a pitch of 1/12 or less;
  - b. No more than 8 mechanical units are allowed, including both proposed and existing units;
  - c. The proposed mechanical equipment must be set back at least 4 feet from the edge of the roof for every 1 foot of height of the equipment above the roof surface or top of parapet; and
  - d. The proposed equipment must have a matte finish or be painted to match the roof;

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## Commentary

### **33.445.340.B Exempt from historic resource review (continued)**

This section includes a significant change that would allow certain solar energy systems added to the roof of Conservation Landmarks to be exempt from historic resource review. To be exempt, the solar system would need to be largely obscured from the street, be on a flat roof or parallel to a pitched roof, and be set back from roof edges and ridgelines. To be exempt, the solar energy system could not be installed on wood, slate, clay, or other historic roof materials. This exemption is similar to an exemption currently provided in Historic Districts that has not resulted in the degradation of the physical integrity or historic significance of resources within those districts.

Proposed solar systems that do not meet the exemption may still be considered through historic resource review.

8. Rooftop vents installed on roofs if the vent and associated elements such as pipes, conduits and covers meet the following:
  - a. The area where the vent and associated elements will be installed must have a pitch of 1/12 or less;
  - b. The proposed vent and associated elements must not be more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
  - c. The proposed vent and associated elements must be set back at last 4 feet from the edge of the rooftop for every 1 foot of height above the roof surface or top of parapet; and
  - d. The proposed vent and associated elements must have a matte finish or be painted to match the roof.

9. Solar energy systems when the following are met:

- a. On a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface, the solar energy system must be mounted flush or on racks, with the system extending no more than 5 feet above the top of the highest point of the roof. The solar energy system must also be screened from the street by:
  - (1) An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
  - (2) Setting the solar energy system back from the roof edges facing the street 4 feet for each foot of solar energy system height.
- b. On a pitched roof, the solar energy systems must be on a roof surface that is clad in composition shingles and the roof must face a rear lot line or face within 45 degrees of the rear lot line. See Figure 445-1. The system must be mounted flush, with the plane of the system parallel to the roof surface, with the system no more than 8 inches from the surface of the roof at any point. The solar energy system must also be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.

910. Public Art as defined in Chapter 5.74;

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## Commentary

### **33.445.340.B Exempt from historic resource review (continued)**

Several additional exemptions to historic resource review have been added:

#15. A new exemption provides for fire escapes to be decommissioned through the removal of ladders and closure of openings. This exemption intends to allow elements of historically significant fire escapes to remain on Conservation Landmarks, even when they are unfit for use in a fire. Any new materials would need to match the materials present on the rest of the fire escape.

#16. A new exemption provides for non-historic windows on all facades to be replaced with more historically-appropriate wood windows. This exemption is intended to limit change to the area exactly within a window opening that contains non-historic materials.

#17. A new exemption allows for outlets and meters to be added or altered, provided the outlet or meter is no more than 2 square feet in area and located on a non-street-facing façade.

#18. A new exemption provides for hoses, conduits, tubes, or pipes to be installed or altered on non-street-facing facades. The work must be near the bottom of the resource and may not affect more than 1 square foot of façade. The intent is to allow detached mechanical units, such as an air conditioner or heater, to be connected to a house.

#19. A new exemption provides for the ability to add an air conditioner or heater to the site, provided it is ground-mounted and not larger than 4 feet by 4 feet by 4 feet. This exemption allows the mechanical unit to be connected to the house.

- ~~1011.~~ Exterior alterations to accommodate persons with disabilities in accordance with Chapter 11 of the Oregon Structural Specialty Code, when such alterations can be installed and removed without destroying existing materials;
- ~~1112.~~ Light wells when fully surrounded by the existing walls of the building;
- ~~1213.~~ Installation or removal of storm windows and doors; ~~and~~
- ~~1314.~~ Installation or removal of screen windows and doors;
- 15. Removal of ladders between fire escapes and closure of ladder openings with materials that match the adjacent fire escape surface;
- 16. Replacement of vinyl, fiberglass, or aluminum windows with wood windows when:
  - a. The structure was built before 1940;
  - b. The replacement windows are installed exactly within the existing window openings; and
  - c. The window glass is recessed at least 2 inches from the outside edge of the exterior wall;
- 17. Installation or alteration of electrical, gas, or water meters or outlets that are no more than 2 square feet in area and located on a non-street-facing facade;
- 18. Installation or alteration of hoses, conduits, tubes, or pipes, when:
  - a. The hose, conduit, tube, or pipe is no more than 6 inches in diameter;
  - b. The hose, conduit, tube, or pipe is located no more than 4 feet above the adjacent grade;
  - c. The hose, conduit, tube, or pipe is located on a non-street-facing facade; and
  - d. No more than 1 square foot of facade area is affected by the installation or alteration of the hose, conduit, tube or pipe;
- 19. Ground mounted mechanical units that are no more than 4 feet in width, length, and height, and are not located closer to a street than any street-facing facade;

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## Commentary

### **33.445.340.B Exempt from historic resource review (continued)**

#20. A new exemption allows for certain small signs that project from perpendicularly from the structure.

#21. A new exemption allows for the exact replacement of the fabric and replacement of signs on existing fabric awnings.

#22. A new exemption allows for the exact replacement of driveways and paths that are not historically significant.

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

20. New signs and alterations to existing signs when:
- a. The sign projects perpendicularly from the façade of a structure;
  - b. The sign and sign structure are no more than 3 square feet in area;
  - c. The sign and sign structure are no more than 2 inches in depth;
  - d. The sign and sign structure have no electrical components; and
  - e. The sign and sign structure are not mounted to brick or stone, except that it may be mounted through mortar joints on a masonry wall;
21. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased; and
22. Replacement of existing driveways or paths with the same material in the same location unless the driveway or path is specifically identified in the Conservation Landmark documentation as an attribute that contributes to the resource's historic significance.

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## Commentary

### **33.445.350 Demolition of a Conservation Landmark**

Changes to this section increase demolition protections on locally-designated Conservation Landmarks from 120-day delay to demolition review. New review type thresholds and approval criteria for Conservation Landmark demolition applications are provided in 33.846.080 (see code and commentary)

#### **33.445.350.A Demolition review**

This change applies demolition review to Conservation Landmarks. Currently, locally-designated Conservation Landmarks can be demolished after a 120-day delay, the same protection that currently applies to ranked structures on the Historic Resource Inventory (renamed Significant Resources in these code amendments). This delay period is not a meaningful deterrent to demolition of these resources and provides little opportunity for public involvement or mitigation before a resource is lost. Demolition review for Conservation Landmarks is different from demolition review for Historic Landmarks in that new review types and approval criteria for demolition review of Conservation Landmarks have been added 33.846.080.

An additional change further describes what "final" means for permit issuance.

An additional change confirms that a new replacement building is not always required for demolition to be approved.

### **33.445.240350 Demolition of a Conservation Landmark**

Demolition of a Conservation Landmark requires ~~one of two types of~~ demolition review to ensure the landmark's historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to demolition.

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection ~~B, C, below,~~ demolition of a Conservation Landmark, and demolition of contributing resources, is subject to demolition review, ~~if there is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the Conservation Landmark. For the purposes of this Chapter, demolition is defined as:~~
  - a. Total demolition;
  - b. Alterations requiring a demolition permit;
  - c. Alterations that result in removal of more than 50 percent of a structure that is not a building;
  - d. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
  - e. Alterations that result in:
    - (1) Removal of more than 50 percent of the total exterior wall area of a structure; and
    - (2) Removal of more than 50 percent of the total roof area of a structure.
2. Issuance of a demolition permit after demolition review. If the review body ~~for demolition review~~ approves demolition of the resource ~~Conservation Landmark,~~ a permit for demolition will not be issued until the following are met:
  - a. The demolition review decision in the demolition review is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for ~~a new building~~ structures required as a condition of the demolition review on the site has been issued. The demolition and building permits may be issued simultaneously.

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## Commentary

### **33.445.350.B Exempt from demolition review**

Changes have been made to reflect the elimination of the 120-day delay regulation for Conservation Landmarks and exempt all detached accessory structures within the boundary of a Conservation Landmark from demolition review. While detached accessory structures may contribute to the historic significance of a Conservation Landmark, allowing for additional site flexibility further differentiates Conservation Landmark protections from Historic Landmark protections.

An addition provides that, in addition to accessory structures, structures that are not identified as contributing to the historic significance of a Conservation Landmark are not subject to demolition review.

A final new exemption from demolition regulations relates to the new thresholds for demolition review. This exemption intends to allow certain major rehabilitation or addition, alteration, or new construction projects that help preserve a resource, but which may require removal of walls or roof, to be reviewed through historic resource review instead of demolition review. This exemption is intended to allow for major projects that are not tantamount to demolition to be reviewed by a more appropriate review body using more appropriate approval criteria than would be required in a demolition review. This change is consistent with demolition review exemptions provided for Historic Landmarks (see code and commentary related to 33.445.250).

~~**B.** **120-day delay.** Unless addressed by Subsection A, above, or exempted by Subsection C, below, all Conservation Landmarks are subject to 120-day delay.~~

**CB.** **Exempt from demolition review and 120-day delay.** The following are exempt from demolition review and 120-day delay.

1. Demolition of Conservation Landmarks, and demolition of contributing resources, required to be demolished because:
  - a. The Bureau of Development Services requires the demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
  - b. The Code Hearings Officer requires the demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
2. Demolition of detached accessory structures including those that are identified as contributing resources except for National Register Resources listed after January 27, 2017; no larger than 200 square feet, unless the accessory structure is identified in the Historic Resource Inventory, Historic Landmark nomination, or National Register nomination as an attribute that contributes to the historic value of a Historic Landmark.
3. Demolition of noncontributing resources; and
4. Alterations to a Conservation Landmark or contributing resource that meet the definition of demolition in Paragraph A.1. when:
  - a. The alterations are approved through historic resource review;
  - b. The historic resource review decision is final; and
  - c. All appeals have been resolved.

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## Commentary

### **33.445.400 Designation of a Historic District**

Clarity and reference has been added that district-scale National Register Resources listed before January 27, 2017, are shown on the Official Zoning Maps as Historic Districts.

Changes to this section are intended to clarify that Historic District designation can be applied through either or legislative process where City Council is the decision-maker or a quasi-judicial process where the Historic Landmarks Commission is the decision-maker.

Historic Districts created through the quasi-judicial path may not exceed 16 lots. This limitation allows the Historic Landmarks Commission to designate small ensembles and groups of resources that affect few properties. Establishment of larger districts requires the involvement of the Planning and Sustainability Commission and City Council through a legislative procedure.

Additional text has been added to establish classifying additional resources as “contributing” can be achieved through the designation process. See code and commentary in 33.846.030 for more details.

### **33.445.410 Removal of Historic District Designation**

Changes to this section allow for removal of a Historic District designation through a legislative procedure. Clarity has been added regarding National Register Resources. An additional change has been made to this section to allow contributing resources in existing local districts to be reclassified as noncontributing through the historic designation removal review.

### **33.445.420 Historic Preservation Agreements and Incentives for Historic Districts**

Changes to this section are intended to parallel the language used for Historic Landmarks and Conservation Landmarks to allow certain resources in Historic Districts to access preservation agreements and incentives. The section has been renumbered for consistency with other sections.

## Historic Districts

### **33.445.3400 Designation of a Historic District**

- A. National Register Resource listing.** National Register Resources listed on or before January 27, 2017 that are districts are automatically designated as a Historic District on the Official Zoning Maps. See 33.855.075, Automatic Map Amendments for Historic Resources.
- B. City designation.** Local City designation of Historic Districts may be established by the Historic Landmark Commission through a legislative or quasi-judicial procedure. Designating a City Historic District means establishing new Historic Districts, expanding the boundaries of existing Historic Districts, and reclassifying noncontributing resources as contributing resources within the boundary of existing Historic Districts.
- ~~1. A. Designation by Historic Landmark Commission~~ Legislative designation. Historic District designation may be established by the Historic Landmark Commission through a legislative procedure, using the approval criteria of Section 33.846.030. ~~CD.~~
- ~~2. B.~~ Quasi-judicial designation. Historic District designation may be established by the Historic Landmarks Commission through a quasi-judicial procedure; a Historic designation review is required. Historic Districts established through a quasi-judicial procedure may not include more than 16 lots.

### **33.445.3410 Removal of a Historic District Designation**

- A.** Removal of a resource's designation as a local City Historic District requires a historic designation removal review legislative procedure, using the approval criteria of Section 33.846.040.C. However, reclassifying a contributing resource within a City-designated Historic District to a noncontributing resource is allowed quasi-judicially through historic designation removal review.
- B.** For Historic Districts that have not been designated by the City, removal of a resource's designation as a Historic District requires the resource to be removed from the National Register of Historic Places by the Keeper of the National Register of Historic Places. Reclassifying a contributing resource within a Historic District that has been designated on the National Register to a noncontributing resource requires the National Register nomination to be amended by the Keeper of the National Register of Historic Places.

### **33.445.315420 Historic Preservation Agreements and Incentives in Historic Districts**

Historic resources in Historic Districts are eligible for the preservation agreement detailed in Section 33.445.600. Certain resources in Historic Districts are eligible to use historic preservation incentives and preservation agreements. See Sections 33.445.700 through .710.

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## Commentary

### **33.445.430 Relocation of Historic Resources in a Historic District**

A new section has been added to address relocation of contributing resources within Historic Districts. Historic resource review may still be required for alterations to resources that are relocated but exempt from relocation review. These changes parallel changes made to the Historic Landmarks sections (see 33.445.230 code and cometary for further explanation of historic resource relocation review thresholds and exemptions).

### **33.445.440 Development in a Historic District**

Several changes have been made to this section to clarify when historic resource review is required and increase the list of alteration and new development proposals that are exempt from review. Clarification that new development and alterations within the boundary of the Historic District are subject to historic resource review has been added, consistent with current practice, so that development activities on all sites within a Historic District are subject to review.

A reference to modifications has been added to parallel the Historic Landmark and Conservation Landmark sections. The section has been renumbered for consistency with other sections.

### **33.445.440.A When historic resource review for a Historic District is required**

Unnecessary language related to review in certain zones has been eliminated, consistent with other sections.

### **33.445.430 Relocation of a Historic Resource in a Historic District**

Relocation of a contributing resource in a Historic District requires historic resource relocation review to ensure the resource's historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to relocation.

- A. Historic resource relocation review.** Unless exempted by Subsection B, relocating a contributing resource requires historic resource relocation review.
- B. Exempt from historic resource relocation review.** The following are exempt from historic resource relocation review:
  - 1. Relocating a contributing resource 10 feet or less in any direction within the boundary of the Historic District; and
  - 2. Relocating a noncontributing resource. Relocating a noncontributing resource may require historic resource review. See Section 33.445.440, Development and Alterations in a Historic District.
- C. When there is a preservation agreement that requires demolition review before demolition or relocation will be allowed, the sending site is also subject to Section 33.846.080, Demolition Review.**

### **33.445.~~320~~440 Development and Alterations in a Historic District**

~~Building a new structure or altering an existing~~ New development and alterations within a Historic District requires historic resource review to ensure the resource's historic value is considered prior to or during the development process. Some modifications to site-related development standards may be reviewed as part of the historic resource review process; see Section 33.445.060.

- A. When historic resource review is required in a Historic District.** Unless exempted by Subsection B, ~~below,~~ the following proposals in a Historic District are subject to historic resource review:
  - 1. Exterior alterations;
  - 2. Building a new structure;
  - 3. Installation or alteration of exterior signs; and,
  - 4. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review; and,
  - ~~5. Proposals using one of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080; and~~
  - ~~6. Proposals in the Albina Community plan district using the provisions of Section 33.505.220, Parking Requirement Reduction, or Section 33.505.230, Attached Residential Infill on Vacant Lots in R5-Zoned Areas.~~

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## Commentary

### **33.445.440.B Exempt from historic resource review**

A small change in the side street setback for exempt accessory structures has been made to align with other sections of the code.

Changes to this section include grammatical and consistency changes and removing references to the Historic Resources Inventory since the Historic Landmark and/or National Register nomination provide the most accurate specifics on the designation. Additional changes include changes for technical accuracy.

**B. Exempt from historic resource review.**

1. Construction of a detached accessory structure with 200 square feet or less of floor area ~~when the accessory structure~~and is at least 40 feet from a front property line and, if on a corner lot, at least ~~25~~20 feet from a side street lot line;
2. Alterations that do not require a building, site, zoning, or sign permit from the City, and that will not alter the exterior features of a resource having such features specifically listed in the ~~Historic Resource Inventory, Landmark~~ Historic District documentation nomination, or National Register nomination as an attribute that contributes to the resource's historic ~~significance~~value;
3. Alterations to noncontributing resources where the alterations:
  - a. Affect only non-street-facing facades; and
  - b. The total area altered on all facades is up to 150 square feet. Calculation of the area of the façades affected includes the sum of the area of each alteration.
4. Alterations to existing basement windows, where the alterations:
  - a. Affect only non-street-facing facades; and
  - b. Are limited to any combination of the following:
    - (1) Replacement of windows in the same size opening, provided the window glass is recessed at least 2 inches from the outside edge of the exterior wall;
    - (2) Replacement of windows in a larger or smaller opening, provided that at least half of the area of the new window opening is below grade and the window glass is recessed at least 2 inches from the outside edge of the exterior wall. See Figure 445-~~13~~.
5. Parking lot landscaping that meets the standards of this Title and does not include a wall or fence;
6. Repair;
7. Maintenance;
8. Improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, that meet the City Engineer's standards;

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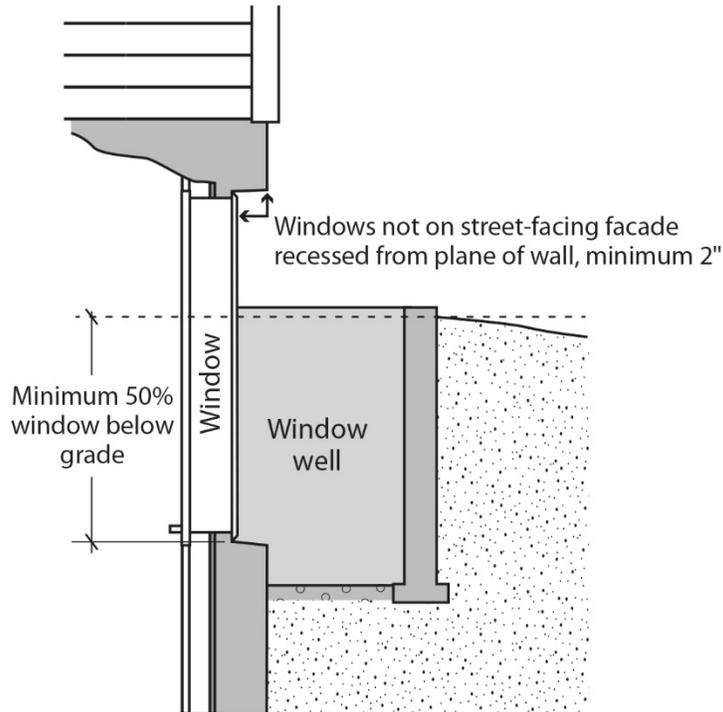
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## Commentary

### **33.445.440.B Exempt from historic resource review (cont.)**

Minor technical change for accuracy,

**Figure 445-13**  
**Basement Windows Replacement**



9. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, that is added to the roof of an existing building if the following are met:-
  - a. The area where the equipment will be installed must have a pitch of 1/12 or less;
  - b. No more than 8 mechanical units are allowed, including both proposed and existing units;
  - c. The proposed mechanical equipment must be set back at least 4 feet from the edge of the roof for every 1 foot of height of the equipment above the roof surface or top of parapet; and
  - d. The proposed equipment must have a matte finish or be painted to match the roof.

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## Commentary

### **33.445.440.B Exempt from historic resource review (cont.)**

Changes to this section expand the exemptions for vents by extending the exception to all zones, allowing for more than 2 square feet of cumulative vent area, and allowing rooftop vents on a pitched roof slope that is not street-facing.

10. Vents. ~~On all residential structures in the RF through R1 zones and residential structures with up to three dwelling units in other zones, v~~Vents that meet all of the following:
- a. Wall vents. Vents installed on walls must meet the following. The regulations and measurements include elements associated with the vent, such as pipes and covers. The vent must:
    - (1) Be on a non-street facing facade;
    - (2) Project no more than 12 inches from the wall;
    - (3) Be no more than 1 square foot in area, where the area is width times height. ~~The cumulative area of all proposed vents may be up to 2 square feet;~~
    - (4) Be at least 1 foot away from architectural features such as windows, doors, window and door trim, cornices and other ornamental features, except when located at or below finish first floor framing; and
    - (5) Be painted to match the adjacent surface.
  - b. Rooftop vents. Vents installed on roofs, and associated elements such as pipes, conduit and covers, must meet the following:
    - (1) Be on a flat roof or non-street-facing roof slope;
    - (2) Not be more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
    - (3) Set back from the perimeters of the building at least 4 feet for every 1 foot of height; and
    - (4) Painted to match the adjacent surface.

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## Commentary

### **33.445.440.B Exempt from historic resource review (cont.)**

This section includes a significant change that would allow certain solar energy systems added to the roof of structures within districts to be exempt from historic resource review. To be exempt, the solar system would need to be largely obscured from the street, be on a flat roof or parallel to a pitched roof, and be set back from roof edges and ridgelines. To be exempt, the solar energy system could not be installed on wood, slate, clay, or other historic roof materials. The exemption also allows for solar energy systems on all roof surfaces on certain detached accessory structures. This exemption expands on what is currently allowed in Historic Districts.

Proposed solar systems that do not meet the exemption may still be considered through historic resource review.

Additional changes reflect renumbering of figures.

