Regulatory Improvement Workplan

Regulatory Improvement Code Amendment Package 5

(RICAP 5)

Recommended Draft
Planning Commission's Recommendation to City Council
December 2009

City of Portland
Bureau of
Planning and Sustainability
Sam Adams, Mayor
Susan Anderson, Director

Regulatory Improvement

Code Amendment Package 5

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November 23, 2009

Mayor Sam Adams and Members of Portland City Council
Portland City Hall
1221 SW Fourth Avenue
Portland, OR 97204

Re: Regulatory Improvement Code Amendment Package 5 (RICAP 5)

Dear Mayor Adams and City Commissioners:

On October 27, 2009, the Planning Commission voted unanimously to recommend adoption of RICAP 5. This is a package of amendments to Portland's land use regulations that will improve the Zoning Code for the developers, citizens, and implementers. In addition to many clarifications, there are several large items and "bundles" of amendments in these categories. We would particularly like to note two items that we requested be *added* after our first hearing, and two items we decided should be *dropped* from this package.

Deleted from Project
We heard the most testimony on a proposal to **limit front-loading garages** on narrow houses. As alternatives to such garages, staff recommended rear-loading garages (from alleys), allowing parking in the front setback, or not providing on-site parking. We are aware of past concerns by neighbors about the garage-dominated facades of narrow houses, but heard little testimony about that. On the other hand, we heard from many developers who shared concerns about this proposal. Overall, we felt that this is a larger issue that should be addressed through it's own project, so we deleted the proposal for a limit as well as a proposed amendment that would allow **parking in the front setback** as an alternative to a garage on site. **Given the potential number of narrow houses that could be built in Portland, we strongly urge Council to direct—and fund—a study of the narrow houses that includes more extensive outreach, economic analysis, and design considerations.**

Added to Project
At the first hearing on August 25 we heard compelling testimony about **long-term bicycle parking for multi-dwelling developments**. The package already included a proposal to clarify and strengthen the standards for location of the spaces, but did not address the number of spaces required, which is currently 0.25 spaces per dwelling unit. Testimony indicates that bicycle ownership in Portland in multi-dwelling buildings is running at about two bicycles per unit. On one hand, we realize that additional analysis is needed to determine the best approach, but we saw need for an interim step at this time. We recommend that you increase the minimum from 0.25 spaces per dwelling unit to 1.1 spaces. The current ratio of 1 space for every 4 units is not consistent with City transportation policies, the recently adopted Climate Action Plan, or the needs of many people now living in multi-dwelling residences.

At that first hearing we also heard compelling testimony about the **allowed size of Accessory Dwelling Units** (ADUs). Under the current regulations, an ADU cannot be larger than 33 percent of the size of the main dwelling unit or 800 square feet, whichever is less. Testimony and staff analysis indicated that the 33 percent limit creates problems, particularly on sites where the main dwelling unit is less than 1500 square feet, a typical size for "old Portland" houses. We voted to increase the maximum to 75 percent or 800 square feet, whichever is smaller.

We applaud amendments that will address:

- Clarified, simplified regulations for **green building technologies**, including
  - Standards to allow solar panels to exceed maximum building height;
  - New regulations for the allowed size, height, and other impacts of small energy-generating wind turbines;
  - Standards for solar panels and eco-roofs in Historic and Conservation Districts and in design zones as an alternative to discretionary design review;
  - Allowing building eaves to extend further into setbacks to protect structures from weathering and provide more shading in summer (an energy conservation strategy);
  - Allowing—as accessory uses—small energy-generating systems such as solar panels, wind turbines and biogas generators that sell power back into the grid or serve a district or campus.

- Allowances for innovative courtyard housing designs in multi-dwelling zones, including
  - Required parking to be located in the shared courtyard;
  - Greater flexibility in the range of densities allowed in courtyard housing projects.
  - Some minor architectural features such as awnings and trellises in courtyard-facing setbacks;
  - Structures available for shared use by residents, such as gazebos, in common greens and shared courts.

- Clarified regulations for development on **small lots and lots of record**, including
  - Minimum size standards for existing lots and lots of record in the R5 zone (distinct from the size standards that apply to new lots);
  - Allowances for attached houses through design review as an alternative to the current 5-year waiting period, when an existing house has been demolished;
  - Additional clarifying standards for property line adjustments.

Recommendations
The Portland Planning Commission recommends that City Council take the following actions:

1. Adopt *RICAP 5: Recommended Draft;*

2. Amend the Zoning Code (Title 33) as shown in *RICAP 5: Recommended Draft;*and

3. Direct (and fund) further BPS to work on regulations related to narrow houses and focus on how to improve their design and compatibility;

Thank you for considering the Portland Planning Commission's recommendations.

Sincerely,

Don Hanson, President
Portland Planning Commission

Acknowledgements

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I. Introduction

Project Summary

This report is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number. More information on the Regulatory Improvement Workplan is in Appendix A.

The workplan for RICAP 5 was adopted by the Planning Commission at a public hearing in August 2008. The workplan initially included 55 items; one item, Nonconforming Upgrades – Green Technologies Exemption, was added by the Planning Commission at the August hearing; and 5 more were added after the adoption of the workplan at the request of the Bureau of Development Services. Mayor Adams requested that the solar panel items be expanded to include small wind turbines resulting in the addition of a sixth item. Finally, the Planning Commission added two items at their first hearing on this report. All of the items are listed in the table below.

The list includes a number of items that are organized into bundles. Bundles are groups of related items that focus on specific policy issues of importance to BDS and the Planning Bureau. The bundles may mix items that scored high in the ranking process along with related but lower-scoring items. Bundling can help to realize economies of scale in the research for and development of code amendments. The four bundles in RICAP 5 are:

Courtyard Housing Bundle
The Planning Bureau's Courtyard Housing Competition resulted in development of designs for family-oriented housing built around courtyards in multi-dwelling zones. Following the competition, the winning designs were analyzed against Zoning regulations. This resulted in a list of changes that would allow these designs to be built.

Green Bundle
BDS, in conjunction with the former Office of Sustainable Development (now part of the Bureau of Planning and Sustainability), assessed the effects of the Zoning Code on development with green features. This resulted in a list of proposed amendments to the Zoning Code intended to ease or provide incentives for the development of green buildings. Several items were added to the green bundle during the research and analysis phase of RICAP 5. These include Item 59 - Eaves in Setback, Item 60 - Wind Turbine Standards and Exemption to Reviews, and Item 61 - Green Energy and Use.

Fence Height Bundle
Regulations that limit fence height are based on required setbacks. In a number of commercial and employment zones there are no required setbacks, so no fence height restrictions apply. In residential zones, different limitations on fence height

may apply along front lot lines and side lot lines, which can lead to unwanted fence configurations on corner lots. For example, the house may face what the code considers to be the side lot line, rather than the front lot line, so a taller fence is allowed in front of the house, while a shorter fence in required along the side. The fence height issues raised in this package are intended to provide a more consistent approach to fence regulation in the City.

Loading Space Bundle
The code regulates the size, location, and number of loading spaces required in commercial and multi-dwelling development. Adjustments are frequently sought and approved to some of the loading space requirements. The issues raised in this bundle are intended to reduce the number of adjustments by developing better regulations for loading spaces. Better regulations would more accurately reflect the demand for access to loading spaces and the appropriate sizes for delivery vehicles that visit smaller commercial and multi-dwelling residential sites.

Narrow Lots and Lots of Record
While technically not a bundle, several amendments are being made in conjunction with Item 55 addressing Lots of Record. These amendments are based upon discussions held with a stakeholder group on issues regarding development on narrow lots and lots of record. Amendments include creating new minimum lot size standards in R5 zones and creating new standards for property line adjustments.

Planning Commission's Recommendation

The Planning Commission recommends that City Council take the following actions:

- Adopt this report;
- Amend the Zoning Code as shown in this report;
- Amend the report and commentary as further findings and legislative intent;
- Amend the Official Zoning Maps as shown in this report; and
- Adopt the ordinance.

RICAP 5 Workplan Items

Item #	Item Name	Proposed Amendment	Zoning Code Section
1	Water Collection Cisterns	Create standards for water collection cisterns.	33.110.220; 33.110.250; 33.120.220; 33.120.280; 33.130.215; 33.130.265; 33.140.215; 33.140.270; 33.218.100; 33.218.110; 33.218.120; 33.218.130; 33.218.140; 33.218.150
2	Adjustments and Modifications	No amendment proposed	N/A—See Proposed Draft
3	Solar Panels & Height	Create exemptions to maximum height limit for solar panels.	33.110.215; 33.120.215; 33.130.210; 33.140.210

Item #	Item Name	Proposed Amendment	Zoning Code Section
4	Established Building Line	Allow eaves to extend along established building line	33.110.220
5	Garage Entrance Setbacks in E-zones	Clarify that reduction in garage setback does not affect street facing development standards	33.110.220; 33.120.220
6	Duplex Lot Size and Street Dedications	Clarify that duplexes are allowed on corner lots that are greater than 5000 square feet prior to a street dedication.	33.110.240
7	Fence Height and Corner Lots	Provide an alternative set of height limits for fences on residential corner lots	33.110.255; 33.120.285
8	Density Gap between R1 and R2 (see also Item 42)	Allow a greater flexibility in density range for courtyard housing projects	33.120.270; 33.612.100
9	Density for SRO Housing	Clarify how density is calculated for Single Room Occupancy housing.	33.910.030
10	Transfer of Density Between Sites	Clarify that density transfer allowance is between sites	33.120.205
11	Development on Lots and Lots of Record	Technical correction to clarify that either condition can be met to develop on lot or lot of record.	33.120.210
12	Pedestrian Connections	Remove requirement for internal pedestrian connections on small sites (less than 10,000 sq ft)	33.120.255
13	Amenity Bonus for Sound Insulation	Clarify that amenity bonus for sound insulation is available for all residential uses, not just multi-dwelling.	33.120.265
14	Architectural Features in the Setback	Allow an entry trellis in the front setback. Allow other architectural projections within courtyard housing projects	33.110.250; 33.120.270; 33.120.280
15	Encroachment into Shared Street	Allow minor encroachments into common greens or shared streets on the corner lot	33.120.270
16	Institutional Development Standards	Clarify that standards for Institutional Master Plans in IR zones also apply to Conditional Use Master Plans.	33.120.275; 33.120.277
17	Fences in EXd	Limit fence height immediately adjacent to streets	33.120.285; 33.130.270; 33.140.275
18	Accessory Dwelling Units (ADUs) and Density Calculation	Remove reference to ADUS in density definition due to conflict with the ADU chapter	33.910.030
19	Community Design Standards – Vehicle Access through Buffer	Allow vehicle access through the landscape buffer if the only vehicle access is from the local street	33.218.110; 33.218.140
20	Nonconforming Upgrades List Order	No amendment proposed	N/A—See Proposed Draft
21	Nonconforming Upgrades – Option 2	Provide a grace period for nonconforming upgrades made under Option 2.	33.258.070

Item #	Item Name	Proposed Amendment	Zoning Code Section
22	Nonconforming Development and Allowed Uses	No amendment proposed	N/A—See Proposed Draft
23	Separate Parking Tract	Clarify that a parking or shared court tract may be used to provide required parking.	33.266.100; 33.266.120
24	Parking and Loading in Front Setback	No amendment proposed	N/A—See Proposed Draft
25	Alternative Driveway Paving	No amendment proposed	N/A—See Proposed Draft
26	Shared Driveway Across Lot Lines	Clarify that driveways shared by two properties are allowed to cross property lines.	33.266.120
27	Long Term Bike Parking in Multi-Dwelling Development	Strengthen regulations that require bike parking in multi-dwelling development.	33.266.220
28	Loading Space Dimensions	Allow smaller loading spaces in smaller multi-dwelling developments.	33.266.310
29	Loading Space Triggers	Reduce loading requirements for uses with less demand for loading.	33.266.310
30	Alternative Design Density Overlay	Remove 'a' overlay from commercially zoned properties	Official Zoning Maps
31	Louvers in Design Overlay Zones	Provide standards as an alternative to discretionary design review for small mechanical louvers on the ground floor	33.420.045
32	Solar Panel Design Review Exemption	Provide standards as an alternative to discretionary design review for solar panels.	33.218.100; 33.218.110; 33.218.120; 33.218.130; 33.218.140; 33.218.150; 33.420.045;
33	Eco-Roof Design Review Exemption	Provide standards as an alternative to discretionary design review for eco-roofs	33.420.045
34	Environmental Zone Exemptions for Multnomah County Drainage District	No amendment proposed	N/A—See Proposed Draft
35	Environmental Zone Development Standards for Land Divisions	Clarify that utility standards do not apply when land is approved for disturbance in a land division.	33.430.150; 33.430.160
36	Greenway Overlay Zones	No Amendment Proposed	N/A—See Proposed Draft
37	Solar Panel Historic Design Review Exemption	Provide standards as an alternative to discretionary historic design review for solar panels.	33.218.100; 33.218.110; 33.218.120; 33.218.130; 33.218.140; 33.218.150; 33.445.320; 33.445.720
38	Eco-Roof Historic Design Review Exemption	Provide standards as an alternative to discretionary historic design review for eco-roofs	33.445.320; 33.445.420
39	Eco-Roof FAR Bonus	Allow FAR bonus credit for eco-roofs and roof gardens when they are located on different parts of the same roof.	33.510.210

Item #	Item Name	Proposed Amendment	Zoning Code Section
40	Northwest Plan District FAR	Clarify that both residential and non-residential floor area count toward the FAR minimum in the Northwest Plan District.	33.562.220
41	Orientation to Public Street	For lots fronting both public and private streets, require house to orient to the public streets	33.110.230, 33.120.231, 33.130.250, 33.140.265
42	Courtyard Tracts and Density Calculations	Allow area used for common greens or shared courts to be included for maximum density calculation.	33.612.100
43	Planned Development Density Transfers to I Zones	Clarify that a Planned Development cannot be used to transfer residential uses into I zones, nor to transfer floor area from EG or I zones for residential uses.	33.638.100, 33.638.110
44	Type II Notice Procedures	Clarify target date for when a notice of decision must be mailed.	33.730.020
45	Hearings Officer's Decisions on Comprehensive Plan Amendments	Extend the amount of time for publication of Hearings Officer's Decision on Comprehensive Plan Amendments from 17 to 30 days	33.730.010, 33.730.030
46	Land Use Fees	Remove reference to fee receipts for determining complete applications	33.730.060
47	Right-of-way Dedications and Setback Adjustments	Allow reduced setback when City requires a right-of-way dedication along an existing street frontage.	33.110.220; 33.120.220
48	Solar Panels and Conditional Use Review	Allow solar panel installations at conditional use sites without additional review.	33.281.050; 33.815.040; 33.820.080
49	Parking and Conditional Use Review Type	Allow small additions or removal of parking spaces without a conditional use review	33.281.080; 33.815.040; 33.820.080
50	Historic Designation Procedure	Clarify that the Zoning Code's historic designation process is a local process.	33.445.100, 33.445.300, 33.846.030, 33.846.040
51	Historic Resource Covenants	Clarify the covenant requirement for properties using historic incentives	33.120.205, 33.130.205, 33.140.205, 33.846.050
52	State Transportation Planning Rule	Amend zone change criteria to conform with State transportation requirements	33.855.050
53	Solar Panel Exemption from Maximum Height	Exempt solar panels from maximum height under certain conditions.	33.110.215; 33.120.215; 33.130.210; 33.140.210; 33.515.235
54	Accessory Dwelling Unit vs. Second Sink	Clarify the elements that define an accessory dwelling unit	33.910.030

Item #	Item Name	Proposed Amendment	Zoning Code Section
55	Legal Lot of Record	• Create minimum size standards for existing lots and lots of record in R5 zone; • Allow flexibility for development on corner lots; • Clarify nonconforming status for development on small lots; • Create additional standards for property line adjustments (PLAs) • Create definitions for "Adjusted Lot" and "Lot Remnant".	33.110.212, 33.110.213, 33.110.253, 33.258.060, 33.667.300, 33.700.130, 33.910.030
Add #56	Nonconforming Upgrades – Green Technologies Exemption	Exempt some green technologies from threshold for nonconforming upgrades.	33.258.070
Add #57	Adjustment Purpose Statement	Clarify wording in adjustment purpose statement.	33.805.010
Add #58	Dimensions in Bike Parking Figure	Correct typographical error on bike parking figure.	Figure 266-9
Add #59	Eaves in Setback	Allow eaves to extend farther into setback to protect and shade buildings.	33.110.220; 33.120.220; 33.130.215; 33.140.215
Add #60	Wind Turbines	Develop standards for locating small wind turbines.	33.110.215; 33.120.215; 33.130.210; 33.140.210; 33.299 (new chapter); 33.515.235; 33.910.030
Add #61	Green Energy	Develop regulations to classify and locate Green Energy producers	33.110.100; 33.120.100; 33.130.100; 33.140.100; 33.920.310; 33.920.340; 33.920.400
Add #62	Retaining Wall Definition	Add a definition of “retaining wall” to the code.	33.910.030
Add #63	Minimum Number of Long Term Bike Parking Spaces for Multi-Dwelling Development	Increase minimum number of long-term bike parking from current standard of 0.25 spaces per dwelling unit.	33.266.210
Add #64	Maximum Size of Accessory Dwelling Units	Increase allowed size of ADUs	33.205.030

II. Impact Assessment

During each RICAP review process, an impact assessment is conducted in order to identify and evaluate positive and negative impacts of regulations that may be proposed. The process also identifies situations where a nonregulatory approach is a better solution. The process chart for impact assessment in Appendix B of this report illustrates the flow and stages of a model assessment process.

Consideration of each item is described in detail in Sections III and IV of this report, and in Section V of the Proposed Draft. Additional information is also available in the *RICAP 5 – Proposed Workplan* report, dated August 6, 2008.

Issues and Desired Outcomes

The goal of the Regulatory Improvement Workplan, is to "update and improve City building and land use regulations that hinder desirable development." In keeping with this goal, the desired outcomes of the RICAPs are to explore nonregulatory solutions to identified problems and, where a regulatory approach is determined to be best, to keep the regulations simple, clear, and easy to implement and enforce. The desired outcome for each issue addressed through a RICAP is to improve the regulation or process as much as possible, and to simplify, streamline, or increase the effectiveness of the regulation or process, while reducing burdens for applicants, neighbors, and staff.

The issues suggested as candidates for regulatory improvement range from the correction of small technical items to the reconsideration and updating of major policy approaches. RICAPs are intended to accommodate the consideration of items that are at the technical and minor policy end of that continuum. Within that intent, items are selected for consideration, and then discussed by staff, citizens, and the Planning Commission, as detailed below.

For more information on the initial selection of items for the workplan, see the *RICAP 5 Proposed Workplan* dated August 6, 2008.

Stakeholder Outreach and Feedback

During the analysis phase of this process, several of the more complex issues were presented to the Regulatory Improvement Stakeholders Advisory Team (RISAT) at their monthly meetings, starting in early 2009. In February they discussed green technologies (including solar, panels, eco-roofs, water collection cisterns, exemption for green technologies from nonconforming upgrade requirements, and an allowance for wider eaves in setbacks to shade and protect buildings). In March they discussed fence height requirements in C zones and EX zones, and fence height requirements on corner lots. In April, they discussed requirements for street dedications in land divisions that can trigger an Adjustment Review. They also discussed a number of items related to the City's efforts to encourage family friendly courtyard housing infill development, including discussions around

pedestrian connections, setbacks, and the orientation of dwelling units on corners. In May, they discussed issues related to how to define lots of record and regulate development on small lots. In June, they again discussed green technologies and the issues related to lots of record and small lots. In March, April May, and June, they also revisited a number of items that had been discussed at earlier meetings to consider staff analysis of the items and alternatives for addressing the issues. During each of these sessions the impact assessment questions were discussed: What is the underlying problem? What are the alternative approaches? How will regulations be enforced? What are the implementation costs? Is it worth it?

Staff also engaged in discussions with several other interest groups as well as appointed commissions during the formulation of the code amendments. In March 2009, staff held briefings with the Historic Landmarks Commission and the Design Commission to get their ideas on what would be appropriate standards to allow some green technologies like solar panels, eco-roofs, and water collection cisterns to be located in historic and design overlay zones without a requirement for design review.

During the spring and summer of 2008, staff from BPS and BDS established the Lot Confirmation stakeholder group to go over the issues related to item 55. This stakeholder group included representatives of neighborhood associations in all quadrants of the city, as well as homebuilders and infill developers. Over several meetings, the group discussed continuing issues for building on lots and lots of record that may not conform to current standards, and whether different standards and/or neighborhood overview should apply in different situations. While the group did not achieve consensus on many of the issues, the discussions did help inform the staff proposal.

Staff met several times with the local chapter of the Northwest Ecobuilding Guild, an association of builders, designers, homeowners, tradespeople, manufacturers, suppliers and others interested in ecologically sustainable building. Staff contacted and met with a local small wind turbine manufacturer (Oregon Wind Inc.). Members of staff also met with several neighborhood groups including the Citywide Land Use Group, Southeast Uplift and the Portland Main Street Coalition.

On June 19, 2009, the *RICAP 5 Discussion Draft Report* was published. Copies of this draft were made available to RISAT and other stakeholders. Staff also held an open house on July 14, 2009 to answer questions and receive feedback on the *Discussion Draft*. Notice of the Open House was sent to over 600 people, including representatives of the stakeholder groups identified above, parties who have expressed an interest in RICAP projects and the Bureaus Legislative Projects list, which includes all recognized neighborhoods and neighborhood coalitions as well as members of the general public who have requested that they be notified of Bureau of Planning and Sustainability projects.

Outreach in June also included meeting again with the Historic Landmarks Commission and the Design Commission to get their feedback on the standards developed by staff in the *Discussion Draft* to allow some green technologies like solar panels, eco-roofs, and water collection cisterns to be located in historic and design overlay zones without a requirement for design review. At their invitation, staff also met with the Historic Resources Committee of the Portland chapter of the

American Institute of Architects to brief them on the standards in the *Discussion Draft* for exemptions in historic overlay zones.

To address concerns from the building community, staff met with members of the Home Builders Association to discuss proposed changes to the narrow lot standards. However, the Association did not agree with the staff proposal to remove the provision that exempts garages from the frontage standards for existing narrow lots. They took issue that this provision harms most of the house plans available, while providing an allowance for the Living Smart designs to provide wider garages. This proposal was deleted by the Planning Commission

Approaches Considered

The decisions to recommend amendments to the Zoning Code (covered in Section III), the Official Zoning Maps (covered in Section IV) or to recommend no amendment (covered in Section V of the Proposed Draft) are the result of the impact assessment that has been applied to the items. The conclusions can be attributed to the art—more than the science—of a type of cost/benefit analysis implicit in the impact assessment process. Where the expected benefits outweigh the various costs, staff is recommending an amendment to the Zoning Code.

The reasons for recommending that no amendment be made fall into three general categories:

1. The assessment indicates that the solution is not worth the costs;
2. The assessment shows that the issue is important, but the solution should be decided as part of a larger review; and
3. More research is needed before a solid recommendation can be made.

Monitoring Effectiveness

Ongoing assessment is an essential component of the City's impact assessment process. The success of the proposed amendments will be monitored through the Planning Bureau's continuing monitoring and evaluation program. Overall success of any amendments will also be monitored through public feedback on the regulations.

III. Amendments to the Zoning Code

The recommended amendments to the Zoning Code are included in this section of the report. The amendments are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about the recommended amendments. The commentary includes a description of the problem being addressed, the legislative intent of the recommended amendment, and an assessment of the impact of the recommended change.

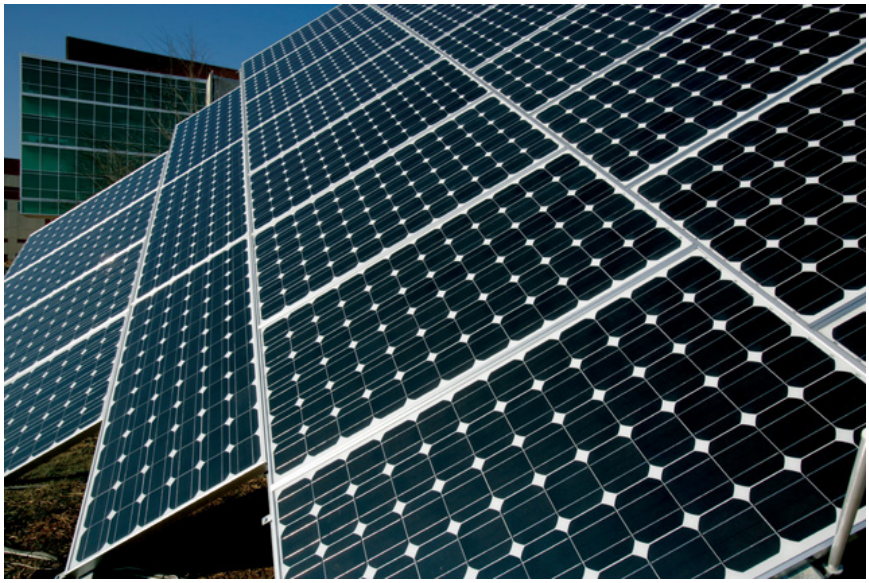
Item 61 – Green Energy and Use

Chapter 33.110, Single Dwelling Zones

Table 110-1, Single-Dwelling Zone Primary Uses

Small Scale Energy Production includes a variety of ways to produce energy from the environmental conditions of the site (from the sun, the wind, water, the ground). The definition (see 33.910) also allows production of energy from byproducts of uses allowed on the site, such as agricultural compost in the RF zone or yard trimmings and food scraps in a residential zone. Such systems are growing in popularity, but are currently allowed only if the energy is used on site; selling excess energy back to the grid or sharing energy among a group of neighbors is not allowed, but there is increasing demand for it.

The amendments to the base zones will allow Small Scale Energy Production to sell energy back to the grid, and will also allow systems that serve a group of uses or a group of dwelling units.



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

AMEND CHAPTER 33.110, SINGLE DWELLING ZONES

Excerpt from
Table 110-1
Single-Dwelling Zone Primary Uses

	RF	R20	R10	R7	R5	R2.5
Manufacturing And Production	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N
Basic Utilities	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]

5. Basic Utilities. This regulation applies to all parts of Table 110-1 that have note [5].

   a. Basic Utilities that serve a development site are accessory uses to the primary use being served.

   b. Small Scale Energy Production that provides energy both on- and off-site are considered accessory to the primary use on the site. Installations that sell power they generate—at retail (net metered) or wholesale—are included. However, they are only considered accessory if they generate energy from biological materials or byproducts from the site itself, or conditions on the site itself; materials from other sites may not be used to generate energy. The requirements of Chapter 33.262, Off Site Impacts must be met;

   c. All other Basic Utilities are conditional uses.

Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

Background

This item was initially identified after the City received a decision from the State Land Use Board of Appeals that was contrary to our interpretation of the development potential on lots of record. The initial request was to review our current definition of lot of record and amend it to better address our policy on building for these specific pieces of property.

However, it became evident that a larger review of the continuing issues involving development on small infill properties would be needed, and that the definition of lot of record was not the source of many of the problems. Instead, the problem involved wiggle room in our minimum lot size standards for existing lots in the R5 zones that enabled various slivers of land and lot remnants to be developed or expanded and then developed. Many of these slivers were never intended to be developable lots.

In 2008, BDS and BPS, created a lot confirmation task force that included neighborhood representatives, developers, consultants and city staff. The group was tasked with reviewing some of the code details that allowed development on lot fragments, and reviewing some of the design issues still affecting neighborhoods. These were continuing issues that had not been fully resolved from the code amendments for narrow lots that were implemented in 2003.

This task force met several times, and while they were not able to achieve consensus on many of the issues, they did identify many issues that needed to be resolved. The amendments proposed in this document address some of those issues.

Note to City Council: After the Planning Commission's hearing on RICAP 5, staff and developers tested the proposed amendments on some real examples. It became apparent that the code language still needed to be clarified. Except for one amendment, the proposed changes in this draft are reformatted and clarified, but do not change the intent of what was presented to the Planning Commission. The one substantive change between the Planning Commission's recommendation and this draft is in regards to allowing development on individual lot remnants (see below).

33.110.212 When Primary Structures are Allowed.

C. Primary Structures allowed. This section regulates when a property can be developed in the single-dwelling zones. Two new terms are introduced in Chapter 33.910 and are incorporated into the regulations of this section. An "adjusted lot" is a lot whose lot lines have been altered through a city-approved property line adjustment or a pre-1979 deed transfer and that consists of more than half of the original lot size. A "lot remnant" is a fragment of a previously platted lot that is 50% or less the original lot size.

3. The regulations in this paragraph are repeated throughout the deleted text below and apply to all pieces of properties. The ownership clause is simplified to restrict the separation of lots under the same ownership as defined in 33.910. The current restriction is too broad and could affect lots passed down through wills, etc.

4. The regulations regarding when an existing piece of property that was created prior to 1979 can be developed in the single-dwelling are lengthy and confusing. These amendments simplify the regulations by creating a table.

Table 110-6
The new table explains when all pieces of property (lots, lot remnants, and lots of record) that were created prior to 1979 can be developed. For the most part, the regulations remain the same, but are tabulated. There are four substantive amendments proposed:

- **Establish new minimum lot dimensions standards for development on existing lots in the R5 zone**
  The current regulations that pertain in the R5 zones have been in place since 2003 and waive lot size requirements for lots and lots of record that have been vacant for at least five years. This provision was intended to remove the pressure to tear down viable structures for the purpose of developing multiple houses on the underlying lots, which was an issue addressed in the Regulatory Improvement Workplans, Policy Packages 1 and 2. For the most part it has been successful. However, it has also placed pressure on manipulating property lines for the purpose of creating 'vacant' sites and also has resulted in property line adjustments to turn unbuildable property remnants into minimally buildable sites. The intent of the 2003 amendment was to allow building on vacant legal lots, but not to create a buildable situation from an unbuildable lot remnant through lot line manipulation.

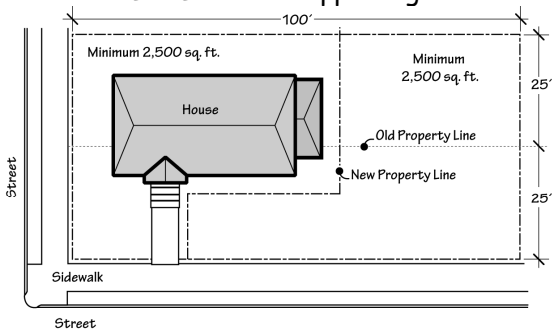
  Currently, development is allowed on lots (including the newly defined 'adjusted lots') that either meet the minimum lot size for the zone (3,000 sq. ft. and 36 ft. wide) OR have been vacant for the previous 5 years. For the latter option, there is no minimum lot size. This amendment introduces a minimum lot size for vacant lots. Those lots must be 2,400 sq. ft and 25 ft. wide OR 1,600 sq. ft. and 36 ft. wide.