11. Solar energy systems that meet the following requirements. When solar energy systems are proposed as part of a project that includes elements subject to historic resource review, the solar energy systems is not exempt:
- a. On a detached accessory structure at least 40 feet from a front property line and, if on a corner lot, at least 20 feet from a side street lot line, the solar energy system must be on a pitched roof surface that is clad in composition shingles. The system must be mounted flush, with the plane of the system parallel to the roof surface, with the system no more than 8 inches from the surface of the roof at any point. The solar energy system must also be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.
  - b. On a primary structure or detached accessory structure with a flat roof, the horizontal portion of a mansard roof, or roofs surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface. ~~the~~ solar energy system must be mounted flush or on racks, with the system ~~or rack~~ extending no more than 5 feet above the top of the highest point of the roof. The solar energy systems must also be screened from the street by:
    - (1) An existing parapet along the street-facing facade that is as tall as the tallest part of the solar energy system, or
    - (2) Setting the solar energy system back from the roof edges facing the street 4 feet for each foot of solar energy system height.
  - ~~b-c.~~ On a primary structure with a pitched roof, the solar energy systems must be on a pitched roof surface that is clad in composition shingles and the roof must face a rear lot line or face within 45 degrees of the rear lot line. See Figure 445-1. The system must be mounted flush, with the plane of the system parallel to the roof surface, with the system no more than 8 inches from the surface of the roof at any point. The solar energy system must also be set back at least 8 inches from the roof edge and ridgeline. See Figure 445-2.

~~Solar energy systems may be on a pitched roof facing a rear lot line or on a pitched roof surface facing within 45 degrees of the rear lot line. See Figure 445-2. The system must be mounted flush, with the plane of the system parallel with the roof surface, with the system no more than 12 inches from the surface of the roof at any point, and set back 32 feet from the roof edge and ridgeline. See Figure 445-3.~~
12. Skylights or roof hatches that meet the following requirements:
- a. The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
  - b. The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 45 degrees of the rear lot line, see Figure 445-~~21~~.

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## Commentary

### **33.445.440.B Exempt from historic resource review (cont.)**

Several additional exemptions to historic resource review have been added:

#21. Decks have been moved into their own exemption (see next page).

#22. A revised exemption provides for fire escapes to be decommissioned through the removal of ladders and closure of openings. This exemption intends to allow elements of historically significant fire escapes to remain on buildings in Historic Districts, even when they are unfit for use in a fire. Any new materials would need to match the materials present on the rest of the fire escape.

#23. A new exemption is provided to allow service chimneys to be removed provided the chimney is not expressed as an exterior feature below the roof.

#24. A new exemption provides for seismic straps to be added to foundation walls provided that the straps are painted to match the adjacent foundation wall.

#25. A new exemption provides for non-historic windows on any facade to be replaced with more historically-appropriate wood windows on all facades. This exemption is intended to limit change to the area exactly within a window opening that contains non-historic materials.

13. Radon mitigation systems on non-street facing facades;
14. Eco-roofs installed on existing buildings when the roof is flat or surrounded by an existing parapet that is at least 12 inches higher than the highest part of the eco-roof surface. When eco-roofs are proposed as part of a project that includes elements subject to historic resource review, the eco-roofs are not exempt. Plants must be species that do not characteristically exceed 12 inches in height at mature growth;
15. Public Art as defined in Chapter 5.74;
16. Permitted Original Art Murals as defined in Title 4 if the mural is proposed on a building that is not identified as contributing to ~~the historic significance of~~ a Historic District;
17. Exterior alterations to accommodate persons with disabilities in accordance with Chapter 11 of the Oregon Structural Specialty Code, when such alterations can be installed and removed without destroying existing materials;
18. Alterations to light wells when fully surrounded by the existing walls of the building;
19. Installation or removal of storm windows and doors;
20. Installation or removal of screen windows and doors;
21. Fences, and retaining walls, ~~and decks~~ that meet the standards of this Title; ~~and~~
22. Changes to exterior fire escapes that meet the following:
  - a. Removal of fire escapes when required by the Fire Marshal; or
  - b. Removal of ladders between fire escapes and closure of ladder openings with materials that match the adjacent fire escape surface;
23. Removal of the exterior portion of an internal chimney where the only visible portion of the chimney is above the roof;
24. Installation of seismic straps no more than 4 feet above the adjacent grade when painted to match the adjacent surface;
25. Replacement of vinyl, fiberglass, or aluminum windows with wood windows when:
  - a. The structure was built before 1940;
  - b. The replacement windows are installed exactly within the existing window openings; and
  - c. The window glass is recessed at least 2 inches from the outside edge of the exterior wall;

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## Commentary

### **33.445.440.B Exempt from historic resource review (cont.)**

#26. A new exemption allows for outlets and meters to be added or altered, provided the outlet or meter is no more than 2 square feet in area and located on a non-street-facing façade.

#27. A new exemption provides for hoses, conduits, tubes, or pipes to be installed or altered on non-street-facing facades. The work must be near the bottom of the resource and may not affect more than 1 square foot of façade. The intent is to allow detached mechanical units, such as an air conditioner or heater, to be connected to a house.

#28. A new exemption provides for the ability to add an air conditioner or heater to the site, provided it is ground-mounted and not larger than 4 feet by 4 feet by 4 feet. This exemption allows the mechanical unit to be connected to the house.

#29. A new exemption allows owners to attach key boxes to the exterior of a structure without review.

#30. A new exemption allows for certain small signs that project from perpendicularly from the structure.

#31. A new exemption allows for the exact replacement of the fabric and replacement of signs on existing fabric awnings.

#32. A new exemption allows for the exact replacement of driveways and paths that are not historically significant.

#33. A revised exemption clarifies the maximum height of exempt decks.

#34. A new exemption parallels one already provided for Historic Landmarks.

26. Installation or alteration of electrical, gas, or water meters or outlets that are no more than 2 square feet in area and located on a non-street-facing facade;
27. Installation or alteration of hoses, conduits, tubes, or pipes, when:
  - a. The hose, conduit, tube, or pipe is no more than 6 inches in diameter;
  - b. The hose, conduit, tube, or pipe is located no more than 4 feet above the adjacent grade;
  - c. The hose, conduit, tube, or pipe is located on a non-street-facing facade; and
  - d. No more than 1 square foot of façade area is affected by the installation or alteration of the hose, conduit, tube or pipe;
28. Ground mounted mechanical units that are no more than 4 feet in width, in length, and in height, and are not located closer to a street than any street-facing façade;
29. Installation and alteration of boxes that are no more than 6 inches in width, in length, and in height;
30. New signs and alterations to existing signs that meet the following:
  - a. The sign projects perpendicularly from the façade of a structure;
  - b. The sign and sign structure are no more than 3 square feet in area;
  - c. The sign and sign structure are no more than 2 inches in depth;
  - d. The sign and sign structure have no electrical components; and
  - e. The sign and sign structure are not mounted to brick or stone, except that it may be mounted through mortar joints on a masonry wall;
31. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
32. Replacement of existing driveways or paths with the same material in the same location unless the driveway or path is specifically identified in the Historic District documentation or National Register nomination as an attribute that contributes to the resource's historic significance; and
33. Decks that are no more than 30 inches off the ground; and
34. Alterations in landscaping unless the landscaping is identified in the Historic District documentation or National Register nomination as an attribute that contributes to the resource's historic significance.

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## Commentary

### **33.445.450 Demolition of Historic Resources in a Historic District**

The section has been renumbered for accuracy consistency with other sections.

Clarity has been provided regarding demolition protections for National Register Resources and Conservation Landmarks that are located in Historic Districts.

### **33.445.450.A Demolition review**

Thresholds for demolition review have been added, consistent with those added for Historic Landmarks (see code and commentary related to 33.445.250).

The language pertaining to contributing structures has been removed and replaced with an exemption for noncontributing structures.

The language pertaining to covenants has been struck since it is redundant with the demolition review required of all contributing resources in Historic Districts.

Clarity has been added to require all appeals be resolved before permits are issued.

An additional change confirms that a new replacement building is not always required for demolition to be approved in demolition review.

### **33.445.330450 Demolition of Historic Resources in a Historic District**

National Register Resources listed after January 27, 2017 in a Historic District that are not identified as contributing to the historic significance of the Historic District are subject to the regulations of Section 33.445.150. Historic Landmarks in a Historic District are subject to the regulations of Section 33.445.1250. Conservation Landmarks in a Historic District that are not identified as contributing to the historic significance of the Historic District are subject to the regulations of Section 33.445.240350. Demolition of other historic resources within a Historic District requires demolition review to ensure their historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to demolition.

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection B, ~~below~~, demolition of a ~~historic~~contributing resource in a Historic District is subject to demolition review ~~if~~. For the purposes of this Chapter, demolition is defined as:
  - a. Total demolition;
  - b. Alterations requiring a demolition permit;
  - c. Alterations that result in removal of more than 50 percent of a structure that is not a building;
  - d. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
  - e. Alterations that result in:
    - (1) Removal of more than 50 percent of the total exterior wall area of a structure;  
and
    - (2) Removal of more than 50 percent of the total roof area of a structure.

~~a. It is a structure that is identified as contributing to the historic significance of a Historic District; or~~

~~b. There is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the historic resource.~~
2. Issuance of a demolition permit after demolition review. If the review body ~~for demolition review~~ approves demolition of the resource, a permit for demolition will not be issued until the following are met:
  - a. The demolition review decision in the ~~demolition review~~ is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for a new building structures required as a condition of the demolition review on the site has been issued. The demolition and building permits may be issued simultaneously.

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## Commentary

### **33.445.450.B Exempt from demolition review**

This section has been reorganized for clarity and unnecessary language deleted.

A new subsection adds clarity that noncontributing resources in Historic Districts are exempt from demolition review.

A new exemption allows for the replacement of historically-significant "contributing" accessory structures through historic resource review. Allowing for an exemption for accessory structure replacement saves applicants from going through two land use reviews, but also allows for consideration of the accessory structure's historic significance during the replacement process (new review type thresholds and changes to approval criteria have been added to historic resource review pertaining to accessory structure replacement, see 33.846.060.G).

Thresholds for demolition review have been added, consistent with those added for Historic Landmarks (see code and commentary related to 33.445.250).

- B. Exempt from demolition review.** ~~Historic resources in Historic Districts required to be demolished because of the following~~ The following are exempt from demolition review:
1. Demolition of contributing resources required to be demolished because:
    - ~~1-a.~~ The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
    - ~~2-b.~~ The Code-Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations;
  2. Demolition of noncontributing resources;
  3. Demolition of accessory structures identified as a contributing resource when:
    - a. A replacement structure has been approved through historic resource review;
    - b. The historic resource review decision is final; and
    - c. All appeals have been resolved;
  4. Alterations to a contributing resource that meet the definition of demolition in Paragraph A.1. when:
    - a. The alterations are approved through historic resource review;
    - b. The historic resource review decision is final; and
    - c. All appeals have been resolved.

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## Commentary

### **33.445.500 Designation of a Conservation District**

Changes to this section are intended to clarify that Conservation District designation can be applied through either a legislative process where City Council is the decision-maker or a quasi-judicial process where the Historic Landmarks Commission is the decision-maker.

Conservation Districts created through the quasi-judicial path may not exceed 16 lots. This limitation allows the Historic Landmarks Commission to designate small ensembles and groups of resources that affect few properties. Establishment of larger districts requires the involvement of the Planning and Sustainability Commission and City Council through a legislative procedure.

Additional text has been added to establish classifying additional resources as “contributing” can be achieved through the designation process. See code and commentary in 33.846.030 for more details.

### **33.445.510 Removal of Conservation District Designation**

Changes to this section establish that removal of a Conservation District requires a legislative procedure due to the number of properties affected. An additional change has been made to this section to allow contributing resources in established local Conservation Districts to be reclassified as noncontributing through the historic designation removal review process.

### **33.445.520 Historic Preservation Agreements and Incentives for Conservation Districts**

The section has been renumbered for consistency with other sections.

Changes to this section are intended to parallel the language used for Historic Landmarks, Conservation Landmarks, and Historic Districts to allow certain resources in Conservation Districts to access preservation incentives.

## Conservation Districts

### **33.445.4500 Designation of a Conservation District**

Conservation Districts may be designated ~~by the Historic Landmark Commission~~ through a legislative or procedure or may be designated through a quasi-judicial procedure. Designating a City Conservation District means establishing new Conservation Districts, expanding the boundaries of existing Conservation Districts, and reclassifying noncontributing resources as contributing resources within the boundary of existing Conservation Districts.

- A. ~~Designation by Historic Landmark Commission~~Legislative designation. Conservation District designation may be established ~~by the Historic Landmark Commission~~ through a legislative procedure, using the approval criteria of Section 33.846.030.~~CD~~.
- B. **Quasi-judicial designation.** Conservation District designation may be established through a quasi-judicial procedure; ~~Historic designation review is required.~~ Conservation Districts established through a quasi-judicial procedure may not include more than 16.

### **33.445.4510 Removal of a Conservation District Designation**

Removal of a resource's designation as a Conservation District requires a ~~historic designation removal review~~legislative procedure, using the approval criteria of Section 33.846.040.C. However, reclassifying a contributing resource within a Conservation District to a noncontributing resource is allowed quasi-judicially through historic designation removal review.

### **33.445.41520 Historic Preservation Agreements and Incentives in Conservation Districts**

~~Historic resources in Conservation Districts are eligible for the preservation agreement detailed in Section 33.445.600.~~Certain resources in Conservation Districts are eligible to use historic preservation incentives and preservation agreements. See Sections 33.445.700 through .710.

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## **Commentary**

### **33.445.530 Relocation of Historic Resources in Conservation Districts**

The section has been renumbered for consistency with other sections.

A new section has been added to address relocation of contributing resources within Conservation Districts. Contributing resources relocated within a Conservation District are not subject to historic resource relocation review. Contributing resources proposed for relocation out of the district are subject to historic resource relocation review. Resources with a preservation agreement that are proposed for relocation 10 or more feet are subject to demolition review. Historic resource review may still be required for alterations to resources that are relocated.

### **33.445.530 Relocation of a Historic Resource in a Conservation District**

Relocation of a contributing resource in a Conservation District requires historic resource relocation review to ensure the resource’s historic value is considered. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to relocation.

- A. Historic resource relocation review.** Unless exempted by Subsection B, relocating a contributing resource to a location outside of the boundary of the Conservation District requires historic resource relocation review. Relocating a contributing resource within the boundary of a Conservation District does not require historic resource relocation review. Relocating a contributing resource within the boundary of a Conservation District may require historic resource review. See Section 33.445.540, Development and Alterations in a Conservation District.
- B. Exempt from historic resource relocation review.** The following are exempt from historic resource relocation review:
1. Relocating an accessory structure;
  2. Relocating a noncontributing resource. Relocating a noncontributing resource may require historic resource review. See Section 33.445.540, Development and Alterations in a Conservation District.
- C. When there is a preservation agreement that requires demolition review before demolition or relocation will be allowed, the sending site is also subject to Section 33.846.080, Demolition Review if the resource is being relocated 10 feet or more in any direction.**

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## **Commentary**

### **33.445.540 Development in a Conservation District**

The section has been renamed and renumbered for consistency with other sections. Several changes have been made to this section to clarify when historic resource review is required and increase the list of alteration and development proposals that are exempt from review. A reference to modifications has been added to parallel the Historic Landmark, Conservation Landmark, and Historic District sections. The reference to Community Design Standards has been relocated from the subsection that follows.

#### **33.445.540.A When historic resource review in a Conservation District is required**

Reference to Community Design Standards has been struck and moved to previous subsection.

Unnecessary language related to review in certain zones has been eliminated.

### **33.445.420540 Development and Alterations in a Conservation District**

~~Building a new structure or altering an existing structure~~ New development and alterations within a Conservation District requires historic resource review to ensure the resource's historic value is considered prior to or during the development process. ~~Some modifications to site-related development standards may be reviewed as part of the historic resource review process; see Section 33.445.060. When historic resource review is required, the Community Design Standards may be used as an alternative for some proposals; see Section 33.445.810.~~

- A. When historic resource review is required in a Conservation District.** Unless exempted by Subsection B., ~~below~~, the following proposals in a Conservation District are subject to historic resource review. ~~Some may be eligible to use the Community Design Standards as an alternative; see Section 33.445.710:~~
1. Exterior alterations;
  2. Building a new structure;
  3. Installation or alteration of exterior signs; and
  4. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping. Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review;
  5. ~~Proposals using one of the provisions of the a, Alternative Design Density Overlay Zone, specified in Sections 33.405.040 through .080; and~~
  6. ~~Proposals in the Albina Community plan district using the provisions of Section 33.505.220, Parking Requirement Reduction, or Section 33.505.230, Attached Residential Infill on Vacant Lots in R5 Zoned Areas.~~

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## Commentary

### **33.445.540.B Exempt from historic resource review**

A small change in the side street setback for exempt accessory structures has been made to align with other sections of the code.

Changes to this section include grammatical and consistency changes and removing references to the Historic Resources Inventory since the Conservation District and/or National Register nomination provide the most accurate specifics on the designation. Additional changes include changes for technical accuracy.

**B. Exempt from historic resource review.**

1. Construction of a detached accessory structure with 200 square feet or less of floor area ~~when the accessory structure~~and is at least 40 feet from a front property line and, if on a corner lot, at least ~~25~~20 feet from a side street lot line;
2. Alterations that do not require a building, site, zoning, or sign permit from the City, and that will not alter the exterior features of a resource having such features specifically listed in the ~~Historic Resource Inventory, Landmark~~ Conservation District documentation nomination, or National Register nomination as attributes that contribute to the resource's historic ~~significance~~value;
3. Alterations to noncontributing resources where the alterations:
  - a. Affect only non-street-facing facades; and
  - b. The total area altered on all facades is up to 150 square feet. Calculation of the area of the facades affected includes the sum of the area of each alteration.
4. Alterations to existing basement windows, where the alterations:
  - a. Affect only non-street-facing facades; and
  - b. Are limited to any combination of the following exclusive of any other exempt alterations:
    - (1) Replacement of windows in the same size opening, provided the window glass is recessed at least 2 inches from the outside edge of the exterior wall;
    - (2) Replacement of windows in a larger or smaller opening, provided that at least half of the area of the new window opening is below grade and the window glass is recessed at least 2 inches from the outside edge of the exterior wall. See Figure 445-~~13~~13.
5. Parking lot landscaping that meets the standards of this Title and does not include a wall or fence;

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## Commentary

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

6. Repair;
7. Maintenance;
8. Improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, that meet the City Engineer's standards;
9. Rooftop mechanical equipment and associated ductwork, other than radio frequency transmission facilities, that is added to the roof of an existing building if the following are met:-
  - a. The area where the equipment will be installed must have a pitch of 1/12 or less;
  - b. No more than 8 mechanical units are allowed, including both proposed and existing units;
  - c. The proposed mechanical equipment must be set back at least 4 feet from the edge of the roof for every 1 foot of height of the equipment above the roof surface or top of parapet; and
  - d. The proposed equipment must have a matte finish or be painted to match the roof.

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## Commentary

### **33.445.540.B Exempt from historic resource review (cont.)**

Changes to this section expand the exemptions for vents by extending the exception to all zones, allowing for more than 2 square feet of cumulative vent area, and allowing rooftop vents on a pitched roof slope that is not street-facing.

10. Vents. ~~On all residential structures in the RF through R1 zones and residential structures with up to three dwelling units in other zones,~~ Vents that meet all of the following:
- a. Wall vents. Vents installed on walls must meet the following. The regulations and measurements include elements associated with the vent, such as pipes and covers. The vent must:
    - (1) Be on a non-street facing façade;
    - (2) Project no more than 12 inches from the wall;
    - (3) Be no more than 1 square foot in area, where the area is width times height. ~~The cumulative area of all proposed vents may be up to 2 square feet;~~
    - (4) Be at least 1 foot away from architectural features such as windows, doors, window and door trim, cornices and other ornamental features, except when located at or below finish first floor framing; and
    - (5) Be painted to match the adjacent surface.
  - b. Rooftop vents. Vents installed on roofs, and associated elements such as pipes, conduits and covers, must meet the following:
    - (1) Be on a flat roof or non-street-facing roof slope;
    - (2) Not be more than 30 inches high and no larger than 18 inches in width, depth, or diameter;
    - (3) Set back from the perimeters of the building at least 4 feet for every 1 foot of height; and
    - (4) Painted to match the adjacent surface.

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## Commentary

11. Solar energy systems added to an existing building that is neither a Conservation Landmark or Historic Landmark that meet the following requirements:
  - a. Rooftop solar energy systems must not increase the footprint of the structure, must not increase the peak height of the roof, and the system must be parallel to the slope of the roof;
  - b. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface;
  - c. Photovoltaic glazing may be integrated into windows or skylights.
12. Skylights or roof hatches that meet the following requirements:
  - a. The skylight or hatch is installed on a flat roof, the horizontal portion of a mansard roof, or a roof surrounded by an existing parapet that is at least 12 inches higher than the highest part of the roof surface; or
  - b. The skylight or hatch is installed on the portion of a pitched roof that faces a rear lot line or faces within 45 degrees of the rear lot line, see Figure 445-~~21~~.
13. Radon mitigation systems on non-street facing facades;
14. Eco-roofs installed on existing buildings when the roof is flat or surrounded by a parapet that is at least 12 inches higher than the highest part of the eco-roof surface, and when no other nonexempt exterior improvements subject to historic resource review are proposed. Plants must be species that do not characteristically exceed 12-inches in height at mature growth;
15. Public Art as defined in Chapter 5.74;
16. Permitted Original Art Murals as defined in Title 4 if the mural is proposed on a building that is not identified as contributing to ~~the historic significance of~~ a Conservation District;

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## Commentary

### **33.445.540.B Exempt from historic resource review (cont.)**

Several additional exemptions to historic resource review have been added:

#21. Decks have been moved into their own exemption (see next page).

#22. A revised exemption provides for fire escapes to be decommissioned through the removal of ladders and closure of openings. This exemption intends to allow elements of historically significant fire escapes to remain on buildings in Conservation Districts, even when they are unfit for use in a fire. Any new materials would need to match the materials present on the rest of the fire escape.

#23. A new exemption is provided to allow service chimneys to be removed provided the chimney is not expressed as an exterior feature below the roof.

#24. A new exemption provides for seismic straps to be added to foundation walls provided that the straps are painted to match the adjacent foundation wall.

#25. A new exemption provides for non-historic windows on any facade to be replaced with more historically-appropriate wood windows on all facades. This exemption is intended to limit change to the area exactly within a window opening that contains non-historic materials.

#26. A new exemption allows for outlets and meters to be added or altered, provided the outlet or meter is no more than 2 square feet in area and located on a non-street-facing façade.

#27. A new exemption provides for hoses, conduits, tubes, or pipes to be installed or altered on non-street-facing facades. The work must be near the bottom of the resource and may not affect more than 1 square foot of façade. The intent is to allow detached mechanical units, such as an air conditioner or heater, to be connected to a house.

#28. A new exemption provides for the ability to add an air conditioner or heater to the site, provided it is ground-mounted and not larger than 4 feet by 4 feet by 4 feet. This exemption allows the mechanical unit to be connected to the house.

17. Exterior alterations to accommodate persons with disabilities in accordance with Chapter 11 of the Oregon Structural Specialty Code, when such alterations can be installed and removed without destroying existing materials;
18. Alterations to light wells when fully surrounded by the existing walls of the building;
19. Installation or removal of storm windows and doors;
20. Installation or removal of screen windows and doors;
21. Fences, and retaining walls,~~and decks~~ that meet the standards of this Title;~~and~~
22. Changes to exterior fire escapes that meet the following:
  - a. Removal of fire escapes when required by the Fire Marshal; or
  - b. Removal of fire escape ladders and closure of ladder openings with materials to match the adjacent fire escape surface;
23. Removal of the exterior portion of an internal chimney where the only visible portion of the chimney is above the roof;
24. Installation of seismic straps no more than 4 feet above the adjacent grade when painted to match the adjacent surface;
25. Replacement of vinyl, fiberglass, or aluminum windows with wood windows when:
  - a. The structure was built before 1940;
  - b. The replacement windows are installed exactly within the existing window openings;  
and
  - c. The window glass is recessed at least 2 inches from the outside edge of the exterior wall;
26. Installation or alteration of electrical, gas, or water meters or outlets that are no more than 2 square feet in area and located on a non-street-facing facade;
27. Installation or alteration of hoses, conduits, tubes, or pipes, when:
  - a. The hose, conduit, tube, or pipe is no more than 6 inches in diameter;
  - b. The hose, conduit, tube, or pipe is located no more than 4 feet above the adjacent grade;
  - c. The hose, conduit, tube, or pipe is located on a non-street-facing facade; and
  - d. No more than 1 square foot of facade area is affected by the installation or alteration of the hose, conduit, tube or pipe;
28. Ground mounted mechanical units that are no more than 4 feet in width, length, and height, and are not located closer to the street than any street-facing facade;

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## Commentary

### **33.445.540.B Exempt from historic resource review (cont.)**

#29. A new exemption allows owners to attach key boxes to the exterior of a structure without review.

#30. A new exemption allows for certain small signs that project from perpendicularly from the structure.

#31. A new exemption allows for the exact replacement of the fabric and replacement of signs on existing fabric awnings.

#32. A new exemption allows for the exact replacement of driveways and paths that are not historically significant.

#33. A revised exemption clarifies the maximum height of exempt decks.

#34. A new exemption parallels one already provided for Historic Landmarks.

29. Installation and alteration of boxes that are no more than 6 inches in width, in length, and in height;
30. New signs and alterations to existing signs that meet the following:
  - a. The sign projects perpendicularly from the façade of a structure;
  - b. The sign and sign structure are no more than 3 square feet in area;
  - c. The sign and sign structure are no more than 2 inches in depth;
  - d. The sign and sign structure have no electrical components; and
  - e. The sign and sign structure are not mounted to brick or stone, except that it may be mounted through mortar joints on a masonry wall;
31. Replacing or altering the fabric on existing fabric awnings and existing fabric awning signs when the area of the existing awning fabric is not increased;
32. Replacement of existing driveways or paths with the same material in the same location unless the driveway or path is specifically identified in the Conservation District documentation as an attribute that contributes to the resource's historic significance.
33. Decks that are no more than 30 inches off the ground; and
34. Alterations in landscaping unless the landscaping is identified in the Historic District documentation or National Register nomination as an attribute that contributes to the resource's historic significance

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## Commentary

### **33.445.550 Demolition of Historic Resources in a Conservation District**

The section has been renumbered for accuracy and consistency with other sections.

Clarity has been added regarding demolition protections for National Register Resources in Conservation Districts.

A significant change has been made to this section to require contributing structures in Conservation Districts to be subject to demolition review. Currently, contributing structures in locally-designated Conservation Districts can be demolished after a 120-day delay, the same protection that currently applies to ranked structures on the Historic Resource Inventory (renamed Significant Resources in these code amendments). This delay period is not a meaningful deterrent to demolition and provides no opportunity for public involvement or mitigation.

#### **33.445.550.A Demolition review**

Reference to covenants have been removed because it is redundant with the new requirement for demolition review. Thresholds for demolition review have been added, consistent with those added for Historic Landmarks (see code and commentary related to 33.445.250).

Clarity has been added that demolition permits may not be issued until after all appeals have been resolved.

An additional change confirms that a new replacement building is not always required for demolition to be approved in demolition review.

The reference to 120-day delay has been struck because it has been replaced with demolition review.

### **33.445.430550 Demolition of Historic Resources in a Conservation District**

National Register Resources listed after January 27, 2017, in a Conservation District are subject to the regulations of Section 33.445.150. Historic Landmarks in a Conservation District are subject to the regulations of Section 33.445.1250. Conservation Landmarks in a Conservation District are subject to the regulations of Section 33.445.240350. Demolition of other historic resources in a Conservation District requires ~~one of two types of~~ demolition review to ensure the resource's historic value is considered ~~prior to or during the development process~~. The review period also ensures that there is an opportunity for the owner and community to fully consider alternatives to demolition.

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection ~~BC, below~~, demolition of a ~~historic contributing~~ resource in a Conservation District is subject to demolition review ~~if there is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the resource. For the purposes of this Chapter, demolition is defined as:~~
  - a. Total demolition;
  - b. Alterations requiring a demolition permit;
  - c. Alterations that result in removal of more than 50 percent of a structure that is not a building;
  - d. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
  - e. Alterations that result in:
    - (1) Removal of more than 50 percent of the total exterior wall area of a structure; and
    - (2) Removal of more than 50 percent of the total roof area of a structure.
2. Issuance of a demolition permit after demolition review. If the review body ~~for demolition review~~ approves demolition of the resource, a permit for demolition will not be issued until the following are met:
  - a. The demolition review decision ~~in the demolition review~~ is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for a new ~~building~~ structures required as a condition of the demolition review on the site has been issued. The demolition and building permits may be issued simultaneously.

- ~~**B. 120-day delay.** Unless addressed by Subsection A, above, or exempted by Subsection C, below, all primary structures in Conservation Districts are subject to 120-day delay.~~

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## Commentary

### **33.445.550.B Exempt from demolition review**

Changes have been made to reflect the elimination of the 120-day delay option and clarify that accessory structures are neither subject to demolition review or 120-day delay.

New text clarifies that, in addition to accessory structures, structures that are not identified as contributing to the historic significance of a Conservation District are not subject to demolition review.

A final new exemption relates to the new thresholds for demolition review. This exemption intends to allow certain major rehabilitation or addition, alteration, or new construction projects that help preserve a resource, but which may require removal of walls or roof, to be reviewed through historic resource review instead of demolition review. This exemption is intended to allow for major projects that are not tantamount to demolition to be reviewed by a more appropriate review body using more appropriate approval criteria than would be required in a demolition review. This change is consistent with additional exemptions provided for Historic Landmarks (see code and commentary related to 33.445.250).

**BC. Exempt from demolition review and ~~120-day delay~~.** The following are exempt from demolition review and ~~120-day delay~~:

1. ~~Historic~~Demolition of contributing resources in Conservation Districts required to be demolished because:
  - a. The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
  - b. The ~~Code~~ Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
2. ~~Demolition of a structure noncontributing resources that is identified as noncontributing to the historic significance of a Conservation District;~~
3. Demolition of accessory structures including those identified as contributing resources; and
4. Alterations to a contributing resource that meet the definition of demolition in Paragraph A.1. when:
  - a. The alterations are approved through historic resource review;
  - b. The historic resource review decision is final; and
  - c. All appeals have been resolved.

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## Commentary

### **Significant Resources**

Significant changes have been made to this section of the chapter to incorporate recent changes in State Administrative Rule (OAR 660-023-0200) and advance Comprehensive Plan policies related to historic resource inventory and historic preservation equity. The changes incorporate the renaming of "ranked resources in the City's Historic Resource Inventory" as "significant resources" (see commentary related in 33.445.040).

### **33.445.600 Identifying a Significant Resource**

The section heading has been changed to more accurately reflect how resources are determined to be significant.

A significant change has been made to clarify that the Historic Landmarks Commission does not have the authority to determine resources to be significant and that determinations of significance should be made by the City Council. This change is consistent with changes to the Historic Landmark, Conservation Landmark, Historic District, and Conservation District designations to clarify that the Landmarks Commission is not the decision-maker in legislative procedures because of the number of properties affected and the likelihood that owner(s) may object.

An additional significant change is the removal of the owner consent requirement for determining a resource to be a Significant Resource. Removing the owner consent requirement for Significance Resources aligns with Policy 4.52 of the Comprehensive Plan: "Historic Resources Inventory. Within statutory limitations, regularly update and maintain Portland's Historic Resources Inventory to inform historic and cultural resource preservation strategies."

### **33.445.610 Removal of a Significant Resource Identification**

Clarity has been added that a Significant Resource determination can be removed only through demolition or a legislative procedure. Changes have been made in 33.710 and 33.720 to provide for a legislative procedure to list and remove Significant Resource identification.

Clarity has been added that, like other types of historic resources, a Significant Resource determination is removed upon destruction or demolition of the resources.

### **Historic Resource Inventory Listing Significant Resources**

#### **33.445.5600 Listing in the Historic Resource Inventory Identifying a Significant Resource**

A historic resource may be identified as a Significant Resource in the Historic Resource Inventory through a legislative procedure. ~~A historic resource may be listed in the City's Historic Resource Inventory by the Historic Landmarks Commission as the result of an area planning study reviewed through a legislative procedure. Consent of the owner of the resource is required.~~

#### **33.445.5610 Removal of Historic Resource Inventory Listing Significant Resource Identification**

- A. Legislative procedure.** Removal of a resource's identification as a Significant Resource in the Historic Resource Inventory requires a legislative procedure.
- B. Removal after destruction.** If the Significant Resource is destroyed by causes beyond the control of the owner, its identification as significant in the Historic Resource Inventory is removed.
- C. Removal after demolition.** If the Significant Resource is demolished, after approval of demolition through demolition review or after 120-day delay, its identification as significant in the Historic Resource Inventory is automatically removed.
- ~~**A. Automatic removal of listing in the Historic Resource Inventory.** When a resource listed in the City's Historic Resource Inventory is demolished or destroyed by causes beyond the control of the owner, its listing in the Inventory is automatically removed.~~
- ~~**B. Requests for removal of ranked resources.** Removal of ranked resources in the City's Historic Resource Inventory is subject to the 120-day delay specified in Sections 33.445.520.B and 33.445.810.~~
- ~~**C. Requests for removal of unranked resources.** An unranked resource will be removed from the Inventory on the date that the Bureau of Development Services receives the property owner's written request to remove the resource from the Inventory.~~

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## Commentary

### **33.445.610 Removal of a Significant Resource Identification (cont.)**

An additional and significant change is the elimination of the owner removal option for resources subject to this section. Owner-initiated removals have weakened the value of the Historic Resource Inventory and made this section of the code meaningless for providing the public with robust and comprehensive information as well as an opportunity to save significant resources when they are faced with demolition. Eliminating the owner-initiated removal option allows for the Significant Resource determination to be a useful tool for mapping resources and engaging the community when they are scheduled for demolition. Because 120-day delay is currently required in either situation (following a request for removal or an application for demolition), the change does not increase the culminative result of regulations on property owners.

State Administrative Rule (660-023-0200) provides the following: "A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation...A local government shall not issue a permit for demolition or modification of a locally significant historic resource for at least 120 days from: (a) The date of the property owner's refusal to consent to the historic resource designation, or (b) The date of an application to demolish the resource." Because determination of significance is not a "designation," but does make a resource "locally significant," the 120-day demolition delay period must remain for Significant Resources.

Because "unranked resources" were not found to have sufficient historic significance to be eligible for historic resource designation, references to them are being removed. These resources will be included in the broader Historic Resource Inventory, but are not subject to the provisions of this chapter (see commentary related to 33.445.040).

### **33.445.620 Preservation Agreements for Significant Resources**

Changes to this section incorporate name changes and renumbering consistent with other sections.

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

**33.445.515620 Preservation Agreements for ~~Resources Listed in the Historic Resource Inventory~~  
Significant Resources**

~~Resources listed in the Historic Resource Inventory~~ Significant resources are eligible for the preservation agreement detailed in Section 33.445.6700.

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## Commentary

### **33.445.630 Relocation of a Significant Resources**

This new section clarifies that the Significant Resource determination moves from the sending site to the receiving site with a Significant Resource is relocated.

### **33.445.650 Demolition of a Significant Resource**

Changes to this section heading incorporate name changes.

#### **33.445.650.A Demolition review**

Changes to this section incorporate name changes and provide consistency with other resource types requiring demolition review.

#### **33.445.650.B 120-day delay**

Changes to this section incorporate name changes and provide thresholds for 120-day demolition delay. The thresholds provided are intended to capture activities that would result in the loss of physical integrity and historic significance of the historic resource. These thresholds are consistent with those provided for demolition review for National Register Resources, Historic Landmarks, Conservation Landmarks, and contributing resources in Historic and Conservation Districts. Because Significant Resources are not subject to historic resource review, the only protection that applies to them is the 120-day demolition delay unless a preservation agreement exists for the resource.

### **33.445.630 Relocation of a Significant Resource**

When a Significant Resource is relocated, the Historic Resource Inventory is amended to reflect the Significant Resource's new location.

### **33.445.520650 Demolition of Resources Listed in the Historic Resource Inventory a Significant Resource**

#### **A. Demolition review.**

1. When demolition review is required. Unless exempted by Subsection C, ~~below, demolition of a resource listed in the Historic Resource Inventory a Significant Resource~~ is subject to demolition review if there is a covenant with the City that requires the owner to obtain City approval before demolishing or relocating the resource.
2. Issuance of a ~~demolition~~ permit after demolition review. If the review body ~~for demolition review~~ approves demolition of the resource, a permit for demolition will not be issued until the following are met:
  - a. The demolition review decision in the demolition review is final and all appeals have been resolved;
  - b. At least 120 days have passed since the date the Director of the Bureau of Development Services determined that the application was complete; and
  - c. A permit for a new ~~building~~ structures required as a condition of the demolition review on the site has been issued. The demolition and building permits may be issued simultaneously.

#### **B. 120-day delay.** Unless addressed by Subsection A, ~~above~~, or exempted by Subsection C, ~~below, Rank I, II, or III resources listed in the City's Historic Resource Inventory demolition of a Significant Resource~~ are subject to 120-day delay. For the purposes of this Chapter, demolition is defined as:

1. Total demolition;
2. Alterations requiring a demolition permit;
3. Alterations that result in removal of more than 50 percent of a structure that is not a building;
4. Alterations that result in the removal of 100 percent of any street-facing façade of a structure; or
5. Alterations that result in:
  - a. Removal of more than 50 percent of the total exterior wall area of a structure; and
  - b. Removal of more than 50 percent of the total roof area of a structure.

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## Commentary

### **33.445.650.C Exempt from demolition review and 120-day delay**

Changes to this section provide greater clarity and expand situations where demolition review and, primarily, 120-day delay are not required. The changes also incorporate renaming of the resource type.

Significant changes clarify that only the primary resource identified in the documentation that supported the determination of Significant Resource is subject to demolition protection.

An additional exemption allows significant resources to be relocated without triggering a demolition review or delay. This allows emergency preservation projects to more quickly move a resource. It also allows for resources like statues, objects, or clocks to be moved off site for restoration or site improvements.

An additional exemption allows for small significant resources, such as sidewalk stamps, horse rings, brick streets, and railroad tracks to be removed as part of right-of-way improvement projects. This exemption is not intended to allow for the removal of street clocks, monuments, significant light standards, or other types of large resources that provide more visible and meaningful contributions to the built environment.

- C. Exempt from demolition review and 120-day delay.** ~~Rank I, II, or III resources listed in the City's Historic Resource Inventory.~~ The following are exempt from demolition review and 120-day delay:
1. Significant Resources that are required to be demolished because of the following are exempt from demolition review and 120-day delay:
    - ~~1-a.~~ The Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
    - ~~2-b.~~ The Code Hearings Officer requires demolition, as provided for in Section 29.60.080 of Title 29, Property Maintenance Regulations.
  2. Demolition of detached accessory structures including those that are identified as contributing resources;
  3. Demolition of noncontributing resources;
  3. Significant Resources that are relocated; and
  4. Significant Resources that are located in the public right-of-way and are less than 2 feet in height.

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## **Commentary**

### **33.445.700 Historic Preservation Agreements**

Changes to this section include renumbering, language consistency, and changing the review required for relocation to the new historic resource relocation review. In situations where a resource is proposed to be relocated, historic resource relocation review is a more appropriate review than demolition review for properties with a preservation agreement.

## Historic Preservation Agreements and Historic Preservation Incentives

### 33.445.6700 Historic Preservation Agreements

- A. Purpose.** Historic Ppreservation agreements increase the potential for historic resources to be used, protected, renovated, and preserved. They provide a mechanism for owners to commit to good stewardship of their historic resources.
- B. Eligibility for historic preservation agreements.** All historic resources are eligible to use the historic preservation agreement described in this Section.
- C. Covenant.** Owners who wish to enter into a historic preservation agreement must execute a covenant with the City. The covenant may not be revoked or rescinded. The covenant must:
1. State that the owner agrees that the historic resource is subject to demolition review, and the owner will not demolish the historic resource unless the City approves the demolition ~~or relocation~~ through demolition review;
  2. State that the owner agrees that the historic resource may be relocated only if the City approves the relocation through historic resource relocation review; ~~and the following reviews:~~
    - a. ~~Sending site. The sending site is subject to Section 33.846.080, Demolition Review; and~~
    - b. ~~Receiving site. The receiving site is subject to both Section 33.846.060, Historic Resource Review and Section 33.846.030, Historic Designation Review; and~~
  3. Meet the requirements of Section 33.700.060, Covenants with the City.

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## Commentary

### **33.445.710 Historic Preservation Incentives**

Changes reflect renumbering

#### **33.445.710.A Purpose**

The purpose statement has been amended to clarify that incentives allow for adaptive reuse of resources, consistent with Comprehensive Plan Policy 4.57, Economic Viability, which reads: "Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources." An additional sentence has been added to describe the purpose of the transfer of development rights, an incentive intended to provide owners of historic resources with financial value and allow for unused development potential to be transferred and used in new development elsewhere. An additional sentence refers to the public benefits of allowing greater flexibility for adaptive reuse.

#### **33.445.710.B Eligibility for historic preservation incentives**

This section has been changed to provide greater clarity on when different types of historic resources can use different incentives. Historic and Conservation Landmarks are provided the greatest opportunity for incentives. Contributing resources in Historic and Conservation Districts are provided significant opportunities to use incentives. Noncontributing resources in Historic and Conservation Districts are provided one incentive to encourage compatible and dense infill in residential zones.

A significant change has been included that eliminates the requirement for a covenant unless the resource is transferring development rights. This change responds to public and staff concern that the covenant requirement has greatly reduced interest in use of the incentives and has actively discouraged creative adaptive reuse projects. Because the covenant was established before demolition review applied to National Register resources, it is redundant with the regulations that currently exist for many of the historic resources that are eligible to use the incentives. Additionally, with the changes reflected in this chapter pertaining to demolition protections afforded to Historic Landmarks, Conservation Landmarks, contributing resources in Historic Districts, and contributing resources in Conservation Districts, the covenant is redundant with the regulations that apply to the designated historic resources that are eligible for the incentives. The covenant requirement is retained for transfers of development rights because such transfers do limit the future use of the property and must be recorded for future owners. Constraints have been added for use of the incentive allowed on non-contributing sites to ensure the incentive does not inadvertently encourage or justify the demolition of historic resources.

Proposals that utilize incentives are subject to the design and demolition regulations that apply to resource type.

### **33.445.6710 Historic Preservation Incentives**

- A. Purpose.** Historic preservation incentives increase the potential for historic resources to be used, rehabilitated, protected, ~~renovated~~, and preserved. Incentives make preservation more attractive to owners of historic resources because they provide use flexibility and economic opportunities. Some incentives also allow for broader public access to certain historic resources.
- B. Eligibility for historic preservation incentives.** The following are eligible for historic resource incentives:
1. ~~Conservation Landmarks and Historic Landmarks~~ Historic Landmarks and Conservation Landmarks are eligible to use the historic preservation incentives in Subsection C if the requirements of Subsection D are met. Incentives may only be used within the boundary of the Historic Landmark or Conservation Landmark.
  2. Sites with ~~resources identified as contributing to the historic significance of a contributing resource within a~~ Historic District or a Conservation District are eligible to use the incentives in Subsection C except for the incentives in Paragraphs C.9 and C.10 ~~Paragraphs C.3 through C.8 if the requirements of Subsection D are met.~~
  3. Sites without a contributing resource within a Historic District or a Conservation District are eligible to use the incentive in Paragraph C.2.