33.110.212 When Primary Structures are Allowed (cont'd)
Table 110-6 (cont'd)

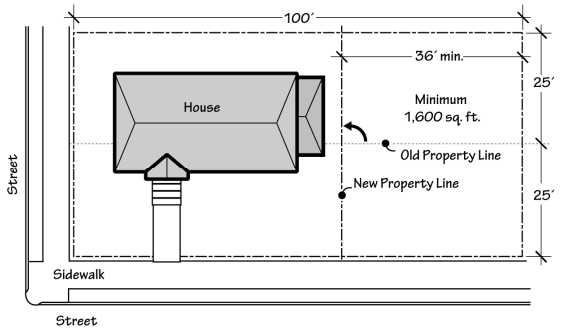
Corner Lots

The smaller lot size, 1,600 sf and 36 ft. wide, is meant to solve a common problem for sites comprised of 2 lots located corners where a property line adjustment is being pursued to accommodate one additional building site. When a property is not vacant and lines are being altered through a property line adjustment, both altered lots must meet the dimensional requirements of the zone (3,000 sq. ft and 36 ft. wide). However, if the original lots already didn't meet the dimension requirements, a property line adjustment could still be approved if neither lot moved further out of conformance with the standard. In most cases, this means that neither lot can be less than 2,500 square feet. However in many cases, the existing house is located as such that the lot line cannot be relocated in a clean, square manner while still providing 2,500 square feet of area. Instead, lots with strange 'appendages' are being created in order to maintain the same lot size. (See drawing below). Since the 'appendages' do little other than complicate legal descriptions and create confusion for subsequent property owners, the amendment allows lot sizes to be as small as 1,600 sq. ft. and 36 ft. wide to enable a clean property line configuration.

Relocated Lot Line with 'appendage'



Relocated lot line allowed after amendment



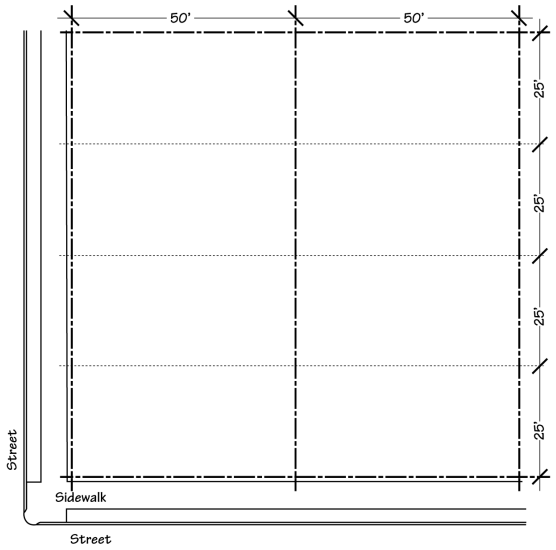
33.110.212 When Primary Structures are Allowed (cont'd)
Table 110-6 (cont'd)

This amendment will still allow most of the current development proposals, including the prototype Living Smart houses to be built. The two standards are designed to create more flexibility for various lot configurations. The small lots will continue to have a lower maximum building coverage standard of 40%, ensuring the smaller lot size does not eliminate the provision of outdoor space, light, and air. It should be noted that all additional design standards listed in 33.110.213 will still apply to lots under 3,000 square feet of 36 feet wide.

- **Establish minimum lot dimensions standards for "lot remnants"**
Currently, both the newly defined 'adjusted lots' and 'lot remnants' are developable under the same rules. That is, if they either meet the minimum lot size for the zone (3,000 sq. ft. and 36 ft. wide) OR they have been vacant for the previous 5 years, they are developable. However, this means that what was originally platted as one lot can effectively have two building sites; one on the newly defined 'adjusted lot' and the other on the newly defined 'lot remnant'. This amendment retains the existing policy for 'adjusted lots', as described above. However, 'lot remnants' must meet the minimum lot size for new lots in the zone (in R5, 3,000 sq. ft. and 36 ft. wide). A 'lot remnant' that is smaller than that the minimum lot size is not developable, regardless if it has been vacant for the previous 5 years.

  This amendment resolves many situations where two building sites were developable though they were originally platted only as one lot. However, this amendment also recognizes that if 'lot remnants' do meet the minimum lot size for new lots, they should be afforded the same development rights as 'adjusted lots'.

  Note to City Council: The Planning Commission did not recommend this change, nor did they discuss this item. Staff's proposal to the Commission was to not allow lot remnants to be built. Subsequent to the Planning Commission hearing, staff has tested the original amendment and found that it resulted in unintended consequences. Therefore, this amendment proposes that lot remnants or combination of lot remnants that meet the minimum lot size of the zone be developable. See drawing below.



- **Establish minimum lot dimensions standards for "lots of record"**
  Unplatted property created through the exchange of deeds are called "lots of record" if they were created prior to our subdivision requirements of 1979. They are not created from a land division, and are not legally identified as a lot per state rule. There has been difficulty determining when certain deeds were created for the purpose of selling a unit of land as a separate entity, and when deeds were created to transfer a unit of land from one property to another (what we call a property line adjustment today). This is especially a problem in the R5 zone. Since it is difficult to determine this historic intent, the code is amended to require that any lot of record in the R5 zone have size and dimensional standards similar to the minimum lot size standards for new lots in order to be buildable. An exception is provided if the 'lot of record' has been under separate ownership since 1979 (in 33.110.C.3). This amendment should help to distinguish between a historically buildable lot of record and a sliver of land that was transferred through a historic property line adjustment.

- **Create an alternative to the "5 year waiting period" (See Footnote 3)**
  As noted above, development on lots zoned R5 (including the newly defined 'adjusted lots') that do not meet the minimum lot size standard for new lots in the zone (3,000 sq. ft. and 36 ft. wide) must be vacant for the previous 5 years in order to be developed. This minimum was established in 2003 and was intended to prevent the demolition of existing housing stock that straddled two lots in order to build two "skinny houses." In practice, the existing house was demolished, one replacement house was built one of the lots, and the other lot was left vacant for 5 years. After a 5 year period had passed, then a second house was built on the second lot. This amendment proposes that two attached houses can be built immediately (without waiting 5 years), if they are approved through a Type II Design Review process. This amendment takes a step towards resolving the concerns that neighborhoods have about a lot sitting vacant for 5

years. It also provides an opportunity for the developer to build two houses immediately, albeit through a discretionary public review process.

Footnote 1 - This footnote clarifies how a piece of property will be regulated if it meets the definition of "lot of record" and "adjusted lot." This is a common occurrence, as there are many lots whose lot lines were altered prior to 1979 (and meet the "lot of record" definition) and are also more than 50% the original lot size (and meet the "adjustment lot" definition).

Footnotes 2 and 3 - To address the issue of lots staying vacant after a demolition, two new standards provide options for rebuilding on the lots without the five year wait. First, if a house on the site has been tagged as a dangerous building subject to demolition, the lot will not have to wait five years in order to be allowed to be developed to the lower thresholds of 2400 sq. ft. and 25 feet wide or 1600 sq. ft. and 36 feet wide. Second, if a site containing a house consists of two lots, the applicant can choose to go through a discretionary design review to remove the existing house and propose two attached houses. The Design Review process enables staff to require design elements and scale considerations to better fit in the neighborhood context as part of their approval.

Footnote 4 – This allows primary structures on existing lots and lots of record that do not meet dimensional requirements if the lot or lot of record was "confirmed" (i.e. if it had it's own tax account on the effective date of these regulations). This allows development on stand-alone lots and on those that have been confirmed by the time these regulations take effect, but does not allow development on lots that are part of a larger tax account and can already be developed under existing requirements and standards. It also "grandfathers" in those lots that have begun the lot confirmation process by the effective date if the process is completed within a year.

Commentary

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

CHAPTER 33.110
SINGLE-DWELLING ZONES

33.110.212 When Primary Structures are Allowed

A. Purpose. The regulations of this section allow for development of primary structures on lots and lots of record, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations also allow development of primary structures on lots that were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.

B. Adjustments. Adjustments to this section are prohibited.

C. Primary structures allowed. In all areas outside the West Portland Park Subdivision, primary structures are allowed as follows:

1. On lots created on or after July 26, 1979;

2. On lots created through the Planned Development or Planned Unit Development process;

3. On sites of any size that have not abutted a lot, lot of record, or lot remnant under the same ownership on July 26, 1979 or any time since that date.

4. On lots, lots of record, lot remnants, or combinations thereof created before July 26, 1979 that meet the requirements of Table 110-6.

Table 110-6
Minimum Lot Dimension Standards for Lots, Adjusted Lots, Lots of Record, and Lot Remnants Created Prior to July 26, 1979

RF through R7 Zones		
Lots, including Adjusted Lots [1]	36 feet wide and meets the minimum lot area requirement of Table 610-2.	
Lot Remnants		
Lots of Record		
R5 Zone		
Lots, including Adjusted Lots [1,4]	If the site has not had a dwelling unit on it within the last five years and is not in an environmental zone	2400 sq. ft. and 25 ft. wide or 1600 sq. ft. and 36 ft. wide
	If the site has had a dwelling unit on it in the last five years [2,3]	3000 sq. ft. and 36 ft. wide
Lot Remnants [4]		3000 sq. ft. and 36 ft. wide
Lots of Record [4]		3000 sq. ft. and 36 ft. wide
R2.5 Zone		
Lots, including Adjusted Lots [1]	1600 sq. ft.	
Lot Remnants		
Lots of Record		

Notes:
[1] If the site is both an adjusted lot and a lot of record, the site may meet the standards for adjusted lots.
[2] Primary structures are allowed if the site has had a dwelling unit on it within the last five years that has been demolished as a public nuisance under the provisions of Chapter 29.40.030 or 29.60.080.
[3] Primary structures are allowed on a site that contains two lots with an existing dwelling unit and a proposal to replace the existing dwelling unit with two attached houses has been approved through a Type II Design Review.
[4] Primary structures are allowed on a site if it has been under a separate tax account number from abutting lots or lots of record on [effective date of these regulations] or an application was filed with the City before [effective date of these regulations] authorizing a separate tax account and the site has been under separate tax account from abutting lots or lots of record by [one year after the effective date of these regulations].

33.110.212 When Primary Structures are Allowed (cont'd)

3. The regulations deleted from this paragraph are incorporated into Table 110-6.

5. "Lot remnants" is added as a type of property that is developable if certain requirements are met.

~~3. On lots or combinations of lots created before July 26, 1979 that meet the requirements of this paragraph, and on lots of record or combinations of lots of record that meet the requirements of this paragraph. The requirements are:~~

~~a. In the RF through R7 zones the lot, lot of record, or combination of lots or lots of record must:~~

~~(1) Be at least 36 feet wide, and meet the minimum lot area requirement of Table 610-2; or~~

~~(2) Not have abutted any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;~~

~~b. In the R5 zone the lot, lot of record, or combination of lots or lots of record must meet one of the following:~~

~~(1) Be at least 36 feet wide, and be at least 3000 square feet;~~

~~(2) Have been under a separate tax account from abutting lots or lots of record on November 15, 2003;~~

~~(3) Have had an application filed with the City before November 15, 2003 to authorize a separate tax account and have been under a separate tax account from abutting lots by November 15, 2004; or~~

~~(4) Have not had a dwelling unit on it since September 10, 2003, or for at least five years, and not have any portion in an environmental overlay zone.~~

~~c. In the R2.5 zone the lot, lot of record or combination of lots or lots of record must meet one of the following:~~

~~(1) Be at least 1600 square feet in area;~~

~~(2) Have been under a separate tax account from abutting lots or lots of record on November 15, 2003; or~~

~~(3) Have had an application filed with the City before November 15, 2003 to authorize a separate tax account and have been under a separate tax account from abutting lots by November 15, 2004;~~

~~4.~~5. Primary structures are allowed on lots, lots of record, lot remnants, and combinations thereof ~~of lots, or lots of record,~~ that did meet the requirements of ~~C.3~~ Table 110-6, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way.

33.110.212 (cont'd)

D. Regulations for West Portland Park.
A new regulation is added to address existing lots in the R2.5 zone. This provision was not initially needed in this area, because there were no areas zoned R2.5 in West Portland Park. However, as part of the Southwest Community Plan, some areas adjacent to SW 49th were zoned to R2.5. These areas have existing platted lots that are 2,500 square feet. Because there are no provisions for a minimum lot size for existing lots in this zone, proposals for development on these lots have still required a new land division.

To be consistent with other zones in the West Portland Park area, a provision is added to set up a minimum lot size of 2,500 square feet to develop on an existing lot in the R2.5 zone.

It should be noted that these standards will also be applicable to adjusted lots as defined in 33.910.

E. Plots. Plots can be any piece of land created through a recording process. This section does not allow a primary structure on the plot unless it can also be shown to be a lot, lot of record, or lot remnant of a buildable size. "Lot remnants" is being added to this provision because they are being defined as a new type of piece of property. "Adjusted Lot" is not being added to this list because they are included as a type of lot in 33.910.

D. Regulations for West Portland Park. In the West Portland Park subdivision, primary structures are allowed as follows:

1. On lots created on or after July 26, 1979;

2. On lots, or combinations of lots created before July 26, 1979 that meet the requirements of this paragraph, and on lots of record or combinations of lots of record that meet the requirements of this paragraph. The requirements are:

   a. R7 zone. In the R7 zone, the lot, lot of record, or combination of lots or lots of record must be at least 7,000 square feet in area;

   b. R5 zone. In the R5 zone, the lot, lot of record, or combination of lots or lots of record must be at least 5,000 square feet in area; ~~or~~

   c. R2.5 zone. In the R2.5 zone, the lot, lot of record, or combination of lots or lots of record must be at least 2,500 square feet in area; or

   d. On July 26, 1979, or any time since that date, the lot, lot of record, or combination of lots or lots of record did not abut any lot or lot of record owned by the same family or business;

3. Primary structures are allowed on lots, lots of record, and combinations of lots or lots of record that did meet the requirements of D.2, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way.

E. Plots. Primary structures are prohibited on plots that are not lots, lots of record, lot remnants, or tracts.

F. Nonconforming situations. Existing development and residential densities that do not conform to the requirements of this chapter may be subject to the regulations of Chapter 33.258, Nonconforming Situations. Chapter 33.258 also includes regulations regarding damage to or destruction of nonconforming situations.

33.110.215 Height

A-B. [No Change.]

C. Exceptions to the maximum height.

Item 3 – Solar Panels and Height
Item 60 - Wind Turbine Standards and Exemption to Reviews
Item 53 – Solar Panels Exemption from Standards
This item was a request to clarify that rooftop solar panels and wind turbines are not classified as rooftop mechanical equipment. This is accomplished by adding separate exceptions for solar and wind systems.

Image courtesy of Oregon Wind Inc.

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

33.110.215 Height

A-B. [No Change.]

C. Exceptions to the maximum height.

1. ~~Projections allowed.~~ Chimneys, flag poles, satellite receiving dishes, and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.

2. ~~Farm buildings.~~ Farm buildings such as silos and barns are exempt from the height limit as long as they are set back from all lot lines, at least one foot for every foot in height.

3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

4. Small wind turbines are subject to the standards of Chapter 33.299.

5. Roof mounted solar panels are not included in height calculations, and may exceed the maximum height limit if the following are met:

   a. For flat roofs or the horizontal portion of mansard roofs, they may extend up to 5 feet above the top of the highest point of the roof.

   b. For pitched, hipped, or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches in measured from the upper side of the solar panel.

D. [No Change.]

Item 1 – Water Collection Cisterns
Item 59 – Eaves in Setback

33.110.220 Setbacks

C. Extensions into required building setbacks.

Cisterns. This amendment responds to a request that water collection cisterns and other similar building features be allowed within setbacks, within reason. This section of code already governs building features such as balconies and fire escapes, and is expanded to facilitate water collection systems.

Eaves. The zoning code allows some minor building features, including eaves, to extend into required building setbacks. The code currently allows the extension up to 20 percent of the depth of the required setback. For example, if the required setback is 5 feet, the minor building feature may extend 1 foot into the setback; if the required setback is 10 feet, the feature may extend 2 feet into the setback.

A precept of green building is that wider eaves are beneficial and provide several benefits, including:

- protection of doors and windows from harsh weather, prolonging their useful life;
- protection of foundation and home walls from excess water and moisture damage by redirecting water away from the structure;
- improving energy efficiency by providing shading in the summer heat.

Several nationally recognized standards for green buildings award points in their certification programs for buildings with wider eaves. These include the LEED H, Earth Advantage, and GBI. Generally, these points are granted for eaves that are at least two feet wide.

This amendment allows eaves to extend up to 40 percent of the depth of the required setback or three feet, whichever is less. However, the eaves may not be closer than three feet from a lot line. With a required setback of 5 feet, this allows eaves to

(Commentary on eaves continued on next commentary page.)

Language to be **added** is underlined
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33.110.220 Setbacks

A-B. [No Change.]

C. Extensions into required building setbacks.

1. Minor features of a building such as ~~eaves,~~ chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies, may extend into a required building setback up to 20 percent of the depth of the setback. However, ~~in no case may they be less than~~ they must be at least three feet from a lot line, except as allowed in Section 33.110.250, Accessory Structures. Eaves, rain gutters, and downspouts may extend into a required setback up to 40 percent of the depth of the setback. However, ~~in no case may they~~ eaves may not extend more than ~~3~~ three feet into the setback or be closer than three feet from a lot line. Bays and bay windows extending into the setback also must meet the following requirements:

   a. through d. [No change.]

2. Accessory structures. [No change.]

Item 59 – Eaves in Setback (cont.)

extend two feet into the setback.. If the setback is 10 feet, an eave could extend up to 3 feet.

Concerns were raised at our first hearing that allowing wider eaves in the setback on one property would have a detrimental effect on the light and sense of openness on a neighboring property. To address this, staff conducted shadow studies. The studies considered the impact on an adjacent house of a typical, 2-story house with both one-foot and 2-foot eaves, and the impact on an adjacent house of a 35-foot house (the maximum height allowed in single-dwelling zones) with both one-foot and 2-foot eaves. The study is in Appendix C, and shows minimal impacts.

In addition, the restriction that keeps eaves at least 3 feet from a property line will assure that light and air is retained on adjacent properties. It is also in keeping with the building code, which has similar restrictions.

33.110.220 Setbacks

D. Exceptions to required setbacks

Item 5— Garage Entrance Setbacks in E-zones

3. Environmental zone. The current regulation allows front building and garage setbacks to be reduced in environmental zones. Although the setback may be reduced, the requirements that limit the projection of the garage from the front of the house, as well as other regulations are still in place. This amendment clarifies that the reduction in setbacks does not eliminate any other requirements.

Item 4—Eave Projection Along Established Building Lines

5. Established building lines. The intent of this regulation is to allow an addition to a house whose existing building walls may not meet current setbacks. The regulation ensures that the new wall will not cause the property to go further out of conformance, and in no case may the wall be closer than three feet to ensure fire separation. Although it makes sense to allow an eave associated with the wall to continue at the reduced setback, the code does not provide a similar allowance for eaves. This amendment clarifies that the eave line may be extended as well as the building line, as long as the eave is no closer than two feet from the property line. This will allow a new eave to be consistent with an existing eave on a non-conforming building wall in most cases. It should be noted that placing new eaves closer than 3 feet from the property line may trigger additional fire separation requirements through the building code.

Language to be **added** is underlined
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33.110.220 Setbacks

D. Exceptions to the required setbacks.

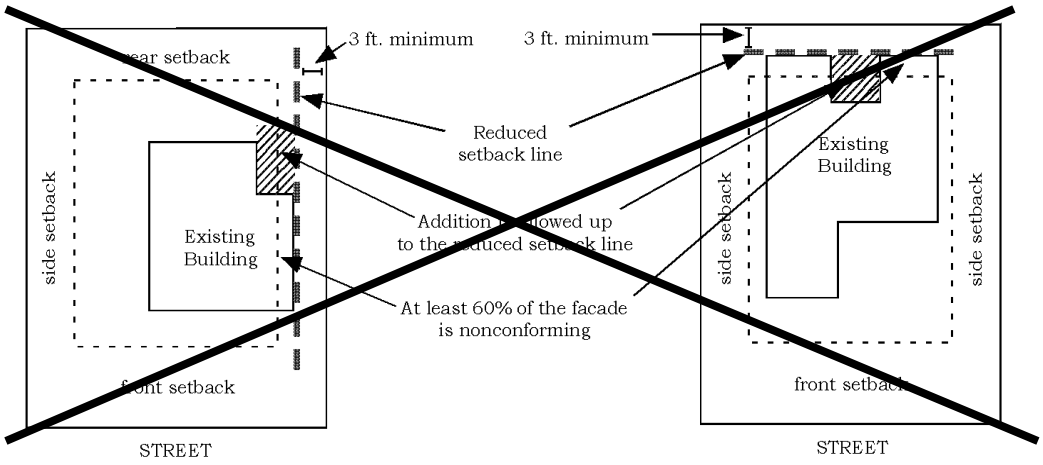
1-2. [No Change.]

3. Environmental zone. The front building and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero. All other provisions of this Title apply to the building and garage entrance.

4. [No Change.]

5. Established building lines. The front, side, or rear building setback may be reduced for sites with existing nonconforming development in a required setback. The reduction is allowed if the width of the portion of the existing wall within the required setback is at least 60 percent of the width of the respective facade of the existing structure. The building line created by the nonconforming wall serves as the reduced setback line. Eaves associated with the nonconforming wall may extend the same distance into the reduced setback as the existing eave. However, side or rear setbacks may not be reduced to less than 3 feet in depth and eaves may not project closer than 2 feet to the side or rear property line. See Figure 110-4. This reduced setback applies to new development that is no higher than the existing nonconforming wall. For example, a second story could not be placed up to the reduced setback line if the existing nonconforming wall is only one story high.

Figure 110-4
Established Building Lines
(Replace This Image)



6. [No Change.]

Commentary

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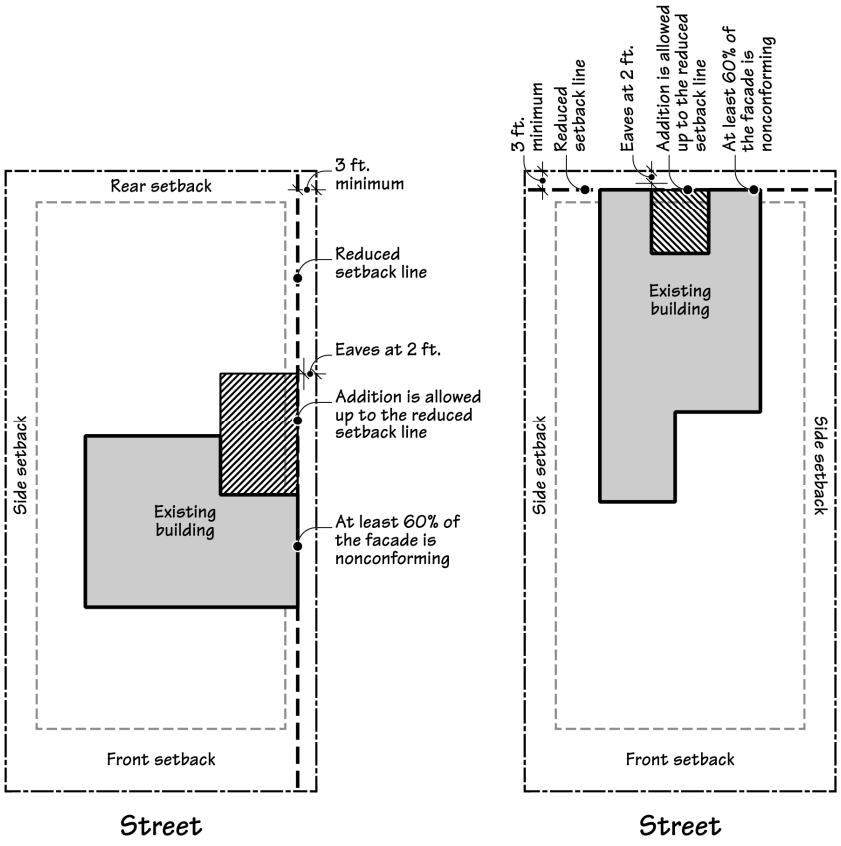
Figure 110-4
Established Building Lines
(New Image)



Item 47 – Right-Of-Way Dedications and Setback Adjustments

33.110.220 Setbacks

D. Exceptions to the required setbacks.

7. There are often existing houses, garages, and other structures on land division sites that are in good condition and that will remain on new lots when the land division is completed. When the property is divided, there may be a requirement for dedication of additional right-of-way to provide room to improve the street and include sidewalks and planting strips for street trees. This dedication can result in the setback for existing structures being reduced to where an adjustment to the setback is required.

   While these adjustments are almost always approved, they often change the level of review for the land division from a Type I to a Type IIx. Sometimes the need for the adjustment isn't discovered until well into the process when the required street width in relation to existing structures becomes apparent.

   This amendment allows the street dedications and reduction in setback for existing structures to be accomplished without an adjustment.

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33.110.220 Setbacks

D. Exceptions to the required setbacks.

7. Land divisions with existing development. In the R7, R5, and R2.5 zones, the following setback reductions are allowed when proposed as part of a land division:

   a. ~~t~~The minimum setback between an existing building and a side lot line along a proposed right-of-way dedication or street tract may be reduced to three feet~~.~~;

   b. When a dedication of public right-of-way along the frontage of an existing street is required as part of a land division, the minimum front or side setback between an existing building lot line that abuts the right-of-way may be reduced to zero. Future additions or development must meet required minimum setbacks.

   c. Eaves on an existing building may extend one foot into the reduced setback allowed by D.7.a. or b. above, except that they may not extend into the right-of-way. ~~This setback reduction is allowed when proposed as part of a land division~~.

8. [No Change.]

Item 41 – Courtyard Housing: Orientation to Public Street

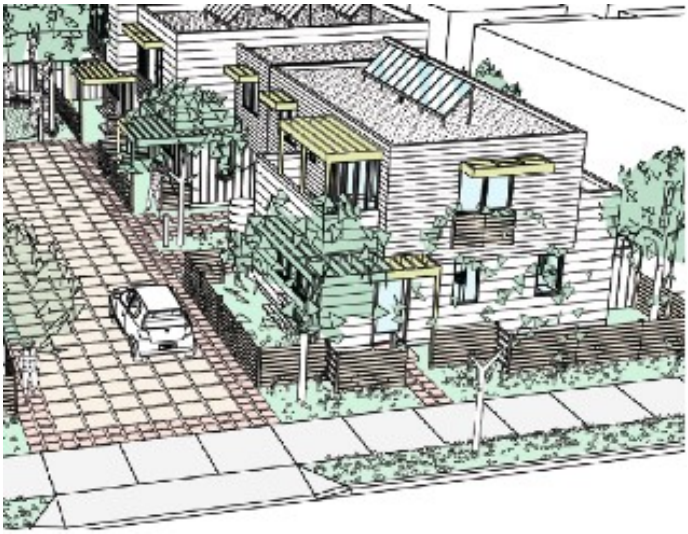
33.110.230 Main Entrances in R10 through R2.5 Zones

A. Purpose.
An additional item is added to the purpose statement to complement the new regulation discussed below, and to provide the reasoning behind requiring pedestrian orientation to favor the public street.

B. Where These Standards Apply.
As part of the Land Division Code Rewrite Project and the Infill Design Project, several amendments were made to the code to allow the houses on individual lots around common greens or other shared tracts. The common green or other shared tract provides both access and outdoor common areas for residents. This is especially attractive for families with children, particularly in comparison to typical multi-dwelling developments.

To encourage this form of development, a competition was held to find well-designed development plans that could be used in various infill sites. In reviewing the results, it became apparent that additional flexibility was needed in zoning regulations to allow many of the winning proposals. The amendments here address some of the issues.

One problem was with the units that had frontage along the public street; they often did not orient their front entrances to the public street, instead providing the entrance along the common green. This was inconsistent with the neighborhood development pattern oriented to the public street. During a review of this issue, staff noted that this is an issue that applies equally to any infill land division that proposes a private street into the site. These new developments often turn their side to the public street. In order to connect new development with existing neighborhood patterns, this amendment requires a house that fronts both a public and a private street to orient its front entrance to the public street.



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33.110.230 Main Entrances in R10 through R2.5 Zones

A. Purpose. These standards:

- Together with the street-facing façade and garage standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Enhance public safety for residents and visitors and provide opportunities for community interaction;
- Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and
- Ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.
- Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.

B. Where these standards apply.

1. The standards of Subsection C apply to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones;

2. The standard of Subsection D applies to attached houses on new narrow lots.

3. Where a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added;

4. On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may choose on which frontage to meet the standards.

5. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards; and

6. Subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from these standards.

C. Location. [No change.]

Item 6 – Duplex Lot Size and Street Dedications

33.110.240 Alternative Development Options

D. Duplex in R2.5 zone When property is divided or developed, there may be a requirement for dedication of right-of-way along the frontage of the site to provide room to improve the street and include sidewalks and planting strips for street trees.

Duplexes are allowed in the R2.5 zone on lots that are at least 5000 square feet in area. When the applicant chooses to develop a duplex and dedications are needed to make the required public improvements, the dedication can reduce the area of the lot to less than 5000 square feet, preventing development of a duplex. This amendment clarifies that duplexes are allowed on lots that are 5000 square feet or greater in area even if they are reduced to an area that is less than 5000 square feet following right-of-way dedications.

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33.110.240 Alternative Development Options

A-C. [No change.]

D. Duplex in R2.5 zone. Duplexes are allowed in the R2.5 zone if the following are met:

1. Density. A maximum density of 1 unit per 2,500 square feet of site area is allowed. Density for this standard is calculated before required public right-of-way dedications are made;

2-3. [No Change.]

E. (No change.)

33.110.250 Accessory Structures

C. Setbacks.

Item 14 – Courtyard Housing: Architectural Features in Setback

2. Vertical Structures. The City held a competition for courtyard housing design in 2007 (See commentary for Section 33.110.230). Several winning designs used architectural elements such as trellises, arbors, eaves, and other features that projected into the front setback. As a result, this amendment allows architectural features in the common green and shared court setbacks in multi-dwelling zones.