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## Commentary

### **33.445.710.C Incentives**

Reference to the covenant requirement has been removed to allow incentives to be more appealing for use and to reflect the redundancy of the previous covenant requirement with protections applied to the resource types eligible for incentives.

Incentive C.1 has been amended for clarity, accuracy, and consistency with zones where transfers are allowed. A new sentence has been added to refer to the existing allowance for FAR transfers in the Central City. See the regulations of the zones and plan district for specifics on use of incentive referenced C.1.

Incentive C.2 has been substantially amended to apply to all residential zones and to allow unlimited housing units on sites containing Historic or Conservation Landmarks or that are in a Historic or Conservation District. This change expands the current incentive for density, allowing for increased housing opportunity without increasing demolition pressure on designated historic resources. Adjustments are prohibited to minimize the potential for proposals that are unlikely to be approved through historic resource review.

Incentive C.2 extends the incentive opportunity to noncontributing sites in Historic and Conservation Districts allows for more flexible housing arrangements in new buildings that are subject to historic resource review. Incentive C.2 is not available to sites that had a historic resource is demolished on the site (except for accessory structures and resources required to be demolished or otherwise exempted from demolition regulations).

Incentive C.2 is intended to allow additional units to be considered accessory dwelling units (ADUs) to allow property owners to take advantage of financial incentives provided to ADUs and increase housing flexibility for historic resources.

- C. Incentives.** The following incentives are allowed. Historic resource review may be required for development taking advantage of an incentive if the requirements of Subsection D, Covenant, are met. The incentives are:
1. Transfer of density and floor area ratio (FAR). Transfer of density or FAR from a landmark to another location is allowed in multi-dwelling, commercial/mixed use, and employment zones, and in the Central City plan district. In multi-dwelling zones, the transfer is regulated by Subsection 33.120.205.EG, ~~Transfer of Density~~. In commercial/mixed use and employment zones, the transfer of FAR is regulated by Subsections 33.130.205.C and 33.140.205.D and EC. In the Central City plan district, the transfer of FAR is regulated by Subsections 33.510.205.D.
  2. ~~Additional dwelling units in residential zones.~~ density in Single-Dwelling zones. ~~Landmarks in Single-Dwelling zones may be used as multi-dwelling structures, up to a maximum of one dwelling unit for each 1,000 square feet of site area. No additional off-street parking is required, but the existing number of off-street parking spaces must be retained. The landmark may be expanded and the new net building area used for additional dwelling units only if the expansion is approved through historic resource review.~~
    - a. Except as follows in Subparagraph C.2.b, there is no maximum limit on the number of dwelling units allowed and no limit on the housing types allowed within the boundary of a Historic Landmark, Conservation Landmark, Historic District, or Conservation District. Adjustments to height, setbacks, and building coverage standards are prohibited for resources taking advantage of this incentive.
    - b. Exception. This incentive does not apply to any site where a historic resource was demolished unless the resource demolished was exempt from demolition review or 120-day delay, or the resource demolished was an accessory structure.
  3. ~~Additional density in Multi-Dwelling zones. Structures located in multi-dwelling zones may be used as multi-dwelling structures, with no maximum density. No additional off-street parking is required, but the existing number of off-street parking spaces must be retained. The building may be expanded and the new net building area used for additional dwelling units only if the expansion is approved through historic resource review.~~

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## Commentary

### **33.445.710.C Incentives (cont.)**

Two existing incentives have been struck and incorporated into the new and expanded incentives in Paragraphs C.6 through C.10.

Incentive C.6 allows for certain commercial uses in certain Historic Landmarks, Conservation Landmarks, contributing resources in Historic Districts, and contributing resources in Conservation Districts that are in residential zones.

Incentive C.7 revises an expands an existing incentive available in multi-dwelling zones.

Incentive C.8 revises an existing incentive available in RX zone. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that would need to be met to access this incentive.

Incentive C.9 is a new incentive that allows major adaptive reuse of Historic Landmarks and Conservation Landmarks in most zones. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that would need to be met to access this incentive.

Incentive C.10 is a new incentive that allows additional uses of Historic Landmarks and Conservation Landmarks in industrial zones. See code and commentary in 33.846.050 related to the historic preservation incentive review approval criteria that would need to be met to access this incentive.

43. Daycare in residential and IR zones. Daycare is an allowed use in residential and IR zones.
54. Conditional uses in R, C, E, CI and IR zones. In R, C, E, CI and IR zones, applications for conditional uses are processed through a Type II procedure.
65. Exemption from minimum density. Minimum housing density regulations do not apply.
76. Retail Sales And Service and Office in residential zones. In residential zones, if there was a legally established nonresidential use in the historic resource in the past, or the site is located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service, then Retail Sales And Service and Office are allowed uses when the following are met:
  - a. There is no reduction in the total number of dwelling units on the site; and
  - b. Retail Sales And Service uses are open to people of all ages during all operating hours; and
  - c. The regulations of Chapter 33.262 Off-Site Impacts are met.
7. Manufacturing and Production and Industrial Service in the RH, R1, and R2 zones. In the RH, R1, and R2 zones, if there was a legally established nonresidential use in the historic resource in the past or the site is located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service then Manufacturing and Production and Industrial Service are allowed uses when:
  - a. There is no reduction in the total number of dwelling units on the site; and
  - b. The regulations of Chapter 33.262 Off-Site Impacts are met.
8. Nonresidential uses in the RX zone. In the RX zone, except on sites that front on the Park Block frontages shown on Map 510-14, Retail Sales And Service, Office, Major Event Entertainment, and Manufacturing And Production uses may be approved through historic preservation incentive review.
9. Major adaptive reuse. On sites located outside of industrial zones, all uses except Detention Facility, Waste-Related, Basic Utility, Bulk Fossil Fuel Terminal, or Self-Service Storage may be approved through historic preservation incentive review. Historic Landmarks and Conservation Landmarks that have not been designated by the City through a legislative or quasi-judicial procedure are not eligible for this incentive.
10. Major Event Entertainment and Retail Sales And Service in industrial zones. In the industrial zones, Major Event Entertainment and Retail Sales And Service uses, except lodges, hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days, may be approved through historic preservation incentive review. Historic Landmarks and Conservation Landmarks that have not been designated by the City through a legislative or quasi-judicial procedure are not eligible for this incentive.

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## Commentary

### **33.445.710.B Incentives (cont.)**

Incentives in this section have been struck and incorporated into new incentives on previous pages.

### **33.445.710.D Covenant**

To make historic preservation incentives more accessible, the covenant requirement is only required for FAR and density transfers, which are regulated by base zones and plan districts. Additionally, resources eligible for this incentive are subject to demolition and relocation review, therefore the language in this section is redundant and has been struck.

~~Nonresidential uses in the RX zone. In the RX zone, except on sites that front on the Park Blocks frontages shown on Map 510-14, up to 100 percent of the net building area of a structure may be approved for Retail Sales And Service, Office, Major Event Entertainment, or Manufacturing And Production through Historic Preservation Incentive Review.~~

- ~~8. Nonresidential uses in the RH, R1<sub>2</sub>, and R2 zones. In the RH, R1<sub>2</sub>, and R2 zones, up to 100 percent of the net building area of a structure may be approved for Retail Sales And Service, Office, or Manufacturing And Production as follows:
  - ~~a. Review required. The nonresidential uses must be approved through Historic Preservation Incentive Review; and~~
  - ~~b. Previous nonresidential use required. The last use in the structure must have been in a nonresidential use category and have been allowed when established; if part of the structure was in residential use, the proposal must include at least as many dwelling units as were part of the last allowed use or uses. If the last allowed use was residential only, the structure is not eligible for this incentive.~~~~
- ~~9. Office uses in the R5 zone. In the R5 zone, up to 100 percent of the net building area of a structure may be approved for Office use as follows:
  - ~~a. Review required. The Office use must be approved through Historic Preservation Incentive Review; and~~
  - ~~b. Previous Office use required. The last use in the structure must have been an Office use and must have been allowed when established; if part of the structure was in residential use, the proposal must include at least as many dwelling units as were part the last allowed use or uses. If the last allowed use was residential only, the structure is not eligible for this incentive.~~~~

~~**D. Covenant.** The owner must execute a covenant with the City. The covenant may not be revoked or rescinded. The covenant must:~~

- ~~1. State that the owner agrees that the historic resource is subject to demolition review, and the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review; and~~
- ~~2. Meet the requirements of Section 33.700.060, Covenants with the City.~~

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## Commentary

### **33.445.800 Purpose**

This section has been amended to clarify the intent of allowing an alternative to historic resource review for certain proposals affecting Conservation Landmarks and Conservation Districts. These changes recognize that Conservation Landmarks and Conservation Districts generally have fewer significant historic features and are more localized in their historic significance than Historic Landmarks and Historic Districts. Generally, Conservation Landmarks and Conservation Districts are more accommodating to alterations and additions than Historic Landmarks and Historic Districts, but may be irreparably damaged by major street-facing alterations and incompatible infill projects.

### **33.445.810 When Community Design Standards May Be Used**

This section has been significantly changed to reflect new thresholds for when the Community Design Standards may be used as an alternative to historic resource review.

Much of the Central City Plan District is subject to discretionary design review, therefore allowing a standards path would conflict with what is required by the plan district. This exception exists currently.

Changes to the thresholds for alterations to contributing resources and Conservation Landmarks have been made to capture alterations to street-facing facades that may irreparably harm the resource. These thresholds allow for owners to make modest changes to the exterior of the building by complying with the Community Design Standards, and lessen the likelihood that the changes will result in the historic integrity of the resource being lost.

One possible change staff are seeking comments on relates to new construction within Conservation Districts and within the boundary of Conservation Landmarks. Current rules allow new construction to follow the clear and objective Community Design Standards. Staff would like feedback on requiring discretionary historic resource review for new structures, possibly those larger than 2500 square feet. Requiring a discretionary review for new structures would result in development that is more compatible with the associated Landmark or District, but would also increase the complexity of new development. In the code language, individual Conservation Districts are specifically listed so that future Conservation Districts could have different thresholds if appropriate (such as a district of signs where new development will not harm the historic integrity of the collection of signs and is therefore not subject to review).

A new threshold clarifies that Historic Landmarks and Historic Districts are subject to historic resource review.

A final exception has been added to ensure that the Community Design Standards are never used as an alternative to demolition review.

## Community Design Standards

### **33.445.7800 Purpose**

The Community Design Standards provide an clear and objective alternative process to historic resource review for some proposals affecting Conservation Landmarks and Conservation Districts. ~~For some proposals,~~ In this case, the applicant may choose to go through the historic resource review process set out in Chapter 33.846, Historic Resource Reviews, or ~~to~~ meet the objective standards of Chapter 33.218, Community Design Standards. The standards for signs are stated in Title 32, Signs and Related Regulations. Proposals that do not meet the Community Design Standards—or where the applicant prefers more flexibility—must go through historic resource review. Allowing some proposals to be approved through the Community Design Standards provides Conservation Landmarks and Conservation Districts more options for physical changes than is generally acceptable for Historic Landmarks and Historic Districts.

### **33.445.7810 When Community Design Standards May Be Used.**

Except as follows, the Community Design Standards may be used as an alternative to historic resource review for proposals within the boundary of a Conservation Landmark or Conservation District:

- A. Proposals affecting Conservation Landmarks or a Conservation District in the Central City plan district;
- B. **\*\*OPTION FOR PUBLIC REIVEW\*\*** New structures with more than 2500 square feet of floor area within the boundary of a Conservation Landmark or in the Eliot, Kenton, Mississippi, Piedmont, or Woodlawn Conservation District;
- C. Alterations affecting more than 50 percent of the area of any street-facing façade of a Conservation Landmark or contributing resource within a Conservation District;
- D. Alterations that increase the height of a Conservation Landmark or contributing resource within a Conservation District by 15 feet or more; and
- E. Proposals subject to demolition review.

~~Unless excluded by Section 33.445.7820, When Community Design Standards May Not Be Used, proposals that meet all of the requirements of this section may use the Community Design Standards as an alternative to historic resource review.~~

- ~~A. **Location.** The proposal is:
  - ~~1. A Conservation Landmark located outside of the Central City plan district; or~~
  - ~~2. In a Conservation District; or~~
  - ~~3. In the Albina Community plan district shown on Map 505-1.~~~~
- ~~B. **Maximum limits.** The proposal is within the maximum limits of Table 445-1.~~

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## **Commentary**

### **33.445.810 When Community Design Standards May Be Used (cont.)**

Table 445-1 has been deleted. Limitations based upon zone and use have been deleted, other than the exception for the Central City Plan District.

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

<b>Table 445-1</b>	
<b>Maximum Limits for Use of the Community Design Standards</b>	
<b>Zones</b>	<b>Maximum Limit—New Dwelling Units or Floor Area</b>
Single Dwelling Zones	5 dwelling units
R2 & R3 Zones	10 dwelling units
R1, RH, RX, C, E, & CI Zones	20,000 sq. ft. of floor area
I-Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan.
<b>Zones</b>	<b>Maximum Limit—Exterior Alterations</b>
All except IR	<ul style="list-style-type: none"> <li>• For street facing facades less than 3,000 square feet, alterations affecting less than 1,500 square feet of the facade.</li> <li>• For street facing facades 3,000 square feet and larger, alterations affecting less than 50% of the facade area.</li> </ul>
IR Zone	See institution's Impact Mitigation Plan.

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## Commentary

### **33.445.820 When Community Design Standards May Not Be Used**

This section has been deleted. Limitations based upon zone and use have been deleted, other than the exception for the Central City Plan District.

### **Demolition and Relocation**

This section has been renamed to more accurately capture the types of activities, demolition and relocation, addressed by the section.

### **33.445.900 Types of Procedures**

Changes to this section include renumbering and incorporating a new historic resource relocation review (see additional commentary related to 33.846.090). Reference to the Historic Resource Inventory has been struck since the resource type is being renamed and requests for removal are being eliminated.

**~~33.445.720 When Community Design Standards May Not Be Used.~~**

The Community Design Standards may not be used as an alternative to historic resource review as follows:

- ~~A. For institutional uses in residential and IR zones, except when specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan;~~
- ~~B. For alterations to sites where there is a nonconforming use;~~
- ~~C. For mixed-use or non-residential development in the RF through R1 zones;~~
- ~~D. If the site is in a Historic District or the proposal is for alteration to a Historic Landmark;~~
- ~~E. If the proposal uses Section 33.405.050, Bonus Density for Design Review; and~~
- ~~F. For installation of solar panels on a conservation landmark.~~

**120-Day Delay Demolition and Relocation**

**33.445.8900 Types of Procedures.**

There are ~~two~~three types of procedure that may be required before a historic resource is demolished or relocated, or a ranked historic resource is removed from the City Historic Resource Inventory. Other sections of this chapter describe when each review is required. The ~~two~~three types are:

- A. 120-Day Delay.** See Section 33.445.8910;
- B. Demolition Review.** See Section 33.846.080.
- C. Historic Resource Relocation Review.** See Section 33.846.090.

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## Commentary

### **33.445.905 Supplemental Application Requirements**

This section has been changed to incorporate supplemental application requirements for new demolition review approval criteria and a new historic resource relocation review (see commentary related to 33.846.080 and 33.846.090). Supplemental application requirements for the current Type IV demolition review are being minimally changed to incorporate requirements from State Administrative Rule (OAR 660- 023-0200) for demolition of National Register Resources. The Rule provides that a local government “considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan.” These required considerations have been incorporated into a new B.1 and a revised B.3 supplemental application requirement.

To accommodate the new historic resource relocation review, which must also include considerations provided by State Administrative Rule (OAR 660- 023-0200) for relocation of National Register Resources, and new Type II demolition reviews, the section has been changed to align supplemental application requirements with the approval criteria that apply to the different demolition and relocation reviews that apply to different historic resources.

### **33.445.8905 Supplemental Application Requirements.**

- A. Applicability.** In addition to the application requirements of Section 33.730.060, a demolition review or historic resource relocation review application requesting approval based on the criteria listed in Paragraphs A.1. through A.5 requires two copies of a written statement that includes information listed in Subsection B. Applicants may also submit any additional information relevant to the specific review and approval criteria:
1. An application requesting approval based on criterion 33.846.080.C.1.a, criterion 33.846.080.C.2.a, criterion 33.846.080.C.3.a, or criterion 33.846.090.C.1 requires the information listed in Paragraphs B.1 through B.14;
  2. An application requesting approval based on criterion 33.846.080.C.1.b or 33.846.090.C.2 requires the information listed in Paragraphs B.1 through B.5 and B.13;
  3. An application requesting approval based on criterion 33.846.080.C.2.b or 33.846.080.C.3.b requires the information listed in Paragraphs B.1 through B.4;
  4. An application requesting approval based on criterion 33.846.080.C.2.c, 33.846.080.C.3.c, or 33.846.080.C.3.d requires the information listed in Paragraphs B.1, B.13, and B.14; and
  5. An application requesting approval based on criterion 33.846.090.C.3 requires the information listed in Paragraphs B.1 through B.4, B.11, and B.13.

~~In addition to the application requirements of Section 33.730.060, a demolition review application requesting approval based on criterion 33.846.080.C.1, or on both 33.846.080.C.1 and 33.846.080.C.2, requires two copies of a written statement that includes the information listed in Subsection B. An application requesting approval based solely on criterion 33.846.080.C.2 requires two copies of a written statement that includes the information listed in Paragraphs B.1 through B.4. Applicants may also submit any additional information relevant to the specific review and approval criteria.~~

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## Commentary

### **33.445.905.B Application requirements**

This section has been amended to incorporate application requirements for demolition review and historic resource relocation review that meet the considerations required by State Administrative Rule and the information necessary for evaluating Type II demolition review approval criteria.

A new requirement, 1, and changes to requirement 3, have been added to provide adequate information regarding considerations required by State Administrative Rule for all resources listed in the National Register of Historic Places, including those identified as Historic Landmarks and Historic Districts.

A new requirement, 13, provides applicants an opportunity to propose specific mitigation measures for demolition review or historic resource relocation review.

A new requirement, 14, ensures that applications pursuing approval through mitigation will provide information needed to determine the proportional amount of mitigation being proposed.

**B. Application requirements.**

1. Statement from a professional that meets the National Park Service professional qualification standards for historic preservation describing the resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
- ~~1-2.~~ Statements from a licensed engineer and a licensed architect with experience in renovation, restoration, ~~or rehabilitation,~~ or relocation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration, ~~or rehabilitation,~~ or relocation;
- ~~2-3.~~ Statements from developers, real estate consultants, appraisers, or other real estate professionals experienced in rehabilitation as to the economic feasibility of restoration, renovation, ~~or rehabilitation,~~ or relocation of existing structures or objects, and the economic consequences of demolition or relocation;
- ~~3-4.~~ All studies commissioned by the owner as to profitable renovation, rehabilitation, relocation, or utilization of any structures or objects for alternative use, or a statement that none were obtained;
- ~~4-5.~~ A summary of the historic preservation incentives and programs available and the extent to which they were explored by the applicant;
- ~~5-6.~~ The amount paid for the property by the owner, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
- ~~6-7.~~ The current balance of any mortgages or any other financing secured by the property and the annual debt service, if any, for the previous two years;
- ~~7-8.~~ All appraisals obtained within the previous two years by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or a statement that none were obtained;
- ~~8-9.~~ All listings of the property for sale or rent, price asked and offers received, if any, within the previous four years, or a statement that none were obtained;
- ~~9-10.~~ Itemized income and expense statements for the property for the previous two years;
- ~~10-11.~~ Estimate of the cost of the proposed demolition or relocation; ~~and~~
- ~~11-12.~~ Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other-;
13. Statement describing the specific mitigation measures, including cost estimates, if mitigation is being proposed; and
14. Statement of the real market value of the Historic Landmark, Conservation Landmark, or contributing resource in a Historic District or Conservation District at the time of application, as demonstrated by at least one appraisal.

- C. Exceptions.** The Director of BDS may waive items listed if they are not applicable to the specific review and the applicant may choose not to submit any or all missing information requested by the Director of BDS, as specified in Section 33.730.060.

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## Commentary

### **33.445.910 120-Day Delay**

This section heading has been amended to reflect renumbering

### **33.445.910.A Purpose**

This section has been amended to incorporate the elimination of the owner removal option.

### **33.445.910.B Suspension of permit issuance**

This section has been amended to strike references to "ranked" resources, which as being renamed "Significant Resources."

### **33.445.910.C Procedure for 120-Day Delay**

This section has been amended to eliminate the owner removal option for Significant Resources.

### **33.445.8910 120-Day Delay**

- A. Purpose.** 120-day delay allows time for consideration of alternatives to demolition, such as restoration, relocation, or architectural salvage. ~~It also provides notice when a request has been made to remove a ranked resource from the Historic Resource Inventory.~~
- B. Suspension of permit issuance.** During the 120-day delay period, no permit for the demolition or alteration of a ~~ranked~~ Significant Resource may be issued. This suspension of permit issuance does not apply to relocation of a ~~ranked~~ Significant Resource during the 120-day delay period.
- C. Procedure for 120-Day Delay.** 120-day delay is a nondiscretionary administrative process with public notice but no hearing. Decisions are made by the Director of BDS and are final.
1. **Application.** The applicant must submit an application for a demolition or other permit that qualifies as demolition as defined by this Chapter. See Section 33.445.650 ~~or a written request to BDS to remove the ranked resource from the Historic Resource Inventory.~~ Current or historic photographs of the features of the resource that were identified when the resource was ~~nominated, designated, placed within a Historic District or Conservation District, or placed on the Historic Resource Inventory~~ or identified as significant must be included with the application for a demolition or other permit that qualifies as demolition as defined by this Chapter. ~~permit or request for removal from the Historic Resource Inventory.~~

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## **Commentary**

### **33.445.910.C Procedure for 120-Day Delay (cont.)**

This section has been amended to eliminate the owner removal option for Significant Resources and to incorporate the name change from "ranked on the Historic Resources Inventory" to "Significant Resource." The change also reflects that activities beyond application for a demolition permit triggers demolition delay (see commentary related to 33.445.650.B). The change also clarifies that demolition may or may not occur at the end of the 120-day delay period.