During the research into this issue, staff also noted that in many neighborhoods with single family detached houses, yards will often contain small arbors in the front that are usually placed over the walkway leading from the public sidewalk to the front entrance. These entry arbors generally measure less than 6 feet in width and less than 8 feet in height. However, current code only allows vertical structures in the code if they measure no larger than 3 feet in width, depth or diameter. Placing these structures within the front setback is in violation of the zoning code, but have rarely generated complaints. These garden structures are available at many retail establishments and are small enough that a permit is not required to install them.

Since they are relatively small in size, allow views into the front yard, do not require permits, and have not generated complaints, it was felt that they should be allowed by right as a vertical structure within the front yard setback, subject to size limitations. This amendment adds a provision to allow arbors in the front setback, provided they are relatively small. The existing limitations for other vertical structures will still apply in the front setback as will the setback requirements for arbors in the side and rear setback. The code is also amended so that the exceptions to the vertical structure setbacks are provided in list form for clarity.

Example of an arbor at an entry

Item 1 – Water Collection Cisterns

4.

a. Description

Required setbacks preserve a sense of light and air between adjacent properties. Some structures have dimensions that are considered unobtrusive enough that they can be located in a setback without a significant impact on the property next door. This code amendment clarifies that cisterns for storing water are included in these structures if they conform to the required dimensions. This would apply to water cisterns that are not directly attached to (or part of) the primary building.

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

33.110.250 Accessory Structures

A-B. [No change.]

C. Setbacks.

1. Mechanical equipment. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.

2. Vertical structures.

   a. Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, radio antennas, satellite receiving dishes, and lamp posts. Fences are addressed in 33.110.255 below. Sign regulations are in Title 32, Signs and Related Regulations.

   b. Setback standard. Vertical structures are allowed in required building setbacks if they are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet. If they are larger or taller, they are not allowed in required building setbacks~~,~~.

   c. Exceptions.

      (1) A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in a front setback. The arbor must allow for pedestrian access under its span.

      (2) ~~except that f~~Flag poles are allowed in any building setback.

3. [no change]

4. Covered accessory structures.

   a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, covered decks, covered porches, and covered recreational structures.

   b. Setback standard. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c, below, covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Section 33.110.253, below.

Item 7 – Fences on Corner Lots in Residential Zones

33.110.255 Fences

C. Location and Height.

Fences may be up to 3-1/2 feet high in the front setback of single-dwelling zones. On corner lots, the front setback is along the shorter of the two street lot lines.

Sometimes houses are built on corner lots so the front door faces the longer of the two street lot lines, while their main yard space is oriented to the shorter street lot line. Because of these differing orientations, adjustments are often requested to allow taller fences in the front setback—along the shorter street lot line. Since the area facing the front lot is often the only option for a semi-private yard space, these adjustments are granted, provided there is enough clearance for visibility at the corner.

This amendment provides flexibility for these corner lots. If a house is oriented to the side street lot line by having its main entrance face that street, the resident can elect to limit the fence height within the first 10 feet of the side street lot line instead of the front, and consequently build a taller fence within the front setback. The reader should note that the resident would have to choose one option or the other so that one of the street setbacks is still subject to the lower fence height. The amendment still promotes the purpose statement for fences by allowing a corner lot to have some privacy while having an attractive public appearance on the side with the main entrance.

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33.110.255 Fences

A. Purpose. The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. Types of fences. The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.

C. Location and height.

1. Front building setbacks. Fences up to 3-1/2 feet high are allowed in required front building setbacks.

2. Side and rear building setbacks.

   a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.

   b. Fences abutting a pedestrian connection.

      (1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is at least 30 feet wide.

      (2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide.

Commentary

3. Exceptions for corner lots. On corner lots, if the main entrance is on the facade facing the side street lot line, the applicant may elect to meet the following instead of C.1 and C.2. See Figure 110-15

   a. Fences up to 3-1/2 feet high are allowed within the first 10 feet of the side street lot line.

   b. Fences up to 3-1/2 feet high are allowed in required setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide;

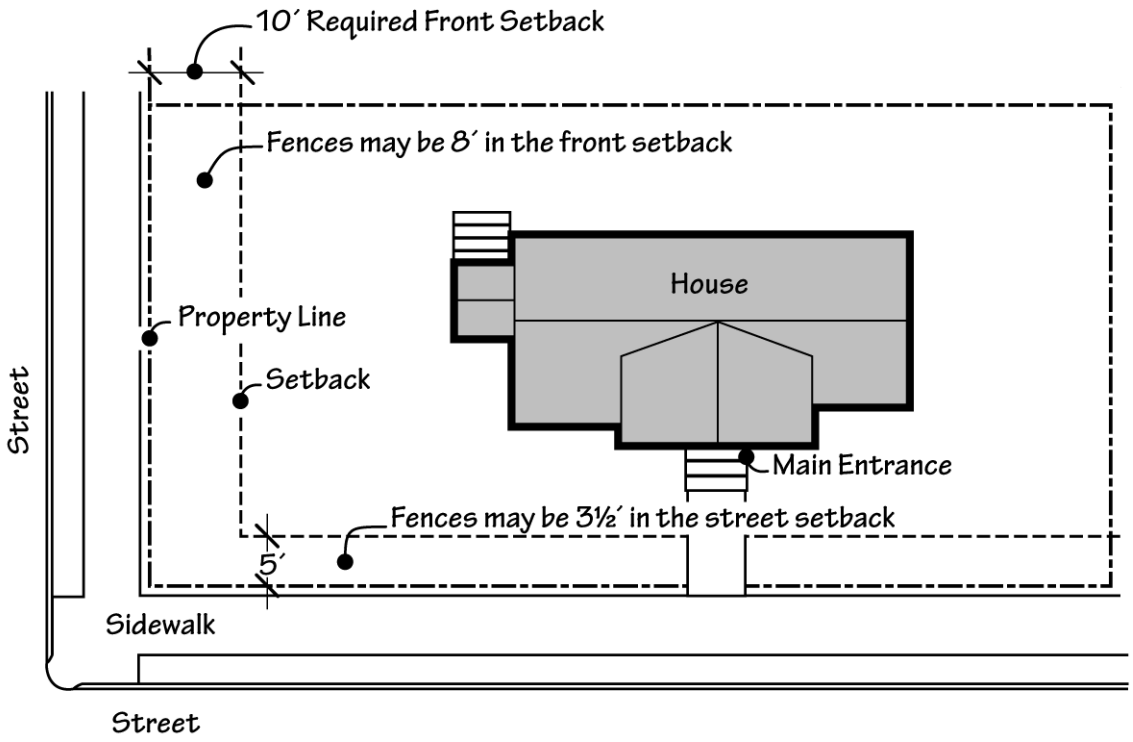
   c. Fences up to 8 feet high are allowed in the required front building setback, outside of the area subject to 3a.

   d. Fences up to 8 feet high are allowed in all other side or rear building setbacks.

~~4~~3. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

D. Reference To Other Regulations. [No change.]

Figure 110-15
Fence Height Option on Corner Lots



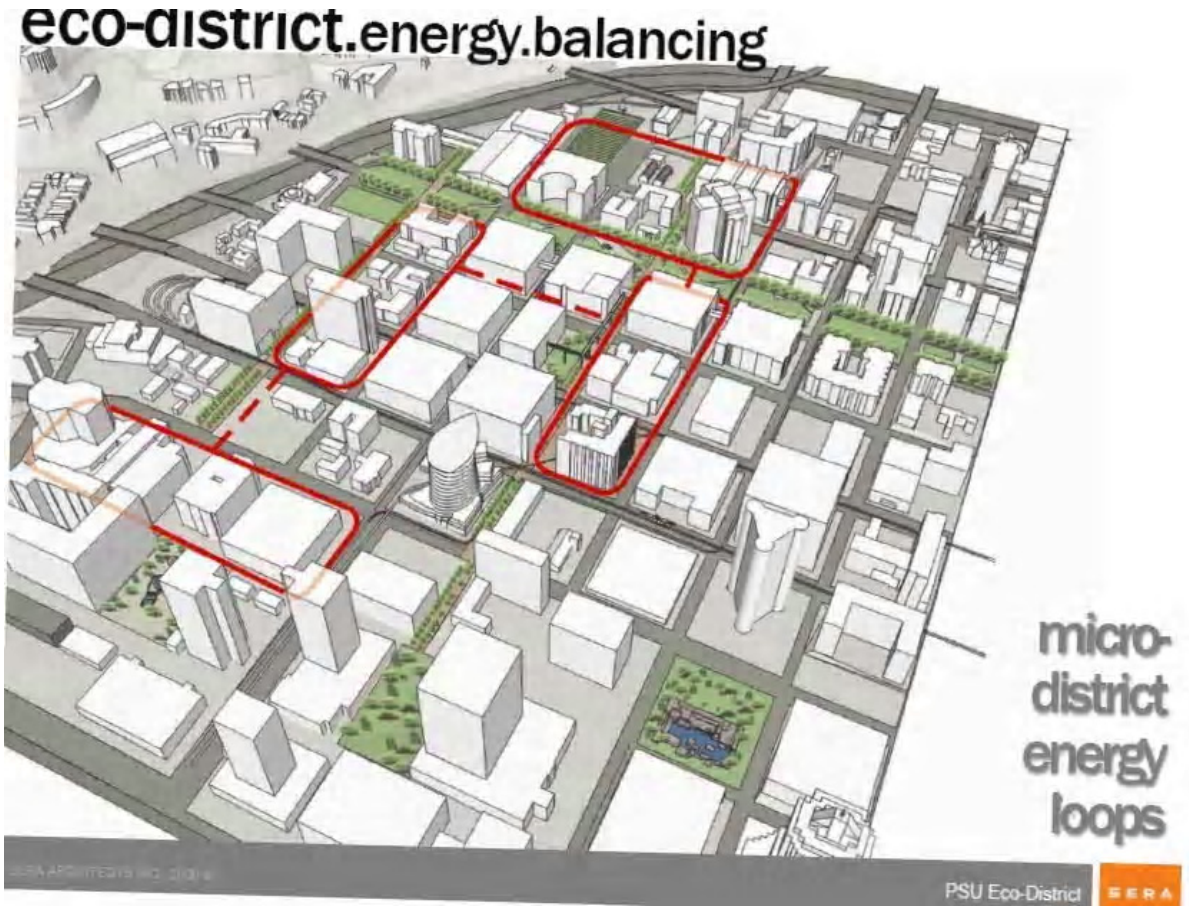
Item 61 – Green Energy and Use

Chapter 33.120, Multi Dwelling Zones

Table 120-1, Multi -Dwelling Zone Primary Uses

See Commentary for Chapter 33.110, Single Dwelling Zones

Note 13, Basic Utilities. Note 13 now incorporates the previous Notes 13 and 14, and adds provisions to allow Small Scale Energy Production to sell energy back to the grid, and also allow systems that serve a group of uses or a group of dwelling units. 13.c is in the current Note 13.



An example of a possible district-based energy system at Portland State University

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AMEND CHAPTER 33.120, MULTI-DWELLING ZONES

Excerpt from Table 120-1 Multi-Dwelling Zone Primary Uses						
	R3	**R2**	**R1**	**RH**	**RX**	**IR**
Manufacturing And Production	N	N	N	N	N	CU
Waste-Related	N	N	N	N	N	N
Basic Utilities	L/CU [~~14~~] [13]	L/CU [~~14~~] [13]	L/CU [~~14~~] [13]	L/CU [~~14~~] [13]	L/CU [~~14~~] [13]	L/CU [~~14~~] [13]

~~13. Basic Utilities in RX. This regulation applies to all parts of Table 120-1 that have note [13]. Public safety facilities are allowed by right up to 20 percent of the floor area exclusive of parking area or the ground floor of a multi-dwelling development, whichever is greater. If they are over 20 percent of the ground floor, a conditional use review is required; the approval criteria for public safety facilities are in Section 33.815.223.~~

~~14. Basic Utilities. This regulation applies to all parts of Table 120-1 that have note [14]. Basic Utilities that serve a development site are accessory uses to the primary use being served. All other Basic Utilities are conditional uses.~~

[13] Basic Utilities. These regulations apply to all parts of Table 120-1 that have note [13].

a. Basic Utilities that serve a development site are accessory uses to the primary use being served;

b. Small Scale Energy Production that provides energy both on- and off-site are considered accessory to the primary use on the site. Installations that sell power they generate—at retail (net metered) or wholesale—are included. However, they are only considered accessory if they generate energy from biological materials or byproducts from the site itself, or conditions on the site itself; materials from other sites may not be used to generate energy. In RX and IR zones, up to 10 tons per week of biological materials or byproducts from other sites may be used to generate energy. The requirements of Chapter 33.262, Off Site Impacts must be met;

c. In the RX and IR zones, all other Basic Utilities are limited to 20 percent of the floor area on a site, exclusive of parking area, unless specified above. If they are over 20 percent of the floor area, a conditional use review is required. As an alternative to conditional use review, the applicant may choose to do a Conditional Use Master Plan or an impact Mitigation Plan. The requirements of Chapter 33.262, off Site Impacts must be met.

Item 10 – Transfer of Density between Sites
Item 51 – Historic Resource Covenants

33.120.205 Density

E. Transfer of density or FAR.

Item 10

4. General standards for transfers of density or FAR.
The original intent of this regulation was to allow one owner to transfer density or FAR to another owner within the same block or across the street. Since the time that the regulation was first written the definitions for "lot" and "site" have been clarified. Site is defined as an ownership, so that several lots—even with an intervening street—could be considered one site. Owners are already free to move density around within their sites. However, the amendment clarifies that the transfer can occur from one site (i.e. ownership) to another site under these standards.

Item 51

6. Covenants. The Historic Code Rewrite project created some additional incentives to encourage preservation of historic structures. However, the project also created a new set of covenant requirements that were intended to apply to both existing and new incentives. These covenant requirements are located in 33.445, but are not referenced in other parts of the code and so their requirements have been missed in practice. This amendment adds a provision to this paragraph to ensure that a covenant is created and recorded as required in 33.445, when the owner of a landmark elects to use this incentive.

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33.120.205 Density

A-D. [No Change]

E. Transfer of density or FAR. Density or FAR may be transferred from one site to another subject to the following:

1-3. [No change.]

4. General standards for transfers of density or FAR.

   a. Except for transfers from the sites of Landmarks, the transfers may be only between sites ~~lots~~ within a block or between sites ~~lots~~ that would be abutting except for a right-of-way.

   b. Density or FAR from the site of a Landmark may be transferred to any site allowed by Paragraph 5 below, within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark.

5. [No change.]

6. 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 covenant for the receiving site 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.

Commentary

Item 11 – Development on Lots and Lots of Record in Multi-Dwelling Zones

33.120.210 Development on Lots and Lots of Record

C. Ownership of multiple lots and lots of record. This subsection is intended to provide two options for the separation of multiple lots under one ownership. This is reflected by the Purpose Statement of .210.A. However, the code language is not clear that either C.1 or C.2 can be used to separate the ownership. This amendment adds this clarification.

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33.120.210 Development on Lots and Lots of Record

A. Purpose. The regulations of this section require lots and lots of record to be an adequate size so that development on a site will in most cases be able to comply with all site development standards, including density. Where more than one lot is in the same ownership, these standards prevent breaking up large vacant ownerships into small lots, which are difficult to develop in conformance with the development standards. However, where more than one lot is in the same ownership, and there is existing development, allowing the ownership to be separated may increase opportunities for residential infill while preserving existing housing.

B. Where these regulations apply. These regulations apply to existing lots and lots of record in the multi-dwelling zones. The creation of new lots is subject to the lot size standards listed in Chapter 33.612, Lots in Multi-Dwelling Zones.