2. Notice of application.

- a. Posting notice on the site. Within 14 days of applying for a demolition or other permit that qualifies as demolition as defined by this Chapter ~~permit or submitting a written request for removal of a ranked resource from the Historic Resource Inventory~~, the applicant must post a notice on the site of the historic resource proposed for demolition ~~or removal from the Historic Resource Inventory~~. The posting must meet the following requirements:
- (1) Number and location of posted notices. Notice must be placed on each frontage of the site occupied by the historic resource. Notices must be posted within 10 feet of the street lot line and must be visible to pedestrians and motorists. Notices may not be posted in a public right-of-way. Notices are not required along street frontages that are not improved and allow no motor vehicle access;
  - (2) Content of the posted notice. The notice must include the following information:
    - The date of the posted notice;\_
    - The address of the resource proposed for demolition ~~or removal from the City Historic Resource Inventory~~;
    - A statement specifying what action triggered the 120-day delay procedure and this notice.
    - A statement that during the 120-day delay period, no building permit for the demolition or alteration of a ~~ranked~~ historic resource requested to be demolished ~~or removed from the Historic Resource Inventory~~ may be issued, other than a permit for relocation of the ~~ranked~~ resource.
    - A statement that the purpose of the 120-day delay is to allow time for notice, ~~and if proposed for demolition, time to~~ and consideration of alternatives to demolition, including restoration, relocation, or salvage of materials.
    - A statement that building permits may be issued after ~~insert 120 days after a request for Historic Resource Inventory removal is accepted by the Bureau of Development Services~~, or, if proposed for demolition, the date on which the 120-day delay has ended ~~demolition permit will be issued~~.
    - The name, address, and telephone number of the owner or the party acting as an agent for the owner;\_
  - (3) Removal of the posted notice. The posted notice must not be removed until the date on which the permit for demolition ~~permit is issued or the resource is removed from the Historic Resource Inventory~~. The posted notice must be removed within 30 days of that date.

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## Commentary

### **33.445.910.C Procedure for 120-Day Delay (cont.)**

This section has been amended to eliminate the owner removal option for Significant Resources and to incorporate the name change from "ranked on the Historic Resources Inventory" to "Significant Resource."

A change to this section eliminates notification requirements for Historic Advisory Committees. This change responds to the increase in demolition protection in Conservation Districts from 120-day delay to demolition delay. Because Significant Resources are located throughout the city, this change provides for citywide consistency in noticing requirements for 120-day delay applications.

A final change reflects that both demolition and alteration permits are suspended during 120-day delay, and both types of permits may be issued at the conclusion of the delay if the applicant provides BDS with information related to offers to salvage or relocate the resource.

- b. Mailed notice. Within 14 days of receiving the application for a demolition or other permit that qualifies as demolition as defined by this Chapter ~~permit or request for removal of a ranked property from the Historic Resource Inventory~~, the Director of BDS will mail a notice of the proposed demolition ~~or Historic Resource Inventory removal~~ to all properties within 150 feet of the site of the resource, all recognized organizations within 1,000 feet of the site of the resource, and to the State Historic Preservation Office. ~~If the proposal is to demolish a resource or remove a ranked resource from the Historic Resource Inventory in a Conservation District or Historic District and the district has a Historic Advisory Committee that has been recognized by the neighborhood association, notice will also be sent to the Historic Advisory Committee.~~ The notice will include the same information as in Subsubparagraph C.2.a.(2), above.
3. Decision. ~~a. Demolition permit.~~ The Director of BDS will issue the permits 120 days after receiving the application if the applicant submits a letter stating that the applicant responded to all offers to relocate the resource, or to salvage elements of the resource during demolition. The letter must also identify those who submitted offers, and the applicant's response to those offers.
  - ~~b. Historic Resource Inventory removal. The Director of BDS will remove the ranked resource from the Historic Resource Inventory 120 days after a request for Historic Resource Inventory removal is accepted by the Bureau of Development Services.~~

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## Commentary

### **33.510.119.B Historic Resources**

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Resources listed after January 27, 2017 have fewer protections than those designated before that date. All National Register Resources listed before January 27, 2017 are Historic Landmarks or Historic Districts. The change clarifies that only those historic resources that have demolition, relocation, and design protections are eligible for the special uses.

## 33.510 Central City Plan District

510

### 33.510.119 Retail Sales And Service and Office Uses in the IG1 Zone

**A. [No change]**

**B. Historic Resources**

1. The regulations of this subsection apply in the IG1 Zone to ~~historic resources that are listed on the National Register of Historic Places~~ Historic Landmarks, Conservation Landmarks, or are identified as contributing to the historic significance of a and contributing resources within Historic Districts ~~or~~ and Conservation Districts.
2. Allowed uses.
  - a. Retail Sales And Service and Traditional Office. Up to 12,000 square feet on a site may be in Retail Sales And Service or Traditional Office use. The total amount of square footage includes net building area, exterior display, and exterior storage area of all Retail Sales And Service and Traditional Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
  - b. Industrial Office. Up to 100 percent of the gross building area on a site may be in an Industrial Office use including gross building area added inside of the building as it existed on July 9, 2018. In addition, up to 5,000 square feet of floor area added to the roof of the building as it existed on July 9, 2018 can be in Industrial Office use. Industrial Office use in more than 5,000 square feet of floor area added to the roof of the building is prohibited.
3. Conditional uses. More than 12,000 square feet on a site may be in Traditional Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Traditional Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

**C. [No change]**

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## Commentary

### **33.510.120.A Historic Resources**

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Resources listed after January 27, 2017 have fewer protections than those designated before that date. All National Register Resources listed before January 27, 2017, are Historic Landmarks or Historic Districts. The change clarifies that only those historic resources that have demolition, relocation, and design protections are eligible for the special uses.

### **33.510.120 Retail Sales And Service and Office Uses in Specified Historic Resources in the IH Zones**

- A. Where these regulations apply.** The regulations of this subsection apply in the IH Zone to ~~historic resources that are listed on the National Register of Historic Places~~ Historic Landmarks, Conservation Landmarks, or are identified as contributing to the historic significance of a ~~and contributing resources within Historic Districts or~~ and Conservation Districts.
- B. Allowed uses.** Up to 12,000 square feet on a site may be in Retail Sales And Service or Office use. The total amount of square footage includes net building area, exterior display, and storage area of all Retail Sales And Service and Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
- C. Conditional uses.** More than 12,000 square feet on a site may be in Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

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## Commentary

### **33.510.205.D Floor area transfer options**

A change to this section provides clarity and consistency with other sections related to resource names.

### 33.510.205 Floor Area Bonus and Transfer Options

#### A.-C. [No change]

**D. Floor area transfer options.** Transferring floor area from one site to another is allowed as follows. The transferred floor area is in addition to the maximum floor area ratio shown on Map 510-2. There is no limit to the amount of floor area that can be transferred to a site. Transferring floor area is only allowed in situations where stated. Adjustments to the floor area transfer requirements are prohibited. When FAR is transferred from one site to another, the sending site must retain an amount equal to the minimum FAR required by 33.510.200.C., or an amount equal to the total surface parking area on the site multiplied by the maximum floor area ratio allowed shown on Map 510-2, whichever is more.

1. Transfer of floor area from a Historic Resource. The following regulations apply to transferring floor area from a Historic Resource:
  - a. Purpose. This transfer option improves public safety by encouraging seismic upgrades of historic resources, and encourages the preservation of historic resources by reducing redevelopment pressure.
  - b. Sites eligible to send floor area. In order to send floor area the site must meet the following requirements. Sites that are eligible to send floor area are allowed to transfer unused FAR up to the maximum FAR allowed on the site plus an additional 3 to 1:
    - (1) Be in a RH, RX, CX, EX, or OS zones, and
    - (2) Contain a Historic Landmark, ~~or~~ Conservation Landmark, or a contributing resource in a Historic District or Conservation ~~District~~ for which the Bureau of Development Services verifies the following:
      - If the building is classified as Risk category I or II, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the American Society of Civil Engineers (ASCE) 41- BPOE improvement standard as defined in City of Portland Title 24.85;
      - If the building is classified as Risk category III or IV, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the ASCE41- BPON improvement standard as defined in City of Portland Title 24.85; or
      - The owner of the landmark or contributing resource has entered into a phased seismic agreement with the City of Portland as described in Section 24.85.
  - c. Sites eligible to receive floor area:
    - (1) Must be zoned RH, RX, CX or EX; and
    - (2) Must be within the Central City plan district outside of the South Waterfront subdistrict.

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## **Commentary**

### **33.510.205.D Floor area transfer options (cont.)**

Changes to this section reflect deletion of historic resource covenant requirements.

- d. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City. The covenant must meet the requirements of 33.700.060, and must be attached to and recorded with the deed. The covenants may not be revoked or rescinded. ~~The covenants must include the following:~~
    - ~~(1) The covenant for each site must reflect the existing floor area on each site and the respective increase and decrease of potential floor area; and,~~
    - ~~(2) The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.~~
  - e. Exceptions.
    - (1) Sites with eligible historic resources in a RH, RX, CX or EX zone may elect to transfer floor area to a receiving site outside of the Central City plan district if they meet the standards of 33.120.205.G, 33.130.205.C or 33.140.205.D.
    - (2) Sites with eligible historic resources in the R1, R2 and R3 zones may transfer density if they meet the standards of 33.120.205.G.
2. Transfer of floor area within a floor area transfer sector. In the RX, CX, EX, and OS zones, floor area, including bonus floor area and bonus floor area earned through a bonus that no longer exists in the zoning code, may be transferred between sites. The sites are not required to be abutting, however both the sending site and the receiving site must be located within the same floor area transfer sector shown on Map 510-23. In addition, floor area transfers are subject to the following requirements:
- a. The sending site must not be a Historic or Conservation landmark or a contributing resource in a historic or a conservation district;
  - b. If bonus floor area is included in the transfer, the public benefit to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit on the receiving site taking advantage of the bonus floor area; and
  - c. The property owner(s) must execute a covenant for both sites. The covenants must comply with the regulations of 33.700.060, must be recorded with the deeds for each site, and must reflect the existing floor area on each site and the respective increase and decrease of potential floor area.

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## Commentary

### **33.710.060.B Membership**

Changes to this section amend the required membership of the Historic Landmarks Commission. Broadening the categories of the commission membership was requested by the Bureau of Development Services to allow for more flexibility in the recruitment process given the similarities between the previous membership categories. The changes do not increase the size of the Commission or change the number of at-large Commission members, but provide a larger applicant pool to select from when vacancies on the Commission occur.

The City of Portland has been a *Certified Local Government (CLG)* since 1996, a designation which 50 other cities in Oregon share for their commitment to managing historic resources. CLGs must have a historic landmarks commission. Oregon's CLG performance standards provide the following regarding commissions: "The CLG must seek the expertise necessary to make informed decisions about historic and prehistoric cultural resources. This is normally provided by a landmarks commission composed of professional and lay members; however, qualified staff members and/or consultants may be relied upon as needed. At a minimum, the CLG must make a reasonable effort to seat commissioners with a demonstrated positive interest in historic preservation, the majority of whom should meet the federal historic preservation professional standards."

## 33.710 Review Bodies

710

### 33.710.060 Historic Landmarks Commission

- A. Purpose.** The Historic Landmarks Commission provides leadership and expertise on maintaining and enhancing Portland's historic and architectural heritage. The Commission identifies and protects buildings and other properties that have historic or cultural significance or special architectural merit. The Commission provides advice on historic preservation matters, and coordinates historic preservation programs in the City. The Commission is also actively involved in the development of design guidelines for historic districts.
- B. Membership.** The Historic Landmarks Commission consists of seven members, none of whom may hold public elective office. ~~The Commission must include a historian with knowledge of local history; an architectural historian; an architect; two members from the following: landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, or related disciplines; and two members at-large.~~ The Commission must include five members, each with professional experience and knowledge in one or more of the following categories: historic preservation, local history, architectural history, architecture, landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, cultural resources management, or related disciplines; and two members at-large. All members must have demonstrated interest, competence, or knowledge of historic preservation. No more than two members of the Commission may be in the business of buying, selling, leasing, or developing real estate for profit, or be officers of such a business. The members are appointed by the Mayor and confirmed by the City Council.
- C. Meetings, officers, and subcommittees.**
1. The Historic Landmarks Commission meets at least once a month and as necessary to act on reviews assigned to them by this Title. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.
  2. The Historic Landmarks Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

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## Commentary

### **33.710.060.D Powers and duties**

Changes to this section change the responsibilities of the Historic Landmarks Commission to align with changes in chapters 33.445 and 33.846 related to legislative and quasi-judicial procedures.

Changes to #1 provide clarity that designations may be more than just buildings or sites (such as structures or portions of sites).

New #2 allows the Commission to create small Historic and Conservation Districts (no larger than 16 lots as per Chapter 445).

New #3 allows the Commission to change the contributing status of resources in districts through quasi-judicial procedures.

Changes to #4 allow the Commission to recommend establishment of Historic Landmark designation, Conservation Landmark designation, and Significant Resource determination directly to the City Council in legislative actions.

Changes to #5 clarify that Historic and Conservation Districts can be created, amended, and removed by the City Council in legislative actions, with a recommendation from the Historic Landmarks Commission to the Planning and Sustainability Commission, and from the Planning and Sustainability Commission to the City Council.

Changes to #6 reorganizes the sentence and adds clarity that design guidelines require adoption through a legislative procedure.

Changes to #7 provide clarity and consistency regarding the types of proposals subject to quasi-judicial historic resource review.

Changes to #8 facilitate the application of quasi-judicial demolition review and historic resource relocation review to Historic locally-designated Historic Landmarks, Conservation Landmarks, and contributing resources in Conservation Districts.

Changes to #10 provide grammatical edits and clarity that the Historic Landmarks Commission is advisory to other functions of the City of Portland.

### **33.710.060.E Annual report**

This change amends when the Historic Landmarks Commission publishes their annual report. The change was requested by the Bureau of Development Services to align with the calendar year so that land use reviews and Commission accomplishments can be tracked on a calendar year—not fiscal year—for easier reporting. The change also allows the Historic Landmarks Commission to make requests of City Council during the annual budgeting process.

- D. Powers and duties.** The Historic Landmarks Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:
1. Establishing or removing Historic Landmark and Conservation Landmark designations ~~for specific buildings or sites~~ in quasi-judicial reviews;
  2. Establishing and removing Historic District and Conservation District designations in quasi-judicial reviews;
  3. Amending the contributing resource status and boundary of City-designated historic resources in quasi-judicial reviews;
  24. Recommending the establishment, amendment, or removal of Historic Landmark and Conservation Landmark designations and Significant Resource identification to the City Council in legislative actions;
  35. Recommending the establishment, amendment, or removal of Historic Districts and Conservation Districts to the Planning and Sustainability Commission and the City Council in legislative actions;
  46. ~~Recommending and developing~~ Developing and recommending the adoption of design guidelines for Historic Districts and Conservation Districts to the City Council in legislative actions;
  57. Reviewing alteration and new development proposals for Historic Landmarks and Conservation Landmarks and in Historic Districts and Conservation Districts in quasi-judicial reviews;
  68. Reviewing demolition and relocation requests for certain Historic Landmarks, Conservation Landmarks, and buildings resources in Historic Districts and Conservation Districts in quasi-judicial reviews;
  79. Providing advice on historic preservation matters to the Hearings Officer, Design Commission, Planning and Sustainability Commission, Portland Development Commission, other City commissions and committees, and City Council; and
  810. Initiating and coordinating historic preservation and public outreach programs in the City, including reviewing recommendations for a National Register status Resource listings and making recommendations to other local governmental agencies regarding historic preservation programs and issues.
- E. Annual report.** The Commission must make an annual report of its actions and accomplishments for each ~~fiscal~~ calendar year. The report must be filed with the Director of BDS by the first working day of ~~September~~ April. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

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## Commentary

### **33.720.030 Legislative Land Use Reviews**

An addition to this section allows the Historic Landmarks Commission to recommend the determination of Significant Resources directly to the City Council in legislative actions.

## 33.720 Assignment of Review Bodies

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### 33.720.030 Legislative Land Use Reviews

- A. Legislative land use reviews, unless stated otherwise in Subsections B ~~or C~~ through D, below, are assigned to the Planning and Sustainability Commission, who will make a recommendation to City Council.
- B. Design Guidelines in Historic Districts and Conservation Districts are ~~adopted~~ recommended by the Historic Landmarks Commission before being submitted to the City Council for adoption.
- C. Design guidelines in design districts are ~~adopted~~ recommended by the Design Commission before being submitted to the City Council for adoption.
- D. Historic Landmark and Conservation Landmark designations and Significant Resource identification are recommended by the Historic Landmarks Commission before being submitted to the City Council for adoption.
- ~~DE.~~ Final action on all legislative land use reviews is by the City Council.

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## Commentary

### **33.730.030.A Pre-application conference**

This change corresponds with changes in 33.846.030 and 33.846.040. The change eliminates the requirement for a pre-application conference for Type III historic designation review and Type III historic designation removal review. This is intended to eliminate a burdensome requirement for applicants and reduce the staff time necessary to review historic resource designation or historic resource removal proposals.

## 33.730 Quasi-Judicial Procedures

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### 33.730.030 Type III Procedure

A Type III procedure requires a public hearing before an assigned review body. Subsections A through D apply to all sites. If the site is within the City of Portland, Subsections E through H also apply. If the site is in the portion of unincorporated Multnomah County that is subject to City zoning, Subsection I also applies.

- A. Pre-application conference.** A pre-application conference is required for all requests processed through a Type III procedure, except applications for historic designation review and historic designation removal review. See 33.730.050, Pre-Application Conference.
- B.-I [No change]**

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## Commentary

### **33.815.125 Specified Uses in Industrial Zones**

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Resources listed after January 27, 2017 have fewer protections than those designated before that date. All National Register Resources listed before January 27, 2017, are Historic Landmarks or Historic Districts. The change clarifies that only those historic resources that have demolition, relocation, and alteration protections are eligible for special uses.

## 33.815 Conditional Uses

815

### 33.815.125 Specified Uses in Industrial Zones

These approval criteria apply for uses in the following categories in the industrial zones: Retail Sales And Service, Office, Commercial Outdoor Recreation, Commercial Parking Facilities, Community Service, and Daycare uses. Office uses in the IG1 zone in the Lower Albina Subdistrict of the Central City Plan District may use the approval criteria listed in 33.815.126: Office Uses in the IG1 Zone in the Lower Albina Subdistrict, if they contain characteristics of manufacturing businesses. Office uses in ~~individually listed structures on the National Register of Historic Places~~Historic Landmarks, Conservation Landmarks, and structures identified as contributing to the historic significance of a Historic District or a Conservation District in the I zones in the Central City Plan District may use the criteria listed in 33.815.129, Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District. These approval criteria promote preservation of land for industry while allowing other uses when they are supportive of the industrial area or not detrimental to the character of the industrial area. The approval criteria are:

- A. The proposed use will not have significant adverse effects on nearby industrial firms, and on truck and freight movement;
- B. Transportation system:
  - 1. The transportation system is capable of supporting the proposed use 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;
  - 2. 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.
  - 3. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.

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## Commentary

### **33.815.126 Office Uses in the IG1 Zone in the Lower Albina Subdistrict**

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Resources listed after January 27, 2017 have fewer protections than those designated before that date. All National Register Resources listed before January 27, 2017, are Historic Landmarks or Historic Districts. The change clarifies that only those historic resources that have demolition, relocation, and alteration protections are eligible for special uses.

- C. The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion of industrial and non-industrial uses and the effects of incremental changes;
- D. The proposed use needs to be located in an industrial area or building because industrial firms or their employees constitute the primary market of the proposed use; and
- E. City-designated scenic resources are preserved.

### **33.815.126 Office Uses in the IG1 Zone in the Lower Albina Subdistrict**

These approval criteria promote preservation of land for industry while providing opportunity for businesses that contain both an office and a manufacturing or production component. Office uses that do not meet the criteria below may apply for conditional use status through the criteria listed in 33.815.125, Specified Uses in the Industrial Zones. Office uses in ~~individually listed structures on the National Register of Historic Places~~ Historic Landmarks, Conservation Landmarks, and structures identified as contributing to the historic significance of resources in a Historic District or a Conservation District in the IG1 zone in the Central City Plan District may use the criteria listed in 33.815.129, Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District. The approval criteria are:

- A. The proposed use will not have significant adverse effects on nearby industrial uses and truck and freight movement;
- B. Transportation system:
  - 1. The transportation system is capable of supporting the proposed use 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;
  - 2. 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.
  - 3. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.

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## Commentary

### **33.815.126 Office Uses in the IG1 Zone in the Lower Albina Subdistrict (cont.)**

No changes

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

- C. City-designated scenic resources are preserved;
- D. At least 33 percent of the net building area of the proposed use is dedicated for the development, testing, manufacturing, processing, fabrication, packaging, or assembly of goods. “Goods” include products made from man-made, raw, secondary, or partially completed materials. “Goods” does not include the products or services offered by traditional Office uses described in 33.920.240, but may include electronic or digital products such as internet home pages, computer software, advertising materials, and others; and
- E. The nature of the business does not require customers to visit the site in order to purchase manufactured goods.