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

1. If all requirements of this Title will be met after the separation, including lot size, density, and parking, the ownership may be separated; or

2. If one or more of the lots or lots of record does not meet the lot size standards in Chapter 33.612, Lots in Multi-Dwelling Zones, the ownership may be separated if all requirements of this paragraph are met. Such lots and lots of record are legal.

   a. There is a primary use on at least one of the lots or lots of record, and the use has existed since December 31, 1980. If none of the lots or lots of record have a primary use, they may not be separated; and

   b. Lots or lots of record with a primary use on at least one of them may be separated as follows:

      (1) The separation must occur along the original lot lines;

      (2) Lots or lots of record with primary uses on them may be separated from lots or lots of record with other primary uses; and

      (3) Lots or lots of record with primary uses on them may be separated from lots or lots of record without primary uses.

D-E.[No change.]

Commentary

Item 3 – Solar Panels and Height
Item 60 - Wind Turbine Standards and Exemption to Reviews
Item 53 – Solar Panels and Height

33.120.215 Height

A-B. [No Change.]

C. Exceptions to the maximum height.

(See commentary for 33.110.215.C)

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33.120.215 Height

A-B. [No Change.]

C. Exceptions to the maximum height.

1. ~~Projections allowed~~. Chimneys, flag poles, satellite receiving dishes, and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.

2. ~~Rooftop access and mechanical equipment~~. All rooftop mechanical equipment and enclosures of stairwells that provide rooftop access must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Rooftop elevator mechanical equipment may extend up to 16 feet above the height limit. Stairwell enclosures, and other rooftop mechanical equipment which cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit.

3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

4. Small wind turbines are subject to the standards of Chapter 33.299.

5. Roof mounted solar panels are not included in height calculations, and may exceed the maximum height limit if the following are met:

   a. For flat roofs or the horizontal portion of mansard roofs, they may extend up to 5 feet above the top of the highest point of the roof.

   b. For pitched, hipped, or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches in measured from the upper side of the solar panel.

Commentary

Item 5— Garage Entrance Setbacks in E-zones

33.120.220 Setbacks

B. Minimum building setbacks.

2. Exceptions to the required building setbacks.

a. Environmental zone. The current regulation allows front building and garage setbacks to be reduced in environmental zones. Although the setback may be reduced, the requirements that limit the projection of the garage from the front of the house, as well as other regulations are still in place. This amendment clarifies that the reduction in setbacks does not eliminate any other requirements.

Item 47 – Right-of-way Dedications and Setback Adjustments

33.120.220 Setbacks

B. Minimum Building Setbacks.

2. Land divisions with existing development.

e. (See commentary for 33.110.220.D.7)

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33.120.220 Setbacks

A. [No Change.]

B. Minimum building setbacks. The required minimum building setbacks apply to all buildings and structures on the site except as specified in this section. Where no street setback is indicated in Table 120-3, the front, side, and rear setbacks apply. Where a street setback is indicated in Table 120-3 it supersedes front, side, and rear setbacks if the front, side, or rear lot line is also a street lot line. Setbacks for parking areas are in Chapter 33.266.

1. Generally. The required minimum building setbacks, if any, are stated in Tables 120-3 and 120-4.

2. Exceptions to the required building setbacks.

   a. Setback averaging. [No change.]

   b. Environmental zone. The required minimum front and street building setback and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero. All other provisions of this Title apply to the building and garage entrance.

   c-d. [No change.]

   e. Land divisions with existing development. When a dedication of public right-of-way along the frontage of an existing street is required as part of a land division, the minimum front or side setback between an existing building lot line that abuts the right-of-way may be reduced to zero. Future additions or development must meet required minimum setbacks.

C. [No Change.]

Item 59 – Eaves in Setback
Item 1 – Water Collection Cisterns

33.120.220 Setbacks

D. Extensions into required building setbacks.

(See commentary for 33.110.220.C)

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33.120.220 Setbacks

D. Extensions into required building setbacks.

1. Minor features of a building, such as eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies may extend into a required building setback up to 20 percent of the depth of the setback. However, in no case may they be less than 3 feet from a lot line, except as allowed in Section 33.120.280, Accessory Structures. Eaves, rain gutters, and downspouts may extend up to 40 percent of the depth of the setback. However, in no case may they be less than three feet from a lot line. Bays and bay windows extending into the setback also must meet the following requirements:

   a. through d. [No change]

2. Accessory structures. [No change]

Item 41 – Courtyard Housing: Orientation to Public Street

33.120.231 Main Entrances

A. Purpose.

B. Where These Standards Apply.
See the commentary for 33.110.230.

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

33.120.231 Main Entrances

A. Purpose. The main entrance standards:

- Together with the window and garage standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Enhance public safety for residents and visitors and provide opportunities for community interaction;
- Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and
- Ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.
- Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.

B. Where these standards apply.

1. The standards of this section apply to houses, attached houses, manufactured homes, and duplexes in the multi-dwelling zones.

2. Where a proposal is for an alteration or addition to existing development, the standards apply only to the portion being altered or added.

3. One sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may choose on which frontage to meet the standards.

4. Development on flag lots or on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.

5. Subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.

C. Location. [No change.]

Item 12 – Courtyard Housing: Pedestrian Connections

33.120.255 Pedestrian Standards

B. The Standards.

The City held a competition for courtyard housing design in 2007 (See commentary for Section 33.110.230). Most of the entries looked at development on smaller sites, but many had some difficulty meeting the pedestrian standards, especially the requirements to internally connect features on a site. The intent of the internal connections is to ensure that residents and guests have access to various elements on the site, such as garbage and recycling areas, shared laundry areas, parking, recreational areas, other units, etc. These types of common facilities are most often provided in conjunction with larger developments. Multi-dwelling development on sites of 10,000 square feet or less typically consists of one or two buildings and less than 10 units. Vehicle traffic is minimal on these sites, and pedestrians can generally access the shared features by walking on the driveway. The requirement for paved walkways connecting the features increases the overall impervious area of the site and reduces possible locations for stormwater management. Along with the courtyard housing competition winners, other multi-dwelling developments on small sites have problems including both the walkways and vehicle access requirements within the site.

This amendment recognizes the limitations of these smaller sites and amends the code so that only main entrances further than 20 feet from a street lot line need to be internally linked. Providing internal links to entrances closer than 20 feet to the street often results in a parallel sidewalk system, one that is public and one that is private.

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33.120.255 Pedestrian Standards

A. Purpose. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. The standards promote configurations that minimize conflicts between pedestrians and vehicles. In order to facilitate additional pedestrian oriented space and less impervious surface, the standards also provide opportunities for accessways with low traffic volumes, serving a limited number of residential units, to be designed to accommodate pedestrians and vehicles within the same space when special paving treatments are used to signify their intended use by pedestrians as well as vehicles.

B. The standards. The standards of this section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.

1. Connections. Pedestrian connections are required as specified below:

   a. Connection between streets and entrances. [No change.]

   b. Internal connections. On sites larger than 10,000 square feet, an internal pedestrian connection system must be provided. The system must connect all main entrances on the site that are more than 20 feet from the street, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2-3. [No change.]

Item 13 - Amenity Bonus for Sound Insulation

33.120.265 Amenity Bonuses

C. The amenity bonus options.

5. Sound insulation.

As an incentive, the amenity bonuses provide additional density for housing projects in multi-dwelling zones when beneficial features such as children's play areas or additional storage areas are provided. Paragraph 33.120.265.B.1 states that the amenity bonuses apply to all housing types that are allowed in the R3, R2, and R1 zones. These zones allow a wide variety of housing that include multi-dwelling structures, houses, attached houses, and duplexes.

One of the amenities for which a bonus is available is sound insulation that reduces noise from adjacent units and from outside. The paragraph that provides the sound insulation amenity bonus, 33.120.265.C.5, specifically refers to multi-dwelling structures. This makes it unclear that the bonus can also be used in other housing types, such as attached houses. For clarity, the specific reference to multi-dwelling structures is replaced with a more general reference to residential structures.

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33.120.265 Amenity Bonuses

A. [No Change.]

B. Regulations.

1. Qualifying types of development. The amenity bonus provisions are applicable to all housing types in the R3, R2, and R1 zones.

2-6. [No Change.]

C. The amenity bonus options.

1-4. [No Change.].

5. Sound insulation. The density bonus for this amenity is 10 percent. To qualify for this bonus, the interior noise levels of ~~multi-dwelling~~ residential structures must be reduced in three ways. The reductions address noise from adjacent dwellings and from outdoors, especially from busy streets.

   a-c. [No Change.]

6-8. [No Change.]

Item 8 – Courtyard Housing: Density Gap between R1 and R2 zones
Item 14 – Courtyard Housing: Architectural Features in Setback
Item 15 – Courtyard Housing: Encroachments into Shared Streets or Common Greens

33.120.270 Alternative Development Options

E. Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys.
The City held a competition for courtyard housing design in 2007 (See commentary for Section 33.110.230). In reviewing the results, it became apparent that additional flexibility was needed in zoning regulations to allow many of the winning proposals. The amendments here address some of the issues.

2. Density. Many of the winning designs were developed at a density that exceeded the R2 maximums and did not meet the R1 minimums. This provision provides greater flexibility for minimum density in these zones, and is intended to work with the amendments in 33.612 so that a greater range of densities are allowed in the R2 and the R1 zones.

3. Accessory structures in common greens, shared courts and other tracts. This provision clarifies that certain accessory structures are allowed in these tracts, and what types of structures.

Accessory structures in common greens should be allowed with limitations.

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33.120.270 Alternative Development Options

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

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

B-D. [No Change.]

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

1. When these standards apply. These standards apply when the proposal includes a common green, shared court, or alley;

2. Minimum density in R2 and R1 zones. The minimum density in the R2 zone is 1 unit per 3,000 square feet. The minimum density in the R1 zone is 1 unit per 2,000 square feet;

3. Accessory structures;

   a. Covered accessory structures for the common use of residents are allowed within common greens and shared courts. Covered accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas, but do not include structures listed in b., or c. below;

   b. Structures for recycling or waste disposal are allowed within common greens, shared courts, private alleys, or parking tracts;

   c. Shared garages or carports are allowed within private alleys or parking tracts.

Item 14 – Courtyard Housing: Architectural Features in Setback
Item 15 – Courtyard Housing: Encroachments into Shared Streets or Common Greens

33.120.270 Alternative Development Options (cont'd)

E. Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys. (cont'd)

4.a(1) Setbacks. Many common green or shared court designs have architectural features such as trellises, eave overhangs, and the like that could project into the setback along the private tracts. This amendment allows for these types of features to provide visual interest.

4.a(2) In many of the winning courtyard designs portions of the corner units projected into the setback from the private street. This was done to achieve a sense of enclosure for the shared tract and create more of a building wall along the public street. To encourage this type of feature, this amendment allows up to 30% of the façade facing the common green or shared court to project into the setback. These projections could take the form of bay windows, first floor projections, porches or other elements. The intent is for this corner unit to provide a sense of enclosure to the common green or shared court tract within the development.

4.c This amendment works in conjunction with the clarification to allow accessory structures in the private tracts by creating setback requirements those structures. These setbacks ensure that the structures are set back from other streets and buildings both within and outside the project.

5 Maximum Height. This amendment establishes a maximum height of 15 feet for accessory structures in common greens, shared courts or other tracts that are for the shared use of residents. Since these buildings are not intended to be a dominant feature, they are held to a height limit that is roughly one story.

These amendments code establish setbacks, height and building coverage for structures in common tracts.

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33.120.270 Alternative Development Options (cont'd)

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

4. Setbacks.

a. The front and side minimum building setbacks from common greens and shared courts are reduced to 3 feet.

(1) Minor architectural features such as eaves, awnings, and trellises are allowed in this setback; and

(2) On corner lots where there is one street lot line is on a public street and one street lot line is on the common green or shared court, up to 30 percent of the area of the building façade facing the common green or shared court may extend into this setback. At least 30 percent of the area extending into this setback must include windows or glass block. Porches are exempt from the window standard.

b. The setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building.

c. For accessory structures in common greens, shared courts, private alleys, or parking tracts, the setbacks are:

(1) Adjacent to a public street. The minimum setback from a public street is 10 feet;

(2) Setback from project perimeter. If the common green, shared court, private alley, or parking tract abuts the perimeter property line of the project, the minimum setback for the accessory structure is 5 feet. The perimeter property line of the project is the boundary of the site before development;

(3) Setback from all other lot lines. The minimum setback from all other lot lines is 3 feet;

5~~2~~. Maximum height.

a. In the R1 and RH zones, where the front lot line abuts a shared court:

(1)~~a.~~ In the R1 zone, the maximum building height within 10 feet of a front property line ~~on~~ abutting a shared court is 45 feet.

(2)~~b.~~ In the RH zone, the maximum building height within 10 feet of a front property line ~~on~~ abutting a shared court is 65 feet.

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

5. Building Coverage. In land divisions that include common greens, shared courts or private alleys, current regulations allow the area for these private tracts to be used as part of the calculation of building coverage for the project. The additional building coverage afforded by this calculation is allocated to the individual lots. However, if these tracts also include accessory structures, these structures must be factored into the calculation for maximum building coverage. If there is any excess building coverage left after this calculation, it can be allocated to the individual lots.

   The code is also amended to create a maximum building coverage of 15 percent for accessory structures in common greens and shared courts. Common greens and shared courts are intended to be mostly open area for the use of the adjacent residents and to provide opportunities for stormwater retention. For this reason, building coverage is limited within these tracts.

Building coverage from accessory buildings in a common green or shared court should be factored into overall building coverage, as well as limited so that the common green or shared court is primarily open area.

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6~~3~~. Building coverage.

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

(1) Buildings or structures in common greens, shared courts, private alleys, or parking tracts are included in the calculation for building coverage for the land division site;

(2) The combined building coverage of all buildings and structures in common greens or shared courts may not exceed 15 percent of the total area of the common greens or shared courts.

(3) ~~The~~ Any amount of building coverage remaining from the calculation~~ed~~ for the area of the common green, shared court, ~~or~~ alley, or parking tract will be allocated evenly to all of the lots within the land division, unless a different allocation of the building coverage is approved through the land division decision. The building coverage allocated to the lots will be in addition to the maximum allowed for each lot.

b. For attached houses, uncovered rear balconies that extend over an alley or vehicle maneuvering area between the house and rear lot line do not count toward maximum building coverage calculations.

Item 16 - Institutional Development Standards

33.120.275 Development Standards for Institutions

C. The standards. There are separate standards for institutions and institutional campuses in the IR zone, depending on whether they have an approved Impact Mitigation Plan (IMP). The heading in Table 120-5 and the purpose statement in 33.120.277.A indicate that the development standards for institutional campuses in the IR zone are intended to apply only to institutional campuses with an approved IMP. 33.120.277.B includes two standards related to accessory retail that are intended to apply to IMPs and to Conditional Use Master Plans (CUMPs). These amendments clarify in 33.120.275 that these two standards apply to institutions in an IR zone with a CUMP. This amendment also deletes from 33.120.277 the incorrect reference to CUMPs.

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33.120.275 Development Standards for Institutions

A-B. [No Change.]

C. The standards.

1-6 [No Change.]

7. Access for accessory Retail Sales And Service uses. Areas occupied by an accessory Retail Sales And Service use may have no direct access to the outside of the building. Access to the area must be from an interior space or from an exterior space that is at least 150 feet from a public right-of-way.