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## Commentary

### **33.815.126 Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District**

A change to this section reflects changes in Chapter 445 related to historic resource types. National Register Resources listed after January 27, 2017, have fewer protections than those designated before that date. All National Register Resources listed before January 27, 2017 are Historic Landmarks or Historic Districts. The change clarifies that only those historic resources that have demolition, relocation, and alteration protections are eligible for special uses.

### **33.815.129 Office Uses in Specified Historic Resources in the Industrial Zones in the Central City Plan District**

These approval criteria promote the preservation of historic resources that are listed on the National Register of Historic Places designated as a Historic Landmark, Conservation Landmark, or are identified as contributing to the historic significance resources in of a Historic District or a Conservation District. They provide for increased allowances for office uses in the industrial zones, while limiting negative impacts on the transportation system and nearby industrial uses. The increased allowances for office uses recognize that some historic industrial buildings cannot economically accommodate modern industrial activities due to design inefficiencies or structural deficiencies. The office allowances facilitate preservation and reuse of these structures and are not intended as a means of converting viable industrial uses to office uses. The approval criteria are:

- A.** The proposed use will not have significant adverse effects on nearby industrial uses and truck and freight movement;
- B.** Transportation system:
  - 1. The transportation system is capable of supporting the proposed use 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;
  - 2. 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.
  - 3. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.
- C.** The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion of industrial and non-industrial uses and the effects of incremental changes; and.
- D.** ~~The owner must execute a covenant with the City, as described in Subsection 33.445.610.D.~~

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## Commentary

### Historic Resource Reviews

A new review, historic resource relocation review, has been added to the section

### 33.846.010 Purpose

Several changes have been made to the purpose statement for the chapter. The changes incorporate clarity, consistency with chapter 445, and reference the two elements that make a historic resource eligible for designation—historic significance and physical integrity. The changes also broaden the purpose of incentives, referencing the increased adaptive reuse opportunities that would be allowed by new incentives provided in 33.445.710. Finally, the changes specifically address the purpose of demolition and historic resource relocation review.

## 33.846 Historic Resource Reviews

846

### Sections:

#### General

- 33.846.010 Purpose
- 33.846.020 Review Procedures
- 33.846.025 Additional Notification Required
- 33.846.030 Historic Designation Review
- 33.846.040 Historic Designation Removal Review
- 33.846.050 Historic Preservation Incentive Review
- 33.846.060 Historic Resource Review
- 33.846.070 Modifications Considered During Historic Resource Review
- 33.846.080 Demolition Review
- 33.846.090 Historic Resource Relocation Review

### General

#### 33.846.010 Purpose

This chapter provides procedures and establishes the approval criteria for all historic resource reviews. The approval criteria protect the region's significant historic resources and preserve ~~significant~~important parts of the region's heritage. The reviews recognize and protect the region's archaeological, cultural, historic, and architectural resources, ~~ensuring~~ensure that changes to a designated historic resources preserve ~~historic and architectural~~physical integrity and historic significance, ~~values~~ and provide incentives for historic preservation and adaptive reuse. The reviews also allow for community involvement and the potential for denial when demolition, relocation, new development, or alteration is proposed for certain historic resources.

#### 33.846.020 Review Procedures

The review procedures in this chapter supersede procedural and threshold statements in the City's adopted design guidelines documents for historic districts.

#### 33.846.025 Additional Notification Required

In addition to the notifications provided for by Chapter 33.730, Quasi-Judicial Procedures, when a Conservation District or Historic District has a Historic District Advisory Committee that is recognized by a Neighborhood Association, notice of all historic resource reviews will also be sent to the District's advisory committee.

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## Commentary

### **33.846.030.A Purpose**

Changes to this section provide clarity and establish that the Historic Landmarks Commission may change the boundaries of designated historic resources and change the contributing status of resources within locally designated Historic and Conservation Districts. The changes also more clearly delineate the types of historic resources that may be considered for designation.

### **33.846.030.B Review procedure**

Several changes have been made to this section to allow for new review types proportional to the staff time required and public involvement appropriate for the designation.

The Type III procedure has been retained for proposals to designate Historic Landmarks and Conservation Landmarks that have not been previously listed in the National Register of Historic Places and for proposals to create Historic Districts and Conservation Districts (districts designated through the quasi-judicial path may only contain 16 lots). The requirement for a pre-application conference has been struck to eliminate unnecessary staff and applicant time and complexity.

A new Type II procedure has been added to allow for staff-level decisions to change the boundary or contributing status of a resource. Because the Historic or Conservation District has already been designated, changes in the contributing status of resources within the districts requires less staff evaluation of historic significance than justifies a Type III procedure.

A new Type I procedure has been added to allow for individual National Register Resources to be locally designated as Historic Landmarks through a Type I procedure. Because the National Park Service evaluates historic significance and physical integrity at the time of National Register listing, a subsequent local historic designation review need not evaluate as many factors during the review. Because prospective National Register Resources are subject to demolition review, but are not subject to historic resource review or eligible for preservation incentives, many owners may elect to pursue a local Historic Landmark designation after listing in the National Register. National Register historic districts cannot pursue this option.

### 33.846.030 Historic Designation Review

- A. Purpose.** ~~The Historic Designation Review is a process~~ allows for the City of Portland to designate ~~Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts,~~ expand the boundaries of, and to designate resources as contributing resources within a City-designated Historic Landmark, Conservation Landmark, Historic District, and Conservation District. This review does not affect a property or district's listing on the National Register of Historic Places. These provisions promote the protection of historic resources by:
- Enhancing the city's identity through the protection of the region's significant historic resources;
  - Fostering preservation and reuse of historic ~~artifacts~~ structures, sites, objects, places, and districts as important parts of the region's fabric; and
  - Encouraging new development to sensitively incorporate historic ~~structures~~ resources and artifacts.
- B. Review procedure.** Historic designation reviews are processed ~~as follows:~~ through a Type III procedure.
1. Historic designation review to designate an individual structure, site, or object that has been listed on the National Register of Historic Places is processed through a Type I procedure.
  2. Historic designation review to expand the boundary of or designate a resource as a contributing resource within a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District is processed through a Type II procedure.
  3. All other historic designation reviews are processed through a Type III procedure. A pre-application conference is not required.

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## Commentary

### **33.846.030.C Supplemental application requirements**

This new section provides minimum application requirements for historic designation review. The materials required are intended to provide staff and decision-makers with the information necessary to evaluate the approval criteria and establish the historic resource designation on the Official Zoning Maps.

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

**C. Supplemental application requirements.** In addition to the application requirements of Section 33.730.060.D, an application for historic designation review requires two copies of a written statement that includes the following information:

1. A map and narrative description of the proposed boundary for the designated resource, including identification of which resources within the boundary are contributing resources. For National Register Resources, the National Register nomination may be submitted;
2. Five or more current photos of the resource; and
3. One or more historic photos of the resource, if available.

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## Commentary

### **33.846.030.D Approval criteria**

Clarity has been added that historic designation review can change the contributing status of resources in Historic and Conservation Districts.

The section on significance has been amended to incorporate cultural resources, Comprehensive Plan policies, and National Park Service criteria for listing in the National Register of Historic Places. The criteria align with the descriptions of historic resource types in 33.445.040.

Criterion f allows for streamlined review of resources that have been previously listed in the National Register.

Criteria g differentiate Conservation Landmarks and Conservation Districts from Historic Landmarks and Historic Districts. Because conservation resources may be significant for cultural reasons and/or have a high level of historic integrity and light historic significance, these “fabric” buildings have the potential to be reused and more flexibility adapted.

**DC. Approval criteria.** Proposals to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, ~~or Conservation District~~, or as a contributing resource within a City-designated Historic District or Conservation District will be approved if the review body finds that all of the following approval criteria are met:

1. ~~Significant value~~Historic significance. The resource has significant archaeological, cultural, historical, or architectural value, demonstrated by meeting at least ~~three~~one of the following:

  - a. The resource is associated with a community, cultural, or ethnic group significant to local, regional, state, or national history;
  - b. The resource is associated with an event or events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
  - c. The resource is associated with the lives of persons significant to local, regional, state, or national history;
  - d. The resource possesses distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;
  - e. There is a high likelihood that, if preserved, the resource would yield information important in prehistory or history;
  - f. The resource has been listed on the National Register of Historic Places; or
  - g. If the proposal is to designate a Conservation Landmark or Conservation District, the resource is associated with a significant architectural, cultural, or historical character or pattern within the district, neighborhood, or community where it is located.

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## **Commentary**

### **33.846.030.D Approval criteria (cont.)**

Previous approval criteria have been struck to allow for clarity and consistency with the historic resource types described in 33.445.040, National Park Service listing criteria, and Comprehensive Plan policies.

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

- a. ~~The resource represents a significant example of a development, architectural style, or structural type once common or among the last examples in the region;~~
- b. ~~The resource represents a significant work of a developer, architect, builder, or engineer noted in the history or architecture of the region;~~
- c. ~~The resource represents a particular material, method of construction, quality of composition, or craft work which is either associated with the region's history or which enriches the region's character;~~
- d. ~~The resource is associated with culture, activities, events, persons, groups, organizations, trends, or values that are a significant part of history;~~
- e. ~~The resource is associated with broad patterns of cultural, social, political, economic, or transportation history of the region, state, or nation;~~
- f. ~~The resource significantly contributes to the historic or cultural development of the area or neighborhood;~~
- g. ~~The resource symbolizes a significant idea, institution, political entity, or period;~~
- h. ~~The resource retains sufficient original design characteristics, craft work, or material to serve as an example of a significant architectural period, building type, or style;~~
- i. ~~The resource significantly contributes to the character and identity of the neighborhood district or city;~~
- j. ~~The resource includes significant site development or landscape features that make a contribution to the historic character of a resource, neighborhood, district, or the city as a whole;~~
- k. ~~The resource represents a style or type of development which is, or was, characteristic of an area and which makes a significant contribution to the area's historic value; or~~
- l. ~~The resource contributes to the character of a grouping of resources that together share a significant, distinct, and intact historic identity.~~

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## Commentary

### **33.846.030.D Approval criteria (cont.)**

A new approval criterion, physical integrity, has been added to allow for the consideration of the physical characteristics of a property. Without sufficient physical integrity, a significant historic resource may not be worthy of designation and preservation. This criterion is directly informed by the National Park Service's guidelines for evaluating and documenting resources for listing in the National Register of Historic Places. The Park Service's recognized aspects of integrity are: location, design, setting, materials, workmanship, feeling, and association. Historic Landmarks and Historic Districts generally have greater integrity than Conservation Districts or Conservation Landmarks, unless the Conservation District or Conservation Landmark is significant primarily for its design.

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2. Physical integrity. The resource has retained physical and associative features from the historic period, demonstrated by meeting at least three of the following if the proposal is to designate a Conservation Landmark or Conservation District, three of the following if the proposal is to designate a historic resource as contributing resource in a City-designated Historic District or Conservation District, or four of the following if the proposal is to designate a Historic Landmark or Historic District:
- a. The resource is on the same site as it was during the historic period;
  - b. The resource contains sufficient design elements to convey an association with the historic period;
  - c. The overall configuration of the site of the resource is generally unchanged since the historic period;
  - d. The resource's materials are generally unchanged since the historic period or, if changed, have been replaced in kind;
  - e. The resource contains sufficient expressions of authentic workmanship from the historic period to convey association with those who built it;
  - f. Significant intangible elements from the historic period convey the historic significance of the resource; or
  - g. The cumulative features of the resource, as defined by a through f, are together sufficient to convey an association with the resource's historic significance.

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## Commentary

### **33.846.030.D Approval criteria (cont.)**

Changes to criterion 3 provide clarity and accommodate review of changes in contributing status in Historic Districts and Conservation Districts.

Changes to criterion 4 largely incorporate State Administrative Rule (OAR 660-023-0200) requirements for owner consent into the code. Because ORS 197.772 requires owner consent for local historic resource designation, these changes bring Portland's code into compliance with state law.

The addition of c limits the creation of Historic and Conservation Districts through the quasi-judicial designation process by requiring unanimous owner consent.

23. Appropriate level of protection. The proposed designation is appropriate, considering the archaeological, cultural, historical, or architectural significance ~~value~~ of the resource and other conflicting values. Levels of protection are Historic Landmark designation, Conservation Landmark designation, Historic District designation, Conservation District designation, contributing resource in a Historic District, contributing resource in a Conservation District, and no designation; and
34. Owner consent.
- a. For Historic Landmark or Conservation Landmark designation, the property owner or, for resources owned by multiple owners, 50 percent plus one of the property owners must consent, in writing, to the Historic Landmark or Conservation Landmark designation at the time of designation; ~~;~~
  - b. For Historic District or Conservation District designation ~~all owners of property in the district must consent, in writing, to the Historic District or Conservation District designation at the time of designation.;~~
    - (1) For legislative designation of a Historic District or Conservation District, 50 percent plus one of the owners of property in the district must consent, in writing, to the Historic District or Conservation District designation at the time of designation.
    - (2) For quasi-judicial designation of a Historic District or Conservation District, all owners of property in the district must consent, in writing, to the Historic District or Conservation District designation at the time of designation.
  - c. Property owner consent is not required for changes to the contributing status of a resource in an established Historic District or Conservation District.
  - d. For the purposes of this criterion, property owner is defined as the following:
    - (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
    - (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
    - (3) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Property owner does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests, including leaseholds, of any nature.

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## Commentary

### **33.846.040.A Purpose**

Changes to this section provide clarity and allow for resources in established Historic Districts and Conservation Districts to be reclassified as noncontributing through historic designation removal review. Changes also allow for boundaries to be reduced for designated historic resources.

### **33.846.040.B Review procedure**

Changes to this section allow for the reclassification of contributing resources as noncontributing through a Type II procedure, consistent with the Type II procedure provided in 33.846.030 for noncontributing resources.

The existing Type III procedure for historic designation removal review for Historic and Conservation Landmarks remains, but the unnecessary requirement for a pre-application conference has been eliminated.

Historic District and Conservation District designations can only be removed through a legislative procedure.

### **33.846.040.C Approval criteria**

Changes have been made for clarity. Additional changes incorporate State Administrative Rule (OAR 660-023-0200). The Rule provides the following:

"(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.

(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation: (A) Has retained ownership since the time of the designation, and (B) Can demonstrate that the owner objected to the designation on the public record, or (C) Was not provided an opportunity to object to the designation, and (D) Requests that the local government remove the property from the resource list.

(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist. (A) The resource has lost the qualities for which it was originally recognized; (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing; (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition."

### 33.846.040 Historic Designation Removal Review

- A. Purpose.** These provisions allow for the removal of ~~the City's~~ a City-designated Historic Landmark or Conservation Landmark historic designation when it is no longer appropriate. These provisions also allow for reducing the boundaries of and identifying contributing resources as noncontributing in a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District. This review does not affect a ~~property or district's~~ resource's listing on the National Register of Historic Places.
- B. Review procedure.** Historic designation removal reviews are processed ~~as follows:~~ through a Type III procedure.
1. Historic designation removal review to reduce the boundary of or identify a resource as noncontributing within a City-designated Historic Landmark, Conservation Landmark, Historic District, or Conservation District is processed through a Type II procedure.
  2. All other historic resource designation removal reviews are processed through a Type III procedure. A pre-application conference is not required.
- C. Approval criteria.** Proposals to remove the historic designation from a historic resource will be approved if the review body finds that ~~all~~ one of the following approval criteria are met:
1. Loss of public benefit. The resource has lost the qualities that made it eligible for designation ~~The benefits to the public and the property owner of retaining the historic designation no longer outweigh the benefits of removing the designation;~~ or
  2. Subsequent research. Additional information shows that the resource no longer satisfies the criteria for historic designation review or did not satisfy the criteria for historic designation review at the time of listing; or
  23. Owner consent.
    - a. For Historic Landmarks or Conservation Landmarks. The property owner at the time of designation must have objected, on the record, to the historic designation and must have retained ownership since the time of designation.
    - b. ~~For individual sites not designated as Historic Landmarks or Conservation Landmarks in~~ Historic Districts or Conservation Districts. The Fifty percent plus one of the property owners at the time of designation must have objected, on the record, to inclusion in the district.

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## Commentary

### **33.846.040.C Approval criteria (cont.)**

The definition of owner provided by OAR 660-023-0200 has been incorporated into this section.

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

c. For the purposes of this criterion, property owner is defined as the following:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
- (3) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Property owner does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests, including leaseholds, of any nature.

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## Commentary

### **33.846.050.A Purpose**

Changes to this section make clear that contributing resources in Historic and Conservation Districts are eligible for some incentives and that historic preservation incentive review is intended to allow for adaptive reuse when the proposed use doesn't substantially conflict with adopted area plans. Historic preservation incentive review allows for uses that are otherwise not allowed to occur in certain zones to increase the economic viability of historic resources.

### **33.846.050.C Approval criteria**

Changes to #1 make clear that new uses may conflict with adopted provisions of neighborhood plans provided the conflict is not substantial.

Changes to #2 reflect the elimination of no-net-loss housing criteria elsewhere in the code.

The addition of #4 allows for consideration of the long-term impacts to the historic resource.

The addition of #5 provides for special consideration of the impacts of adaptive reuse on industrial uses.

The addition of #6 allows for major adaptive reuse projects to increase public access to the resource. This does not mean the resource will be open to the public at all hours or that the access will be free of charge. Allowing increased public access generally means that more activities will take place in the resource than are currently occurring or allowed.

### 33.846.050 Historic Preservation Incentive Review

- A. Purpose.** These provisions increase the potential for Historic Landmarks, ~~and~~ Conservation Landmarks, and contributing structures/resources in Historic Districts and Conservation Districts to be reused, rehabilitated, protected, renovated, and preserved without substantially conflicting with adopted area plans.
- B. Review procedure.** Historic preservation incentive reviews for sites in the RX zone are processed through a Type II procedure. Historic preservation incentive reviews for sites in all other zones are processed through a Type III procedure.
- C. Approval criteria.** The use of a historic preservation incentive ~~infor~~ for a Historic Landmark, Conservation Landmark, or a contributing resource ~~identified as contributing to the historic significance of in~~ a Historic District or a Conservation District will be approved if the review body finds that all of the following approval criteria are met:
1. Establishment of the use will not substantially conflict with adopted provisions of neighborhood plans for the site and surrounding area;
  2. If the site is in an R zone, ~~a. The approval criteria of Section 33.815.105, Institutional and Other Uses in R Zones, are met;~~ and
  - ~~b. Proposals on sites larger than one acre will not reduce the amount of new housing opportunity in the City. These criteria may be met by using the methods to mitigate for housing loss in Comprehensive Plan Map amendments in Subparagraph 33.810.050.A.2.c.;~~ and
  3. The regulations of ~~33.445.610~~ 33.445.710, Historic Preservation Incentives are met;
  4. The proposed use will not irreparably harm the significant exterior historic features of the resource;
  5. If the site is in an industrial zone, the approval criteria of 33.815.129 A through D are met; and
  6. For proposals using Section 33.445.710.C.9 or 33.445.710.C.10, the proposed use will increase public access to the historic resource.

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## Commentary

### **33.846.060.B Review procedure**

Redundant neighborhood contract requirements have been eliminated.

### 33.846.060 Historic Resource Review

- A. Purpose.** Historic resource review ensures the conservation and enhancement of the special characteristics of historic resources.
- B. Review procedure.** ~~Certain proposals specified in B.1 are subject to neighborhood contact requirements.~~ Procedures for historic resource reviews are shown in Tables 846-1 through 846-4. When determining procedure type for exterior alterations based on project valuation, the dollar amount refers to the value of the exterior changes and any new floor area only. It does not include interior or subgrade alterations.
- ~~1. Neighborhood Contact. The following proposals are subject to the Neighborhood Contact requirement, as specified in Section 33.700.025, Neighborhood Contact, if they are in the~~  
~~a. Alternative Design Density Overlay Zone; in the Albina Community Plan area shown on Map 825-2; or in the Outer Southeast Community Plan area shown on Map 825-3:~~
- ~~a. Proposals that create more than three new dwelling units. Dwelling units are created:~~
- ~~(1) As part of new development;~~
  - ~~(2) By adding net building area to existing development that increases the number of dwelling units;~~
  - ~~(3) By conversion of existing net building area from nonresidential to residential uses; and~~
  - ~~(4) By increasing the number of units within existing net building area already in residential use, for example, by converting a duplex to a triplex;~~
- ~~b. Proposals that create more than 10,000 square feet of gross building area for uses in the Commercial or Industrial use categories; or~~
- ~~c. Proposals in the IR zone where the site is not covered by an Impact Mitigation Plan or Conditional Use Master Plan.~~

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## Commentary

### **33.846.060.B Review procedure (cont.)**

Significant changes have been incorporated into the Historic Landmark review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

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

21. For Historic Landmarks, including those in Historic Districts or Conservation Districts, when proposals are not exempt from review as specified in Subsection 33.445.140240.B, the review procedure is determined by Table 846-1, below:

<b>Table 846-1</b>			
<b>Procedure Types for proposals affecting Historic Landmarks</b>			
<b>Proposal</b>	<b>Zone</b>	<b>Threshold</b>	<b>Procedure</b>
<u>New structure</u>	<u>All</u>	<u>Project value &gt; \$459,450</u>	<u>Type III</u>
		<u>Project value ≤ \$459,450</u>	<u>Type II</u>
<u>New accessory structure</u>	<u>All</u>		<u>Type Ix</u>
<u>Replacement of an accessory structure identified as a contributing resource</u>	<u>All</u>		<u>Type II</u>
Alterations of a landmark-designated interior public space	All	Project value > \$459,450	Type III
		Project value ≤ \$459,450	Type II
Mechanical equipment	All	<del>Exterior</del>	Type Ix
Awnings	All	<u>New or replacement</u>	Type Ix
Signs	<del>C, E, I, RX, CI</del> <u>All</u>	<u>Sign area &lt; 150 sq. ft.</u>	Type Ix
Alteration to the exterior of a structure	<u>RF-RH</u>	<u>Affected facade or roof area &lt; 150 sq. ft.</u>	<u>Type I</u>
	C, E, I, RX, CI	<u>Affected facade or roof area &lt; 50 sq. ft.</u>	<u>Type I</u>
		<u>Affected facade or roof area &lt; 500 sq. ft.</u>	Type Ix
Historic restoration	<del>RF-RH</del> <u>All</u>		Type I
<u>Alteration to accommodate persons with disabilities or seismic improvements</u>	<u>All</u>		<u>Type I</u>
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area &lt; 300 sq. ft.</u>	<u>Type I</u>
Any other non-exempt exterior alteration or historic restoration proposal	All	Project value > \$459,450	Type III
		Project value ≤ \$459,450	Type II

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## Commentary

### **33.846.060.B Review procedure (cont.)**

Significant changes have been incorporated into the Conservation Landmark review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure types with the staff time necessary to conduct the review.

Refence to Conservation Landmarks in Historic Districts has been struck because Historic Districts have fewer historic resource review exemptions and often have district-specific guidelines.

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

32. For Conservation Landmarks, including those in ~~Historic Districts or~~ Conservation Districts, when proposals are not exempt from review as specified in Subsection 33.445.230340.B, the review procedure is determined by Table 846-2, below:

<b>Table 846-2</b>			
<b>Procedure Types for proposals affecting Conservation Landmarks</b>			
<b>Proposal</b>	<b>Zone</b>	<b>Threshold</b>	<b>Procedure</b>
<u>New structure</u>	<u>All</u>		<u>Type II</u>
<u>New accessory structure</u>	<u>All</u>		<u>Type Ix</u>
<u>Mechanical equipment</u>	<u>All</u>		<u>Type I</u>
<u>Awnings</u>	<u>All</u>		<u>Type I</u>
Signs	<del>C, E, I, RX, CI</del> <u>All</u>	Sign area < 150 sq. ft.	Type Ix
Alteration to the exterior of a structure	<u>RF-RH</u>	<u>Affected facade or roof area &lt; 150 sq. ft.</u>	<u>Type I</u>
	C, E, I, RX, CI	<u>Affected facade or roof area &lt; 50 sq. ft.</u>	<u>Type I</u>
		<u>Affected facade or roof area &lt; 500 sq. ft.</u>	Type Ix
Historic restoration	<del>RF-RH</del> <u>All</u>		Type I
<u>Alteration to accommodate persons with disabilities or seismic improvements</u>	<u>All</u>		<u>Type I</u>
<u>Paving and landscaping</u>	<u>All</u>	<u>Affected site area &lt; 300 sq. ft.</u>	<u>Type I</u>
Any other non-exempt exterior alteration or historic restoration proposal	All		Type II

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## Commentary

### **33.846.060.B Review procedure (cont.)**

Significant changes have been incorporated into the Historic Districts review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure type with the staff time necessary to conduct review.

Reference to Conservation Landmarks has been removed since Conservation Landmarks have more historic resource review exemptions than resources in Historic Districts.

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

43. For Historic Districts, excluding Historic ~~or Conservation~~-Landmarks, when proposals are not exempt from review as specified in Subsection 33.445.320440.B, the review procedure is determined by Table 846-3, below:

<b>Table 846-3</b>			
<b>Review procedures for proposals within Historic Districts</b>			
<b>Proposal</b>	<b>Zone</b>	<b>Threshold</b>	<b>Review Type</b>
New structure	All	Project value > \$459,450	Type III
		Project value ≤ \$459,450	Type II
New accessory structure	<del>RF-RH</del> All		Type <del>Ix</del>
<u>Replacement of an accessory structure identified as a contributing resource</u>	All		Type II
<u>Mechanical equipment</u>	All		Type I
<u>Awnings</u>	All		Type I
Signs	C, E, I, RX, CI All	Sign area < 150 sq. ft.	Type <del>Ix</del>
Alteration to the exterior of a structure <del>Alteration to the exterior of a structure</del>	C, E, I, RX, CI	<u>Affected facade or roof area &lt; 50 sq. ft.</u>	Type I
		Affected facade <u>or</u> roof area < 500 sq. ft.	Type Ix
	RF-RH	Affected facade <u>or</u> roof area < 150 sq. ft.	Type I
Historic restoration	<del>RF-RH</del> All		Type I
<u>Alteration to accommodate persons with disabilities or seismic improvements</u>	All		Type I
<u>Paving and landscaping</u>	All	<u>Affected site area &lt; 300 sq. ft.</u>	Type I
Any other non-exempt exterior alteration or historic restoration proposal	All	Project value > \$459,450	Type III
		Project value ≤ \$459,450	Type II

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## Commentary

### **33.846.060.B Review procedure (cont.)**

Significant changes have been incorporated into the Conservation Districts review procedure table. The changes largely reflect requests from the Bureau of Development Services to align review procedure type with the staff time necessary to conduct review.

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

54. For Conservation Districts, excluding ~~Historic Landmarks, or~~ Conservation Landmarks, and sites located in Historic Districts, when proposals are not exempt from review as specified in Subsection 33.445.420540.B, the review procedure is determined by Table 846-4, below:

<b>Table 846-4</b>			
<b>Review procedures for proposals within Conservation Districts</b>			
<b>Proposal</b>	<b>Zone</b>	<b>Threshold</b>	<b>Review Type</b>
New structure	All		Type II
New accessory structure	<del>RF-RH</del> All		Type I <del>x</del>
<u>Mechanical equipment</u>	All		<u>Type I</u>
<u>Awnings</u>	All		<u>Type I</u>
Signs	<del>C, E, I, RX, CI</del> All	Sign area < <del>150</del> sq. ft.	Type I <del>x</del>
Alteration to the exterior of a structure <del>Alteration to the exterior of a structure</del>	C, E, I, RX, CI	<u>Affected facade or roof area &lt; 50 sq. ft.</u>	<u>Type I</u>
		Affected facade <u>or</u> roof area < 500 sq. ft.	Type I <del>x</del>
	RF-RH	Affected facade <u>or</u> roof area < 150 sq. ft.	Type I
Historic restoration	<del>RF-RH</del> All		Type I
<u>Alteration to accommodate persons with disabilities or seismic improvements</u>	All		<u>Type I</u>
<u>Paving and landscaping</u>	All	<u>Affected site area &lt; 300 sq. ft.</u>	<u>Type I</u>
Any other non-exempt exterior alteration or historic restoration proposal	All		Type II

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## Commentary

**C. Phased proposals.**

1. For phased proposals. Applicants may submit design plans for a phase proposal, provided the application includes adequate information to allow review of all phases of the proposal, including anticipated timelines.
2. Benefits of a phased design plan. Development in conformance with an approved phased design plan does not have to go through a separate historic resource review for each phase.
3. Procedure. A phased design plan application is reviewed using the same procedure and with the same guidelines as a historic resource review for a specific development.

**D. Models of proposals in the Central City plan district.** For proposals located in the area of the Central City plan district shown on Map 510-1, a three dimensional digital model of a proposal located in a Historic District or Conservation District is required with an application for historic resource review. This requirement applies only to new developments or changes in the bulk of existing buildings. Before a building permit is issued, a three dimensional digital model of the proposal as approved must be submitted to the Bureau of Planning and Sustainability. The model requirements will be waived if the application does not involve a change in the bulk of buildings on a site for which the City possesses an accurate digital model.

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## Commentary

### **33.846.060.E Approval criteria outside the Central City plan district**

Clarity has been added that individually-designated Historic Landmarks and Conservation Landmarks are subject to district-specific design guidelines as well as the general historic resource approval criteria in 33.846.060.G.

**E. Approval criteria outside the Central City plan district.** Outside the Central City plan district, requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met. Conflicts among guidelines and criteria are resolved as specified in Paragraph E.4, below. The approval criteria for historic resource review outside the Central City plan district are as follows:

1. Historic Districts. When historic resource review is required for any resource in a Historic District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
  - a. Historic Districts with district-specific guidelines. Historic Districts may have guidelines that are specific to the district, such as the King’s Hill Historic District Guidelines. When historic resource review is required in such districts, the guidelines specific to the district are the approval criteria. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
  - b. Historic Districts without district-specific guidelines. Where there are no guidelines that are specific to the Historic District, the criteria in Section 33.846.060.G are the approval criteria; or
  - c. Alphabet Historic District. In the Alphabet Historic District, the approval criteria are the Community Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
2. Conservation Districts. When historic resource review is required for any resource in a Conservation District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
  - a. Conservation Districts with district-specific guidelines. Conservation Districts may have guidelines that are specific to the district. When historic resource review is required in such districts, the guidelines specific to the district are the approval criteria. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met; or
  - b. Conservation Districts without district-specific guidelines. Where there are no guidelines that are specific to the Conservation District, the Community Design Guidelines are the approval criteria. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;

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## Commentary

### **33.846.060.E Approval criteria outside the Central City plan district (cont.)**

Clarity has been added that individually-designated Historic Landmarks and Conservation Landmarks are subject to district-specific design guidelines as well as the general historic resource approval criteria in 33.846.060.G.

An additional subsection has been added to resolve conflicts that may occur between guidelines, similar to a subsection that exists for conflicts between approval criteria in the Central City plan district. A specific change was made regarding the hierarchy of approval criteria in the Alphabet Historic District. The Alphabet Historic District is subject to the Community Design Guidelines and the Historic Alphabet District Addendum to the Community Design Guidelines. Occasionally conflicts arise between the Guidelines and Addendum. This change clarifies that when conflicts arise, the guidelines in the Addendum supersede the guidelines in the Community Design Guidelines.

3. Historic Landmarks and Conservation Landmarks located outside of Historic Districts or Conservation Districts. When historic resource review is required for ~~of~~ a Historic Landmark or Conservation Landmark located outside of a Historic District or Conservation District ~~is required~~, the criteria in Section 33.846.060.G are the approval criteria.
  4. Conflicts among guidelines and criteria.
    - a. In situations where guidelines and the criteria in Section 33.846.060.G apply, ~~When~~ a criterion in Section 33.846.060.G conflicts with any guideline, the criterion in Section 33.846.060.G supersedes the guideline.
    - b. When a guideline that is specific to a Historic District or Conservation District conflicts with one of the Community Design Guidelines or with a subdistrict design guideline, the guideline specific to the historic district supersedes the Community Design Guideline or subdistrict design guideline.
    - c. When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Community Design Guidelines, the Alphabet District Guideline supersedes the Community Design Guideline.
- F. Approval criteria in the Central City plan district.** In the Central City plan district, requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met. Conflicts among guidelines and criteria are resolved as specified in Paragraph F.5, below. The approval criteria for historic resource review in the Central City plan district are as follows:
1. Historic Districts. When historic resource review is required for any resource in a Historic District, including Historic Landmarks and Conservation Landmarks, the approval criteria are:
    - a. Historic Districts with district-specific guidelines. Historic Districts may have guidelines that are specific to the district, such as the NW 13th Avenue Historic District Design Guidelines. When historic resource review is required in such districts, the approval criteria are the Central City Fundamental Design Guidelines and the guidelines specific to the Historic District. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
    - b. Historic Districts without district-specific guidelines.
      - (1) Where there are no guidelines that are specific to the Historic District and the site is also in a subdistrict of the Central City plan district that has subdistrict design guidelines, the approval criteria are the Central City Fundamental Design Guidelines and the subdistrict design guidelines. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
      - (2) Where there are no guidelines that are specific to the Historic District and the site is in a subdistrict of the Central City plan district that does not have subdistrict design guidelines, the approval criteria are the Central City Fundamental Design Guidelines and the criteria in Section 33.846.060.G;

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## Commentary

### **33.846.060.F Approval criteria in the Central City plan district**

A change has been made to apply the Central City Fundamental Design Guidelines to the Russell Street Conservation District. This change aligns the Conservation District with other areas of the Central City where the Fundamentals are required to be met in addition to any district-specific guidelines.

- c. Alphabet Historic District. In the portion of the Alphabet Historic District within the Central City plan district, when historic resource review is required for any resource, including Historic Landmarks and Conservation Landmarks, the approval criteria are the Central City Fundamental Design Guidelines and the Historic Alphabet District Community Design Guidelines Addendum. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
  - d. Irvington Historic District. In the portion of the Irvington Historic District within the Central City plan district, when historic resource review is required for any resource, including Historic Landmarks and Conservation Landmarks, the approval criteria are the Central City Fundamental Design Guidelines, the design guidelines for the Lloyd District subdistrict of the Central City plan district, and the criteria in ~~Sub~~Section 33.846.060.G;
2. Russell Street Conservation District. When historic resource review is required for any resource in the Russell Street Conservation District, including Historic Landmarks and Conservation Landmarks, the approval criteria are the Community Design Guidelines and Central City Fundamental Design Guidelines. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met;
  3. Historic Landmarks and Conservation Landmarks located outside of Historic Districts and Conservation Districts. When historic resource review of a Historic Landmark or Conservation Landmark located outside of Historic Districts and Conservation Districts is required, the approval criteria are:
    - a. Subdistricts with design guidelines. If the resource is in a subdistrict of the Central City plan district that has subdistrict design guidelines, the approval criteria are the Central City Fundamental Design Guidelines, the subdistrict design guidelines, and the criteria in 33.846.060.G;
    - b. Subdistricts without design guidelines. If the resource is in a subdistrict of the Central City plan district that does not have subdistrict design guidelines, the approval criteria are the Central City Fundamental Design Guidelines and the criteria in Section 33.846.060.G;

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## Commentary

### **33.846.060.F Approval criteria outside the Central City plan district (cont.)**

Clarity has been added regarding Historic Landmarks and Conservation Landmarks that are subject to the general historic resource approval criteria in 33.846.060.G.

A change has been made regarding the hierarchy of approval criteria in the Alphet Historic District. The Alphet Historic District is subject to the *Community Design Guidelines* and the *Historic Alphet District Addendum to the Community Design Guidelines*. Occasionally conflicts arise between the *Guidelines* and *Addendum*. This change clarifies that when conflicts arise, the guidelines in the *Addendum* supersede the guidelines in the *Community Design Guidelines*.

4. Specified sites along N. Broadway. When historic resource review is required for a historic resource on a site in the CXd zone, and the site fronts on and is within 300 feet of N. Broadway between N. Interstate and N. Wheeler streets, the approval criteria are the Central City Fundamental Design Guidelines and the Special Design Guidelines for the Design Zone of the Lloyd District of the Central City Plan District. If the resource is a Historic Landmark or Conservation Landmark, the criteria in Section 33.846.060.G must also be met.
5. Conflicts among guidelines and criteria. Conflicts among guidelines and criteria are resolved as specified in this paragraph.
  - a. In situations where guidelines and the criteria in Section 33.846.060.G apply, ~~When~~ a criterion in Section 33.846.060.G conflicts with any other guideline, the criterion in Section 33.846.060.G supersedes the other guideline.
  - b. When a guideline that is specific to a ~~Historic~~ Historic ~~District~~, such as one of the NW 13th Avenue Historic District Design Guidelines, conflicts with one of the Central City Fundamental Guidelines or with a subdistrict design guideline, such as one of the River District Design Guidelines, the guideline specific to the ~~Historic~~ Historic ~~District~~ supersedes the Central City Fundamental Guideline and the subdistrict guideline.
  - c. When a subdistrict design guideline, such as one of the Goose Hollow District Design Guidelines, conflicts with one of the Central City Fundamental Design Guidelines, the subdistrict guideline supersedes the Central City Fundamental Guideline.
  - d. When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Central City Fundamental Design Guidelines, the Alphabet District Guideline supersedes the Central City Fundamental Guideline. When a guideline from the Historic Alphabet District Addendum to the Community Design Guidelines conflicts with one of the Community Design Guidelines, the Alphabet District Guideline supersedes the Community Design Guideline.
  - e. When a Lloyd District Design Guideline conflicts with a Central City Fundamental Design Guideline, the Lloyd District Guideline supersedes the Central City Fundamental Guideline.

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## Commentary

### **33.846.060.G Other approval criteria**

To future differentiate between Historic and Conservation Landmarks, an alternative set of more flexible approval criteria have been added for Conservation Landmarks (see next page).

A change to criterion #1 adds language regarding accessory structures. Changes in Chapter 445 allow accessory structures that contribute to the historic significance of Historic Landmarks and Historic Districts to be exempt from demolition review if a replacement structure is approved for the site. Adding this additional language to the other approval criteria provides specifics on how accessory structure replacement projects must be considered. A replacement structure need not be exactly the same size as the historic structure, but must be compatible with the associated historic resource, be it a landmark or district.

The word "properties" has been changed to "resources" to be clear that the criterion applies to all resource types.

The word "property" has been changed to "resource" to be clear that the criterion applies to all resource types.

Criterion g has been amended to allow for projects to be differentiated, but not require it all circumstances. The word "will" has been replaced with "may" to allow applicants the option to propose projects that replicate historic materials and styles where appropriate, such as a new dormer or a minor exterior addition to accommodate a bathroom remodel. The change does not limit applicants from proposing projects that differentiate new from old provided that the differentiated approach does not harm the foundational aspects of the resource's physical integrity.

**G. Other approval criteria.** Requests for historic resource review will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria have been met.

1. Approval criteria for resources other than Conservation Landmarks. When historic resource review is required for resources other than Conservation Landmarks, the approval criteria are:

- a. 1.—Historic character. The historic character of the ~~resource~~property will be retained and preserved. Removal of historic materials or alteration of features and spaces that contribute to the ~~resource's~~property's historic significance will be avoided. Replacement of accessory structures will not substantially harm the character of the associated resource;
- b. 2.—Record of its time. The historic resource will remain a physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings will be avoided;
- c. 3.—Historic changes. Most ~~resources~~properties change over time. Those changes that have acquired historic significance will be preserved;
- d. 4.—Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the old in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
- e. 5.—Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used;
- f. 6.—Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken;
- g. 7.—Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a ~~resource~~property. New work will may be differentiated from the old if the differentiation does not diminish the character, features, materials, form, or integrity of the resource;

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## Commentary

### **33.846.060.G other approval criteria (cont.)**

#8 has been amended for consistency and to address seismic improvements which, like accessibility upgrades, are increasingly common projects affecting historic resources. A type I review option is being added for such projects to reduce barriers to them being proposed.

The ordering of words has been changed in #9 for clarity and consistency. "New construction" has been added for consistency.

A significant change has been incorporated into criterion #10 to remove the requirement for compatibility with adjacent properties. Changes to individual Historic and Conservation Landmarks need not be informed by properties outside of the designated boundary, as adjacent properties may come and go over time and are not generally subject to historic resource review. Changes within Historic and Conservation Districts should be deferential to the entire district, as it is the district that is the designated historic resource. The changes clarify that compatibility must be achieved first with any immediately associated individual historic resource (such as a Landmark or contributing resource in a District) and second, if applicable, with the overall District.

- h. ~~8.~~—Architectural compatibility. New additions, exterior alterations, or related new construction will be compatible with the resource's massing, size, scale, and architectural features. When retrofitting ~~buildings or sites~~resources to improve accessibility for persons with disabilities ~~or accommodate seismic improvements~~, design solutions will not compromise the architectural integrity of the historic resource;
- i. ~~9.~~—Preserve the form and integrity of historic resources. ~~New additions and adjacent or related new construction~~New additions, exterior alterations, or related new construction will be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic resource and its environment would be unimpaired; and
- j. ~~10.~~—Hierarchy of compatibility. ~~Exterior alterations and additions~~New additions, exterior alterations, or related new construction will be designed to be compatible primarily with ~~the~~an associated Landmark or contributing resource ~~original resource,~~ ~~secondarily with adjacent properties,~~ and finally, if located within a Historic District or Conservation District, ~~secondarily with nearby contributing resources and,~~ finally, with the rest of the district. Where practical, compatibility in Historic Districts and Conservation Districts will be pursued on all three levels.

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## Commentary

### **33.846.060.G other approval criteria (cont.)**

New approval criteria have been added for Conservation Landmarks. Because Conservation Landmarks generally have less historic significance and/or physical integrity than Historic Landmarks, these criteria allow for Conservation Landmarks to accommodate a greater degree of change than would be approvable for Historic Landmarks and Historic Districts. Because the 33.846.060.G approval criteria for Historic Landmarks and Historic Districts is informed by historic preservation best practice and have been successful in protecting the integrity of Landmarks and Districts, the more flexible approval criteria are only being added for Conservation Landmarks.

The new Conservation Landmark approval criteria are intended to protect historic features while allowing for additions, alterations, and interventions that would be of a massing, size, scale, or architectural design that would be inappropriate for a Historic Landmark. The criteria further allow for creative changes that retain the general feeling of a resource significant for social, ethnic, gender, cultural, or community history. This may include retaining a significant large meeting area, while allowing for changes to building elements that date from the historic period.

2. Approval criteria for Conservation Landmarks. When historic resource review is required for a Conservation Landmark, the approval criteria are:
- a. Historic features. Generally, deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement, the new feature will match the historic in design, color, texture, and other visual qualities and, where practical, in materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
  - b. Historic materials. Historic materials will be protected. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials will not be used;
  - c. Differentiate new from old. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize a resource. New work may be differentiated from the old if the differentiation does not diminish the features or materials of the resource;
  - d. Architectural coherency. New additions, exterior alterations, or related new construction will achieve coherency with the resource's massing, size, scale, and architectural features even if differentiated in massing, size, scale, or architectural features;
  - e. Archaeological resources. Significant archaeological resources affected by a proposal will be protected and preserved to the extent practical. When such resources are disturbed, mitigation measures will be undertaken; and
  - f. Cultural character. For resources primarily significant for an area of history other than architecture or design, new additions, exterior alterations, or related new construction will maintain the cultural significance of the resource. New additions, exterior alterations, or related new construction may alter, replace, or remove historic features and materials if such features or materials are not integral to the resource's significance.