8. Exterior signage for accessory retail. Exterior signage for accessory Retail Sales And Service uses is prohibited.

Table 120-5
Institutional Development Standards [1]
Development standards for Institutional Campuses with Impact Mitigation Plans located in the IR zone are given on Table 120-3.

Minimum Site Area for New Uses	10,000 sq. ft.
Maximum Floor Area Ratio [2]	2 to 1
Maximum Height [3]	75 ft.
Minimum Building Setbacks [2]	1 ft. back for every 2 ft. of bldg. height, but in no case less than 10 ft.
Maximum Building Coverage [2]	70% of site area
Minimum Landscaped Area [2,4]	20% of site area
Buffering from Abutting Residential Zone [5]	10 ft. to L3 standard
Buffering Across a Street from a Residential Zone [5]	10 ft. to L1 standard
Setbacks for All Detached Accessory Structures Except Fences	10 ft.
Parking and Loading	See Chapter 33.266, Parking And Loading
Signs	See Title 32, Signs and Related Regulations

Notes:
[1] The standards of this table are minimums or maximums as indicated. Compliance with the conditional use approval criteria might preclude development to the maximum intensity permitted by these standards.
[2] For campus-type developments, the entire campus is treated as one site. Setbacks are only measured from the perimeter of the site. The setbacks in this table only supersede the setbacks required in Table 120-3. The normal regulations for projections into setbacks and for detached accessory structures still apply.
[3] Towers and spires with a footprint of 200 square feet or less may exceed the height limit, but still must comply with the setback standard.
[4] Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.
[5] Surface parking lots are subject to the parking lot setback and landscaping standards stated in Chapter 33.266, Parking And Loading.

Commentary

Item 16 - Institutional Development Standards

33.120.277 Development Standards for Institutional Campuses in the IR Zone

B. Where these standards apply.

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33.120.277 Development Standards for Institutional Campuses in the IR Zone

A. Purpose. The general base zone development standards in the IR zone are designed for institutional campuses with approved impact mitigation plans. The intent is to maintain compatibility with and limit negative impacts on surrounding areas.

B. Where these standards apply. The standards of this section apply to all development that is part of an institutional campus with an approved impact mitigation plan ~~or an approved conditional use master plan~~ in the IR zone, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions from one use category to another.

C. The standards.

1. The development standards are stated in Table 120-3. If not addressed in this section, the regular base zone development standards apply. The standards of this subsection, and Table 120-3, may be superseded by development standards in an approved impact mitigation plan.

2. Space occupied by an accessory retail sales or service use ~~has~~ may have no direct access to the outside of the building. Access to the activity must be from an interior space or from an exterior space that is at least 150 feet from a public right-of-way.

3. Accessory retail and sales uses must not have exterior signage. Exceptions are prohibited.

33.120.280 Accessory Structures

C. Setbacks.

Item 14 – Courtyard Housing: Architectural Features in Setback
2. Vertical Structures. See commentary for 33.110.250

Item 1 – Water Collection Cisterns
4.

a. Description (See commentary for 33.110.250.C.4.A)

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33.120.280 Accessory Structures

A-B. [No Change.]

C. Setbacks.

1. Mechanical equipment. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear setbacks.

2. Vertical structures.

   a. Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, radio antennas, satellite receiving dishes, and lamp posts. Fences are addressed in Section 33.120.285 below. Sign regulations are in Title 32, Signs and Related Regulations.

   b. Setback standard. Vertical structures are allowed in required building setbacks if they are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet. If they are larger or taller, they are not allowed in required building setbacks~~,~~.

   c. Exceptions.

      (1) A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in a front setback. The arbor must allow for pedestrian access under its span.

      (2) ~~except that f~~Flag poles are allowed in any building setback.

3. [no change]

4. Covered accessory structures.

   a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, covered decks, covered porches, and covered recreational structures.

   b. Setback regulations. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c, below, covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Section 33.120.283, below.

Item 7 – Fences on Corner Lots in Residential Zones
Item 17 – Fences close to street lot lines (originally requested in EX zones)

33.120.285 Fences

C. Location and Height.

See commentary for 33.110.255.

1.a. This amendment addresses the negative effects of tall fences close to the sidewalk by limiting the allowed height of fences. Some multi-dwelling zones have 10-foot setbacks, while others have a setback of only 3 feet or no setback at all. For those with setbacks of 3 feet or zero, the height limitation will apply within 5 feet of the street lot lines.

3. This exception applies only to the R3 and R2 zones since they are the only multi-dwelling zones with front setbacks larger than 3 feet.

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33.120.285 Fences

A. Purpose. The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. Types of fences. The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.

C. Location and height.

1. Street building setbacks.

   a. Measured from front lot line. Fences up to 3-1/2 feet high are allowed in a required street building setback, or within the first 5 feet, whichever is greater, ~~that is~~ measured from a front lot line.

   b. Measured from a side lot line. Fences up to 8 feet high are allowed in a required street building setback that is measured from a side lot line.

2. Side and rear building setbacks.

   a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.

   b. Fences abutting a pedestrian connection. [No change.]

3. Exception for corner lots in R3 and R2 zones. On corner lots in the R3 and R2 zones, if the main entrance is on the facade facing the side street lot line, the applicant may elect to meet the following instead of C.1 and C.2:

   a. Fences up to 3-1/2 feet high are allowed within the first 10 feet of the side street lot line.

   b. Fences up to 3-1/2 feet high are allowed in required setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide;

   c. Fences up to 8 feet high are allowed in the required front building setback, outside of the area subject to 3a.

   d. Fences up to 8 feet high are allowed in all other side or rear building setbacks.

4~~3~~. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

Chapter 33.130, Commercial Zones

Table 130-1, Commercial Zone Primary Uses

B. Limited uses.

See Commentary for Chapter 33.110, Single Dwelling Zones

These amendments require Utility Scale Energy Production to go through a Conditional Use in the Commercial Zones where Manufacturing and Production are allowed. Small Scale Energy Production is allowed without review within the limitations specified. In particular, energy must be generated from the site itself, plus not more than 10 tons a week of biological material from off-site sources.

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AMEND CHAPTER 33.130, COMMERCIAL ZONES

Excerpt from Table 130-1 Commercial Zone Primary Uses

Use Categories	**CN1**	**CN2**	**CO1**	**CO2**	**CM**	**CS**	**CG**	**CX**
Manufacturing And Production	L/CU [2]	L/CU [2]	N	N	L/CU [4, 5]	L/CU [5]	L/CU [5,7]	L/CU [5]
Waste-Related	N	N	N	N	N	N	N	N
Basic Utilities	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]

2. Small business limitation. This regulation applies to all parts of Table 130-1 that have a [2]. Utility Scale Energy Production is a conditional use. For other uses, e~~E~~ach individual use is allowed but limited to 5,000 square feet of total floor area exclusive of parking area. These types of uses are limited in size in order to limit their potential impacts on residential uses and to promote a relatively local market area. In addition, if the Director of BDS determines that a proposed Manufacturing And Production use will not be able to comply with the off-site impact standards of Chapter 33.262, the Director of BDS may require documentation that the use will conform with the standards.

5. Industrial size limitation. This regulation applies to all parts of Table 130-1 that have a [5]. Utility Scale Energy Production is a conditional use. For other uses, i~~I~~ndividual uses are limited to 10,000 square feet of floor area exclusive of parking area. These types of uses are allowed but limited in size to assure that they will not dominate the commercial area and to limit their potential impacts on residential and commercial uses. In addition, if the Director of BDS determines that the proposed use will not be able to comply with the off-site impact standards of Chapter 33.262, the Director of BDS may require documentation that the development will be modified to conform with the standards.

7. Exterior development limitation. This regulation applies to all parts of Table 130 1 that have a [7]. Exterior display or storage of industrial equipment, such as tools, equipment, vehicles, products, materials, or other objects that are part of or used for the business operation is prohibited.

10. Basic Utilities in C zones. This regulation applies to all parts of Table 130-1 that have note [10].

    a. Public safety facilities that include Radio Frequency Transmission Facilities are a conditional use. The approval criteria are in Section 33.815.223.

    b. Small Scale Energy Production that provides energy both on- and off-site is considered accessory to the primary use on the site. However, it is only considered accessory if they generate energy from biological materials or byproducts from the site itself, or conditions on the site itself; plus not more then 10 tons per week of biological material or byproducts from other sites. Installations that sell power they generate—at retail (net metered) or wholesale—are included.

    c. All other Basic Utilities are allowed.

Item 51 – Historic Resource Covenants

33.130.205 Floor Area Ratio

C. Transfer of FAR from Landmarks.

4. Covenants. See Commentary for 33.120.205.E.6.

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33.130.205 Floor Area Ratio

A. Purpose. [No change.]

B. FAR standard. [No change.]

C. Transfer of FAR from Landmarks. Floor area ratios may be transferred from a site which contains a Landmark, as follows:

1. – 3. [No change.]

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 covenant for the receiving site 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.

Item 3 – Solar Panels and Height
Item 60 - Wind Turbine Standards and Exemption to Reviews
Item 53 – Solar Panels Exemption From Standards

33.130.210 Height

B. Height standard.

(See commentary for 33.110.215.C)

image courtesy of Oregon State University

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33.130.210 Height

A. [No Change.]

B. Height standard. The height standards for all structures are stated in Table 130-3. Exceptions to the maximum height standard are stated below.

1. Projections allowed. [No change.]

2. Roof top access and mechanical equipment. [No change.]

3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

4. Small wind turbines are subject to the standards of Chapter 33.299.

5. Roof mounted solar panels are not included in height calculations, and may exceed the maximum height limit if the following are met:

a. For flat roofs or the horizontal portion of mansard roofs, they may extend up to 5 feet above the top of the highest point of the roof.

b. For pitched, hipped, or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches in measured from the upper side of the solar panel.

Item 59 – Eaves in Setback
Item 1 – Water Collection Cisterns

33.130.215 Setbacks

B. Minimum building setbacks.

(See commentary for 33.110.220.C)

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33.130.215 Setbacks

A. [No Change.]

B. Minimum building setbacks. The minimum building setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.130.245 below, and for parking areas in Chapter 33.266.

1-2. [No Change.]

3. Minor projections of features attached to buildings.

a. Minor projections allowed. Minor features of a building, such as eaves, chimneys, fire escapes,, water collection cisterns and planters, bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies, may extend into a required building setback up to 20 percent of the depth of the setback. Eaves, rain gutters, and downspouts may extend up to 40 percent of the depth of the setback. Bays and bay windows extending into the setback also must meet the following requirements:

(1) through (4) [no change]

b-c. [No Change.]

4. ~~Detached~~ Accessory structures. For sites entirely in residential use, accessory structures are subject to the multi-dwelling zone standards of Section 33.120.280. The setback standards for detached accessory structures are stated in 33.130.265 below. Fences are addressed in 33.130.270 below. Sign regulations are in Title 32, Signs and Related Regulations.

C. [No Change.]

Item 41 – Courtyard Housing: Orientation to Public Street

33.130.250 General Requirements for Residential and Mixed Use Developments

C. Residential Main Entrance
See the commentary for 33.110.230.

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33.130.250 General Requirements for Residential and Mixed-Use Developments

A-B. [No changes.]

C. Residential main entrance.

1. Purpose. These standards:
   - Together with the window and garage standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
   - Enhance public safety for residents and visitors and provide opportunities for community interaction;
   - Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and
   - Ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.
   - Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.

2. Where these standards apply.

   a. The standards of this subsection apply to houses, attached houses, manufactured homes, and duplexes in the commercial zones.

   b. Where a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added.

   c. On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street lot line~~frontage~~, the applicant may choose on which frontage to meet the standards.

   d. Development on flag lots or on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.

3. Location. [No change.]

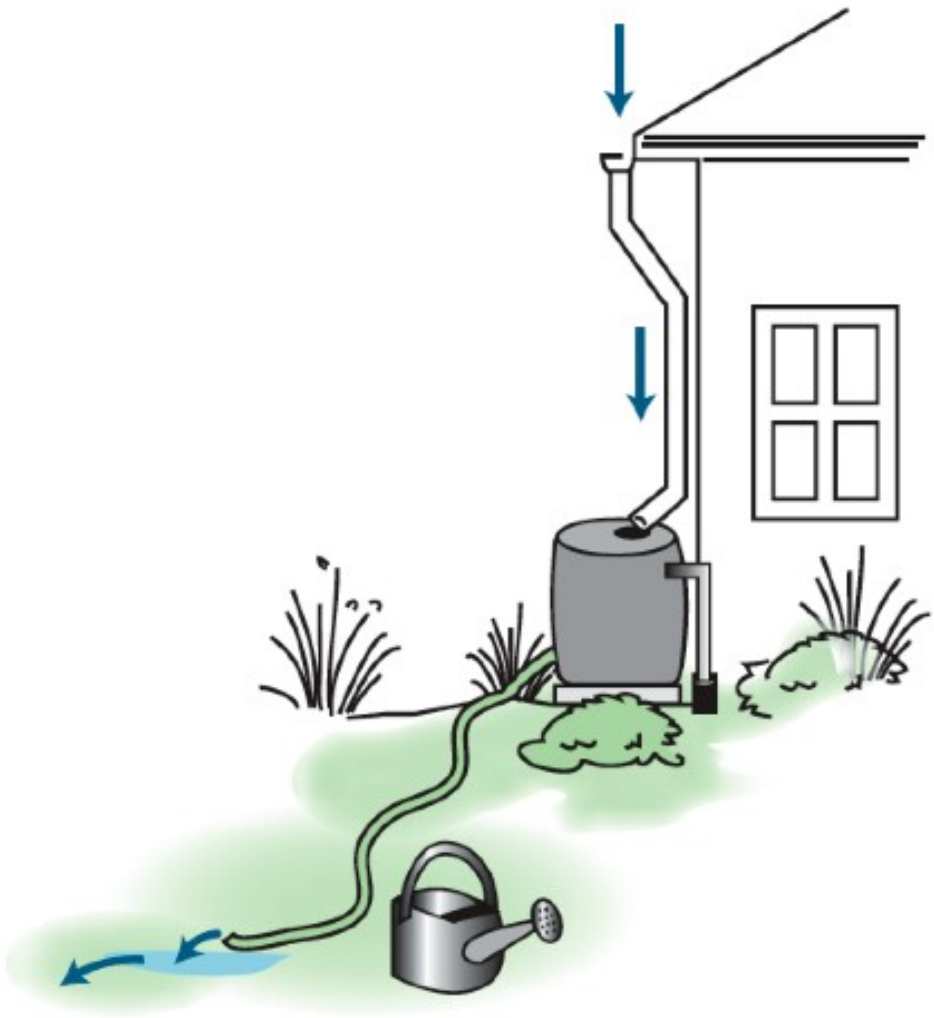
4. Duplexes on corner lots. Where a duplex is on a corner lot, the requirements of Paragraph C.3, above, must be met for both dwelling units. Both main entrances may face the same street.

Item 1 – Water Collection Cisterns

33.130.265 Detached Accessory Structures

C. Setbacks.

2. (See commentary for 33.110.250.C.4.a)



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33.130.265 Detached Accessory Structures

A. Purpose. [No change.]

B. General standards.

1. The regulations of this section apply only to detached accessory structures on sites with non-residential uses. For sites where all of the floor area is in residential use, detached garages are subject to the standards of 33.130.250, while other detached accessory structures are subject to the standards of Section 33.120.280.