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## Commentary

### **33.846.070 Modifications Considered During Historic Resource Review**

No change

### **33.846.070 Modifications Considered During Historic Resource Review**

The approval criteria for modifications considered during historic resource review are:

- A. Better meets historic resource review approval criteria.** The resulting development will better meet the approval criteria for historic resource review than would a design that meets the standard being modified; and
- B. Purpose of the standard.**
  - 1. The resulting development will meet the purpose of the standard being modified; or
  - 2. The preservation of the character of the historic resource is more important than meeting the purpose of the standard for which a modification has been requested.

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## Commentary

### **33.846.080.A Purpose**

This section has been significantly changed to incorporate State Administrative Rule (OAR 660-023-0200) requirements and new Type II demolition review approval criteria for accessory structures within the boundary of Historic Landmarks and Historic Districts, Conservation Landmarks, and contributing primary structures in Conservation Districts. Wording has been amended to provide consistency with other sections.

### **33.846.080.B Review procedure**

This section retains the existing Type IV procedure and adds a new Type II procedure. The new Type II procedure applies to accessory structures within the boundary of Historic Landmarks and Historic Districts, Conservation Landmarks, and primary structures in Conservation Districts. Because the Type IV procedure includes different approval criteria and a different review body than the Type II procedure, any applicant for demolition review may elect to apply for Type IV demolition review.

### **33.846.080.C Approval criteria**

This section has been significantly changed to incorporate State Administrative Rule requirements and provide different Type II demolition review approval criteria for accessory structures, Conservation Landmarks, and primary structures within Conservation Districts.

The Type IV approval criteria have been changed to incorporate State Administrative Rule requirements for National Register Resources. The Rule provides that the following be provided for National Register Resources proposed for demolition:

*"A public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan."*

Other than incorporation of State Administrative Rule requirements, the Type IV criteria have been only minimally changed.

### 33.846.080 Demolition Review

- A. Purpose.** Demolition review protects ~~resources that have been individually listed in the National Register of Historic Places or Resources, Historic Landmarks, and contributing resources identified as contributing to the historic significance of a Historic Districts.~~ It also protects Historic Landmarks and Conservation Landmarks-historic resources that have taken advantage of an incentive for historic preservation and historic resources that have a preservation agreement. Demolition review also considers and mitigates for the loss of certain accessory structures, Conservation Landmarks, and contributing resources in Conservation Districts. Demolition review recognizes that historic resources are irreplaceable assets that preserve our architectural, cultural, and community heritage, beautify the city, enhance civic identity, and promote economic vitality and environmental health.
- B. Review procedure.** Demolition reviews are processed ~~as follows: through a Type IV procedure.~~
- a. Proposals to demolish a Conservation Landmark, contributing resource in a Conservation District, or accessory structure identified as a contributing resource to a Historic Landmark, Historic District, or National Register Resource listed after January 27, 2017 are processed through a Type II procedure. An applicant may choose to have a proposal reviewed using the approval criteria in C.1 through a Type IV procedure.
  - b. All other proposals to demolish a historic resource are processed through a Type IV procedure.
- C. Approval criteria.** ~~Proposals to demolish a historic resource will be approved if the review body finds that one of the following approval criteria is met.~~
1. Proposals to demolish a resource with a historic preservation agreement or to demolish a contributing resource to a Historic Landmark, Historic District, or National Register Resource listed after January 27, 2017, except for accessory structures, will be approved if the review body finds that one of the following criteria is met:
    - a. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site; or
    - b. Demolition of the resource has been evaluated against and, on balance, has been found supportive of the goals and policies of the Comprehensive Plan, and any relevant area plans. The evaluation must consider the factors in Subsubparagraphs C.1.b(1) and (2), and may consider the factors in Subsubparagraph C.1.b(3):

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## Commentary

### **33.846.080.C Approval criteria (cont.)**

New approval criteria in #2 have been developed for Type II demolition review of accessory structures. Accessory structures that are proposed for replacement can apply for historic resource review to avoid demolition review (see 33.445.250 and 33.445.340). The new approval criteria provide for approval on the basis of economic hardship, compromised historic significance and integrity, and mitigation (see next page).

- (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
  - (2) The economic consequences of demolition;
  - (3) The evaluation may consider the following additional factors:
    - The merits of demolition;
    - The merits of development that could replace the demolished resource, either as specifically proposed for the site or as allowed under the existing zoning;
    - The effect demolition of the resource-would have on the area's desired character;
    - The effect that redevelopment on the site would have on the area's desired character;
    - The merits of preserving the resource, taking into consideration the purposes described in Subsection A; and
    - Any proposed mitigation for the demolition.
2. Proposals to demolish an accessory structure identified as a contributing resource to a Historic Landmark, Historic District, or National Register Resource listed after January 27, 2017 will be approved if the review body finds that one of the following approval criteria are met:
- a. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site;
  - b. Demolition of the resource will not substantially harm the physical integrity and historic significance of the resource with which it is associated. The evaluation must consider the factors in Subsubparagraph C.2.b(1), and may consider the factors in Subsubparagraph C.2.b(2):
    - (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
    - (2) The evaluation may consider the following additional factors:
      - The merits of demolition; and
      - The merits of preserving the resource, taking into consideration the purposes described in Subsection A.

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## Commentary

### **33.846.080.C Approval criteria (cont.)**

New approval criterion c allows for approval of demolition if an appropriate mitigation measure is provided. Approval on this criterion cannot require a mitigation measure greater than 3 percent of the property's real market value. Approval on this criterion can be achieved with a mitigation measure valued at less than 3 percent.

To determine if mitigation proposed is commensurate with the effect of the demolition being proposed, a list of considerations are provided. These considerations may result in approval, approval with conditions, or denial. Flexibility is provided to allow for innovative and creative proposals for mitigation.

New approval criteria in #3 have been developed for Type II demolition review of Conservation Landmarks and contributing structures in Conservation Districts.

The new approval criteria provide for approval on the basis of economic hardship, compromised historic significance, and mitigation.

- c. The demolition is offset by a mitigation measure proportionally appropriate to the effect demolition will have on the physical integrity and historic significance of the historic resource with which it is associated. Approval based on this criterion may require a mitigation measure valued at up to 3 percent of the real market value of the site at the time of application. The evaluation may consider the following factors:
- (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
  - (2) Any exceptional design elements proposed for the site;
  - (3) Any financial support proposed for the restoration or rehabilitation of the associated Historic Landmark or a contributing resource in the associated Historic District; and
  - (4) Any proposed public history displays or other interpretative information related to the historic significance of the Historic Landmark or Historic District with which it is associated;
3. Proposals to demolish a Conservation Landmark or contributing resource in a Conservation District will be approved if the review body finds that one of the approval criteria are met:
- a. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site;
  - b. For resources in a Conservation District, demolition of the resource will not substantially harm the physical integrity or historic significance of the Conservation District with which it is associated. The evaluation must consider the factors in Subsubparagraph C.3.b(1), and may consider the factors in Subsubparagraph C.3.b(2):
    - (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
    - (2) The evaluation may consider the following additional factors:
      - The merits of demolition; and
      - The merits of preserving the resource, taking into consideration the purposes described in Subsection A;

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## Commentary

### **33.846.080.C Approval criteria (cont.)**

Approval based on mitigation is structured differently for Conservation Districts and Conservation Landmarks, although they share many similarities. In both circumstances, approval based on mitigation cannot require a mitigation measure greater than 10 percent of the property's real market value. Approval can be achieved with a mitigation measure valued at less than 10 percent. Also in both circumstances, considerations are provided to determine if the mitigation proposed is commensurate with the effect of the demolition being proposed. The considerations provided are intentionally broad to allow for applicants to propose creative and meaningful mitigation measures.

Proposals may result in approval, approval with conditions, or denial. Flexibility is provided in the considerations to allow for innovative and creative proposals for mitigation.

- c. For resources in Conservation District, providing a mitigation measure proportionally appropriate to the effect demolition will have on the physical integrity and historic significance of the Conservation District with which it is associated. Approval based on this criterion may require a mitigation measure valued at up to 10 percent of the real market value of the site at the time of application. The evaluation may consider the following factors:
- (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
  - (2) Any financial support proposed for the restoration or rehabilitation of a contributing resource in the associated Conservation District;
  - (3) Any proposed public history displays or other interpretative information related to the historic significance of the Conservation District;
  - (4) Any exceptional design elements proposed for the site; and
  - (5) Any proposed financial support for an underrepresented community, cultural, or ethnic group associated with the historic significance of the Conservation District. This may include community spaces, affordable residential or commercial leases, ownership opportunities, or other measures to be provided on site, within the Conservation District, or within the city. This may also include financially supporting institutions, organizations, or affordable housing providers that prioritize an underrepresented community, cultural, or ethnic group associated with the historic significance of the Conservation District.
- d. For Conservation Landmarks, providing a mitigation measure proportionally appropriate to the loss of the physical integrity and historic significance of the Conservation Landmark. Approval based on this criterion may require a mitigation measure valued at up to 10 percent of the real market value of the site at the time of application. The evaluation may consider the following factors:
- (1) The historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity;
  - (2) Any financial support proposed for the restoration or rehabilitation of a historic resource within the city;
  - (3) Any proposed financial support for historic resource education, survey, inventory, restoration, or rehabilitation within the city; and
  - (4) Any proposed financial support for an underrepresented community, cultural, or ethnic group associated with the historic significance of the Conservation Landmark. This may include community spaces, affordable residential or commercial leases, ownership opportunities, or other measures to be provided on site or within the city. This may also include financially supporting institutions, organizations, or affordable housing providers that prioritize an underrepresented community, cultural, or ethnic group associated with the historic significance of the Conservation Landmark.

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## **Commentary**

### **33.846.080.C Approval criteria (cont.)**

Existing approval criteria have been struck and replaced in 33.846.080.C.1.

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

- ~~1. Denial of a demolition permit would effectively deprive the owner of all reasonable economic use of the site; or~~
- ~~2. Demolition of the resource has been evaluated against and, on balance, has been found supportive of the goals and policies of the Comprehensive Plan, and any relevant area plans. The evaluation may consider factors such as:~~
  - ~~a. The merits of demolition;~~
  - ~~b. The merits of development that could replace the demolished resource, either as specifically proposed for the site or as allowed under the existing zoning;~~
  - ~~c. The effect demolition of the resources would have on the area's desired character;~~
  - ~~d. The effect that redevelopment on the site would have on the area's desired character;~~
  - ~~e. The merits of preserving the resource, taking into consideration the purposes described in Subsection A; and~~
  - ~~f. Any proposed mitigation for the demolition.~~

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## Commentary

### **33.846.090 Historic resource relocation review**

A new review has been established to consider relocation of some historic resources. Historic resource relocation review allows for the physical move of the building as well as any alterations necessary to accommodate the move, including alterations on the sending and receiving sites.

#### **33.846.090.A Purpose**

The purpose statement for historic resource relocation review specifies the resources subject to the review and explains the value provided through the review in preserving the historic significance and physical integrity of historic resources. The purpose is consistent with the purpose statements in other sections of this chapter.

#### **33.846.090.B Review procedure**

Historic resource relocation review is established as a Type III procedure to allow for public involvement in the process and a pre-application conference to engage staff from multiple bureaus in the logistics of moving a structure.

#### **33.846.090.C Approval criteria**

Approval criteria for historic resource relocation review are informed by State Administrative Rule (OAR 660-023-0200) requirements for relocation of National Register Resources (see commentary related to 33.846.080.C).

### **33.846.090 Historic Resource Relocation Review**

- A. Purpose.** Historic resource relocation review protects National Register Resources, Historic Landmarks, and contributing resources in Historic Districts and Conservation Districts from relocation activities that would harm the historic significance and physical integrity of the resource. It also protects historic resources that have a preservation agreement. Historic resource relocation review recognizes that historic resources are irreplaceable assets that preserve our heritage, beautify the city, enhance civic identity, and promote economic vitality and environmental health.
- B. Review procedure.** Historic resource relocation reviews are processed through a Type III procedure.
- C. Approval criteria.** Proposals to relocate a historic resource, including any alterations proposed for the sending or receiving sites, will be approved if the review body finds that criterion C.1 and one of the criteria in C.2 through C.4 have been met:
1. The applicant has shown that applicable approval criteria in Section 33.846.060.G, other approval criteria, have been met for any proposed alterations; and
  2. Maintaining the resource in its current location would effectively deprive the owner of all reasonable economic use of the site;
  3. Relocation of the resource has been evaluated against and, on balance, has been found supportive of the goals and policies of the Comprehensive Plan, and any relevant area plans.
    - a. The evaluation must consider the historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
    - b. The evaluation must consider the economic consequences of relocation.
    - c. The evaluation may consider the following additional factors:
      - (1) The merits of relocation;
      - (2) The merits of development that could replace the relocated resource, either as specifically proposed for the site or as allowed under the existing zoning;
      - (3) The effect relocation of the resource would have on the area's desired character;
      - (4) The effect that redevelopment on the site would have on the area's desired character;
      - (5) The merits of preserving the resource on site, taking into consideration the purposes described in Subsection A; and
      - (6) Any proposed mitigation for relocation.

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## Commentary

### **33.846.090.C Approval criteria (cont.)**

Approval criterion #3 provides for approval of relocation if the historic characteristics of the resource will not be harmed.

4. Relocation of the resource and related alterations will not substantially harm the physical integrity and historic significance of the resource.
  - a. The evaluation must consider the historic resource's age, historic significance, historic integrity, condition, value to the community, and design or construction rarity.
  - b. The evaluation may consider the following additional factors:
    - (1) The merits of relocation;
    - (2) The merits of preserving the resource on site, taking into consideration the purposes described in Subsection A; and
    - (3) Any proposed mitigation for relocation.

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## Commentary

### **33.855.075 Automatic Map Amendments for Historic Resources**

The title of this section has been amended for grammatical accuracy

#### **33.855.075.A Resources listed on the National Register of Historic Places**

Changes to this section incorporate changes made in chapter 33.445 regarding National Register Resources. National Register Resources listed by the National Park Service prior to these code amendments were automatically identified as Historic Landmarks and Historic Districts. These changes codify that National Register Resources listed before January 27, 2017, are mapped as Historic Landmarks and Historic Districts and are subject to the applicable regulations for those resource types. The changes also establish that National Register Resources listed after January 27, 2017, are no longer mapped as Historic Landmarks and Historic Districts unless they are locally designated. Unless there is a change in State law, National Register Resources must be mapped and protected with demolition and historic resource relocation review.

Changes also add consistency with phrasing in other sections.

#### **33.855.075.D Removal and addition after demolition**

This subsection has been amended to allow for designated historic resources to be relocated and retain their historic resource designation on the Official Zoning Map.

## 33.855 Zoning Map Amendments

855

### 33.855.075 Automatic Map Amendments ~~F~~for Historic Resources

The Official Zoning Maps will be amended automatically to add or remove historic resources as follows:

#### A. Resources listed ~~i~~on the National Register of Historic Places.

1. When a historic resource is listed ~~i~~on the National Register of Historic Places, it is automatically identified on the Official Zoning Maps as a National Register Resource~~Historic Landmark or Historic District~~ on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the listing of the resource ~~i~~on the National Register. All National Register Resources listed on the National Register of Historic Places prior to January 27, 2017 are identified on the Official Zoning Maps as a Historic Landmark or Historic District; and
2. When a historic resource is removed from the National Register of Historic Places and it has no ~~local historic~~ City historic resource designation, it is automatically removed from the Official Zoning Maps as a National Register Resource and, if listed prior to January 27, 2017, as a Historic Landmark or Historic District on the date the Bureau of Planning and Sustainability receives notification from the State Historic Preservation Office of the removal of the resource from the National Register.

#### B. Removal after destruction.

If a National Register Resource, Historic Landmark, or Conservation Landmark is destroyed by causes beyond the control of the owner, the Landmark designation for the resource is automatically removed from the Official Zoning Maps.

#### C. Removal after demolition.

If a National Register Resource, Historic Landmark, or Conservation Landmark is demolished after approval of demolition through demolition review, the Landmark designation for the resource is automatically removed from the Official Zoning Maps.

#### D. Removal and addition after relocation.

If a National Register Resource, Historic Landmark, or Conservation Landmark is relocated, the Landmark designation for the resource is automatically removed from the sending site and added to the receiving site on the Official Zoning Maps.

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## Commentary

### 33.910.030 Definitions

#### **Historic Resource**

Changes have been made to the definition of "historic resource" to reflect language used in the 2035 Comprehensive Plan and State Administrative Rule.

#### **National Register Resources**

A new definition has been added for resources listed in the National Register. State Administrative Rule (OAR 660-023-0200) requires local governments to recognize such resources as significant historic resources, even if they have not been locally designated.

#### **Historic Landmarks**

The definition for Historic Landmarks has been changed to reflect the level of significance of such resources.

#### **Conservation Landmarks**

The definition for Conservation Landmarks has been changed to reflect that such resources are locally designated and may be of community importance for social or cultural history.

#### **Historic Districts**

The definition for Historic Districts has been changed to reflect the geographic nature of such resources and indicate that the City can designate such districts.

#### **Conservation Districts**

A definition for Conservation Districts has been added to reflect the historic significance and geographic nature of such resources.

#### **Contributing Resources**

The definition for "Contributing Resources" has been changed to include National Register Resources.

#### **Noncontributing Resources**

A new definition of "Noncontributing Resources" has been added. Noncontributing resources are those elements of a designated historic resource that are not identified as a "Contributing Resource."

## 33.910 Definitions

# 910

**Historic Resource.** ~~A place, structure, or object that has historic significance.~~ A building, structure, object, site, place, or district that has a significant relationship to events or conditions of the human past.

~~Historic Resources may be important for archaeological, architectural, historical, or cultural reasons.~~

Historic Resources include:

- **National Register Resources.** A National Register Resource may include structures, objects, sites, or districts that have been listed by the federal Keeper of the National Register of Historic Places for historic significance. National Register Resources have boundaries that are described in the nomination provided in support of the federal listing. If no boundary is provided in the listing documentation, the boundary is the lot or lots that contain the National Register Resource's contributing resources;
- **Historic Landmarks.** ~~A Historic Landmark designation~~ may include structures, buildings, a portion of a building, sites, trees, statues, signs, or other objects or spaces that the City or the federal Keeper of the National Register of Historic Places has designated or listed for their special historical, cultural, archaeological, or architectural merit. They are primarily of local, state, or national importance. Historic Landmarks have boundaries that are described in the nomination or documentation provided in support of the resource's City designation or federal listing. If no boundary is provided in the designation or listing documentation, the boundary is the lot or lots that contain the Historic Landmark's contributing resources;
- **Conservation Landmarks.** A Conservation Landmark may include structures, buildings, a portion of a building, sites, ~~trees,~~ statues, signs, or other objects or spaces that the City has designated ~~or listed~~ for their special historical, cultural, archaeological, ~~or architectural,~~ or community merit. They are primarily of ~~local, or district,~~ neighborhood, or community importance. Conservation Landmarks have boundaries that are described in the documentation provided in support of the City designation. If no boundary is provided in the designation documentation, the boundary is the lot or lots that contain the Conservation Landmark's contributing resources;
- **Historic Districts,** ~~including those listed in the National Register of Historic Places~~ Geographic areas that the City or the federal Keeper of the National Register of Historic Places has designated or listed for their special historic, cultural, archaeological, or architectural merit. They are primarily of local, state, or national importance. Historic Districts have boundaries that are described in the nomination or documentation provided in support of the resource's City designation or federal listing;
- **Conservation Districts;** Geographic areas that the City has designated for their special historic, cultural, archaeological, architectural, or community merit. They are primarily of district, neighborhood, or community importance. Conservation Districts have boundaries that are described in the documentation provided in support of the resource's City designation;

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## Commentary

### 33.910 Definitions (continued)

The definition for Historic Resources Inventory has been deleted and a new definition for "Significant Resources" has been added. This change allows for the Historic Resource Inventory to be more appropriately applied as an umbrella term that captures all historic resources addressed in the zoning code, as well as historic resources that have been documented but not determined significant (such resources are not addressed by the zoning code). The change recognizes that Rank I, II, III resources identified in the 1984 Historic Resource Inventory are significant, while also allowing future determinations of significance to occur without use of a ranking convention (ranking is no longer best practice for determining the significance of historic resources). This change will allow staff to document potential historic resources and include them on the Historic Resource Inventory without necessitating a land use procedure until documented resources are considered for a designation or determination of significance.

A new definition has been added for "Significant Resources."

The definition for "Historic Resources Inventory" has amended to be consistent with 33.445.020.

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

- **Contributing Resources**, ~~including an associated~~ A building, site, structure, place, or object that adds to the historic associations, ~~historic architectural qualities, cultural significance, or archeological values that make a~~ National Register Resource, Historic Landmark, Conservation Landmark, Historic District, or Conservation District ~~significant~~ important, as identified in the documentation prepared for the listing or designation of the landmark or district; ~~and~~
- **Noncontributing Resources**. A site, structure, place, or object that does not add to the historic associations, architectural qualities, cultural significance, or archeological values that make a National Register Resource, Historic Landmark, Conservation Landmark, Historic District, or Conservation District important;
- ~~Structures or objects that are included in the~~ **Historic Resources Inventory**. ~~The Historic Resources Inventory is a documentation and preliminary evaluation of the significance of historic resources. Information for each resource may include a photograph, the year the resource was constructed, the builder or architect, original owner, significant features, architectural style, and in most cases, a ranking of significance.~~
- **Significant Resources**. Structures, objects, sites, places, or districts that the City has determined to be significant, but that have not been designated as Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts or listed as National Register Resources. Rank I, II, III resources identified in the 1984 Historic Resource Inventory are Significant Historic Resources.

**Historic Resources Inventory**. Structures, sites, objects, places, and districts that have been documented as having or potentially having architectural, historical, or cultural significance. The Historic Resource Inventory includes all resources defined as Historic Resources. See Historic Resource.