2. The height and building coverage standards of the base zone apply to detached accessory structures.

C. Setbacks.

1. Uncovered accessory structures. [No change.]

2. Covered structures.

   a. Covered structures such as storage buildings, greenhouses, work sheds, covered decks, and covered recreational structures are subject to the setbacks for buildings.

   b. Water cisterns that are 6 feet or less in height are allowed in side and rear setbacks, including setbacks abutting a residential zone.

   c. See Section 33.130.250, General Requirements for Residential and Mixed-Use Developments, for additional requirements for garages accessory to residential development.

Item 17 – Fences close to street lot lines (originally requested in EX zones)

33.130.270 Fences

C. Location and Height.

This amendment addresses the negative effects of tall fences close to the sidewalk by limiting the allowed height of fences.

In order to strike a balance between the public realm and the private realm, this amendment changes the code so that fences that are solid or seriously impede views into the property are limited to a height of 3 1/2 feet if placed within the first 10 feet of the street lot line. If a greater height is required, a fence up to a height of 8 feet is allowed if it includes significant openings (50% or less sight obscuring) that allow views between the property and the street.

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

33.130.270 Fences

A. Purpose. [No change.]

B. Types of fences. [No change.]

C. Location and heights.

1. Fences abutting street lot lines and pedestrian connections. Within 10 feet of a street lot line or lot line that abuts a pedestrian connection, fences that meet the following standards are allowed: ~~Street building setbacks.~~

   a. Fences that are more than 50 percent sight-obscuring may be up to 3-1/2 feet high. ~~Measured from front lot line. Fences up to 3-1/2 feet high are allowed in a required street building setback that is measured from a front lot line.~~

   b. Fences that are 50 percent or less sight-obscuring may be up to 8 feet high. ~~Measured from a side lot line. Fences up to 8 feet high are allowed in a required street building setback that is measured from a side lot line.~~

2. Fences abutting other lot lines.~~Side and rear building setbacks.~~ Fences up to 8 feet high are allowed in required building setbacks along all other lot lines.

   ~~a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.~~

   ~~b. Fences abutting a pedestrian connection.~~

      ~~(1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is at least 30 feet wide.~~

      ~~(2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide.~~

3. Fences in all other locations .~~Not in building setbacks.~~ The height for fences in locations other than described in Paragraphs C.1. and 2. is the same as the regular height limits of the zone. ~~The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.~~

Item 61 – Green Energy and Use

Chapter 33.140, Employment and Industrial Zones

33.140.100 Primary Uses

B. Limited uses.

Table 140-1, Employment and Industrial Zone Primary Uses

(See commentary for 33.130.100)

The regulations for Utility Scale Energy Production are not changing; as a Manufacturing and Production use, they are allowed in E and I zones. The regulations for incinerators—whether they generate energy or not—also are not changing: They are prohibited in the E zones and subject to Metro approval in the I zones. Small Scale Energy Production is a Basic Utility, and so is allowed in the E and I zones.

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

AMEND CHAPTER 33.140, EMPLOYMENT AND INDUSTRIAL ZONES

Excerpt from
Table 140-1
Employment and Industrial Zone Primary Uses

Use Categories	**EG1**	**EG2**	**EX**	**IG1**	**IG2**	**IH**
Manufacturing And Production	Y	Y	Y	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]
Basic Utilities	Y/CU [12]	Y/CU [12]	Y/CU [12]	Y/CU [13]	Y/CU [13]	Y/CU [13]

8. Waste-Related limitation. This regulation applies to all parts of Table 140-1 that have a [8]. All Waste-Related uses are conditional uses, unless they meet all of the following conditions in which case they are allowed by right.

   a. The use must be approved by Metro under their authority as prescribed in ORS 268.317;

   b. Metro's approval of the use must include a mitigation plan. The requirements for the mitigation plan must be approved by the City Council through an intergovernmental agreement with Metro, adopted prior to Metro's approval of the use; and

   c. The location of the use must be in conformance with Metro's Regional Solid Waste Management Plan.

12. Basic Utilities in E zones. This regulation applies to all parts of Table 140-1 that have note [12]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. All other Basic Utilities are allowed.

13. Basic Utilities in I zones. This regulation applies to all parts of Table 140-1 that have note [13]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. Public safety facilities which have more than 3,000 square feet of floor area are a conditional use. The approval criteria are in Section 33.815.223. All other Basic Utilities are allowed.

Commentary

Item 51 – Historic Resource Covenants

33.140.205 Floor Area Ratio

C. Transfer of FAR from Landmarks in the EX zone.

4. See the commentary for 33.120.205.E.6.

D. Transfer of FAR from Landmarks in the EG zone.

4. See the commentary for 33.120.205.E.6.

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

33.140.205 Floor Area Ratio

A. Purpose. [No change.]

B. The floor area standards. [No change.]

C. Transfer of FAR from Landmarks in the EX Zone. Floor area ratios may be transferred from a site zoned EX that contains a Landmark as follows:

1-3. [No change.]

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 covenant for the receiving site 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.

D. 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 Landmark as follows:

1-3. [No change.]

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 covenant for the receiving site 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.

Item 3 – Solar Panels and Height
Item 60 - Wind Turbine Standards and Exemption to Reviews
Item 53 – Solar Panels Exemption from Standards

33.140.210 Height

B. The Height Standard

(See commentary for 33.110.215.C)

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

33.140.210 Height

A. [No Change.]

B. The height standard. The height limits for all structures are stated in Table 140-3. Exceptions to the maximum height standard are stated below.

1. Projections allowed. [No change.]

2. Rooftop access and mechanical equipment. [No change.]

3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

4. Small wind turbines are subject to the standards of Chapter 33.299.

5. Roof mounted solar panels are not included in height calculations, and may exceed the maximum height limit if the following are met:

   a. For flat roofs or the horizontal portion of mansard roofs, they may extend up to 5 feet above the top of the highest point of the roof.

   b. For pitched, hipped, or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches in measured from the upper side of the solar panel.

Item 59 – Eaves in Setback
Item 1 – Water Collection Cisterns

33.140.215 Setbacks

B. Minimum building setbacks.

(See commentary for 33.110.220.C)

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

33.140.215 Setbacks

A. [No Change.]

B. Minimum building setbacks. The setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.140.245 below, and for parking areas in Chapter 33.266.

1-3. [No Change.]

4. Minor projections of features attached to buildings.

a. Minor projections allowed. Minor features of a building, such as eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies, may extend into a required building setback up to 20 percent of the depth of the setback. Eaves, rain gutters and downspouts may extend up to 40 percent of the depth of the setback. Bays and bay windows extending into the setback also must meet the following requirements:

(1) through (4) [No change]

b-c. [No Change.]

5. [No Change.]

Item 41 – Courtyard Housing: Orientation to Public Street

33.140.265 Residential Development

E. Residential Main Entrance

See the commentary for 33.110.230. In addition, paragraph 2 under this subsection is further amended to be consistent with similar sections under the other base zones.

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

33.140.265 Residential Development
When allowed, residential development is subject to the following development standards:

A-D.[No Change.]

E. Residential main entrance.

1. Purpose. The main entrance standards serve several purposes:
   - The main entrance standards, together with the window and garage standards ensure that there is a physical and visual connection between the living area of the residence and the street;
   - They enhance public safety for residents and visitors and provide opportunities for community interaction;
   - They ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; and
   - They ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.
   - Ensure a connection to the public realm for development on lots fronting both private and public streets by making the pedestrian entrance visible or clearly identifiable from the public street.

2. Where these standards apply.

   a. The standards of this subsection apply to houses, attached houses, manufactured homes, and duplexes in the employment and industrial zones.
   b. Where a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added.

   c. On sites with frontage on both a private street and a public street, the standards apply to the site frontage on the public street. On all other sites with more than one street frontage, the applicant may choose on which frontage to meet the standards.

   d. Development on flag lots or on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.

3-4. [No change.]

Commentary

Item 1 – Water Collection Cisterns

33.140.270 Detached Accessory Structures

C. Setbacks.

2. Covered accessory structures.

(See commentary for 33.110.250.C.4.a)

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

33.140.270 Detached Accessory Structures

A. Purpose. [No change.]

B. General standards. [No change.]

C. Setbacks.

1. Uncovered accessory structures. [No change.]

2. Covered structures.

   a. Covered structures, such as storage buildings, greenhouses, work shed, covered decks, and covered recreational structures, are subject to the setbacks for buildings.

   b. Water cisterns that are 6 feet or less in height are allowed in side and rear setbacks, including setbacks abutting a residential zone.

   c. See Section 33.140.265, Residential Development, for additional requirements for garages that are accessory to residential development.

Item 17 – Fences close to street lot lines (originally requested in EX zones)

33.140.275 Fences

C. Location and Height.

This amendment addresses the negative effects of tall fences close to the sidewalk by limiting the allowed height of fences.

In order to strike a balance between the public realm and the private realm, this amendment changes the code so that fences that are solid or seriously impede views into the property are limited to a height of 3 1/2 feet if placed within the first 10 feet of the street lot line. If a greater height is required, a fence up to a height of 8 feet is allowed if it includes significant openings (50% or less sight obscuring) that allow views between the property and the street.

In the older, built-up industrial and employment areas which have more constraints on space, and where setbacks are small or zero, the code standard remains unchanged, except that the distinction between front and side lot lines is removed, since the development standards only refer to a street lot line setback. As a result, within EG1 and IH zones, fences will be limited to 3-1/2 feet within the five feet from any street, not just the one along the front lot line. IG1 zones have no street setback and as a result do not have specific fence height limits.

The EG2, IG2 and EX zones will have different fence regulations, because they either have large setbacks (as is the case in EG2 and IG2) or they are zones intended to foster pedestrian activity and environments between the building and the street (as in EX). In these zones the code is amended so that fences that are solid or seriously impede views into the property are limited to a height of 3 ½ feet if placed within 10 feet of the street lot line. If a greater height is required, a fence up to 8 feet is allowed if it contains openings (50% or less site obscuring) that allow views between the property and the street.

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

33.140.275 Fences

A. Purpose. [No change.]

B. Types of fences. [No change.]

C. Location and heights.

1. Fences along street lot lines, including pedestrian connections. ~~Street building setbacks.~~

   a. EG1, IG1 and IH zones. In EG1, IG1, and IH zones, fences up to 3-1/2 feet high are allowed in a required street building setback, including setbacks from pedestrian connections. ~~Measured from front lot line. Fences up to 3-1/2 feet high are allowed in a required street building setback that is measured from a front lot line, except in the EG2 and IG2 zones. In a required street building setback in the EG2 and IG2 zones:~~

      ~~(1) Fences up to 3-1/2 feet high are allowed within 10 feet of the front lot line;~~

      ~~(2) Fences up to 8 feet high are allowed on the portion of a site that is more than 10 feet from the front lot line. See Figure 140-13.~~

   b. EG2, EX and IG2 zones. In EG2, EX and IG2 zones, within 10 feet of a street lot line, fences that meet the following standards are allowed: ~~Measured from a side lot line. Fences up to 8 feet high are allowed in a required street building setback that is measured from a side lot line.~~

      (1) Fences that are more than 50 percent sight-obscuring may be up to 3-1/2 feet high;

      (2) Fences that are 50 percent or less sight-obscuring may be up to 8 feet high.

   c. EG2 and IG2 zones. In EG2 and IG2 zones, fences that are more than 50 percent sight-obscuring may be up to 8 feet high within the street building setback if they are more than 10 feet from the lot line

2. Fences along other lot lines.~~Side and rear building setbacks.~~ Fences up to 8 feet high are allowed in required building setbacks along all other lot lines.

   ~~a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.~~

   ~~b. Fences abutting a pedestrian connection.~~

Figure 140-13. This figure illustrates the various fence setback requirements within the EG2 and IG2 zones. Since the fence requirements are changing and there is no longer a distinction between a "front" and a "side" street lot line, this figure is no longer needed and is deleted from the code.

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

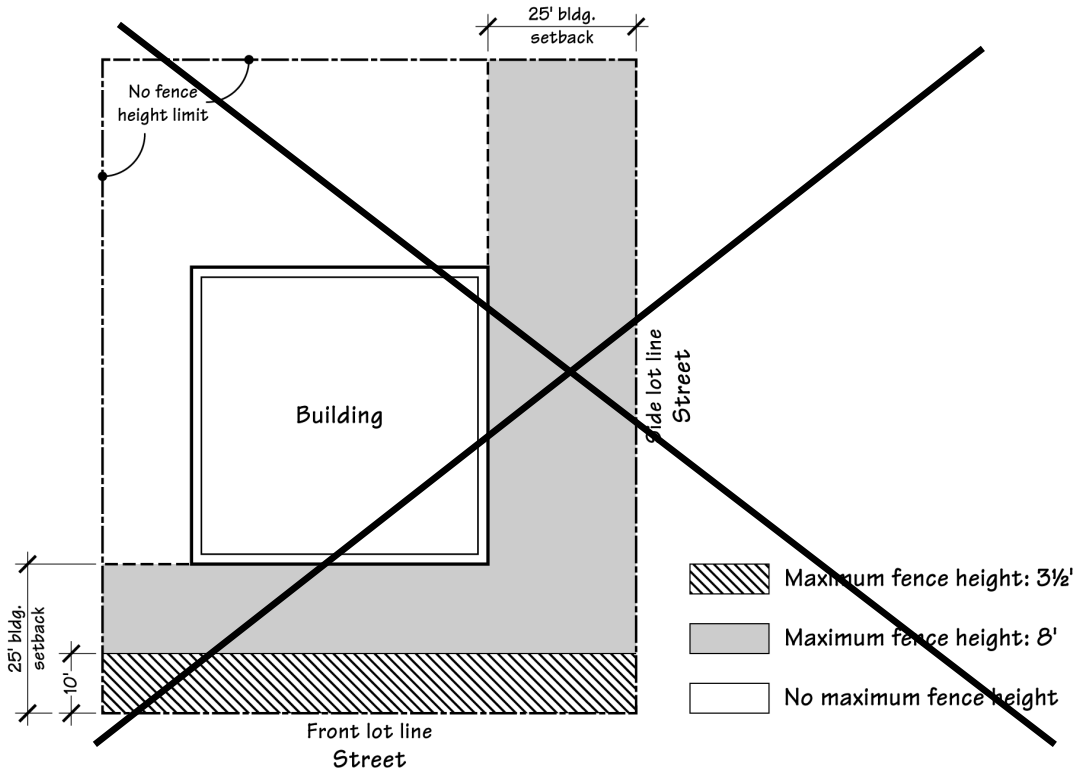
~~(1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is at least 30 feet wide.~~

~~(2) Fences up to 3 1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide.~~

3. Fences in all other locations ~~Not in building setbacks~~. The height for fences in locations other than described in Paragraphs C.1 and 2 ~~The height for fences that are not in required building setbacks~~ is the same as the regular height limits of the zone.

D. Reference to other regulations. [No change.]

REMOVE THIS FIGURE
Figure 140-13
Maximum Fence Heights
In EG2 and IG2 Zones



Item Add 64 – Maximum Size of Accessory Dwelling Units

33.205.030 Design Standards

This item was not part of the workplan for RICAP 5. However, the testimony at the Planning Commission hearings persuaded us to add this amendment.

Accessory dwelling units (ADUs) are allowed in most residential zones if they meet certain design standards. An ADU is a second—and smaller—dwelling unit allowed on a lot with a house, attached house, or manufactured home. It can be within the main house or in a separate building. There are a number of placement, height, and site coverage requirements for ADUs as well as design standards which require matching the house in terms of exterior finish materials, roof pitch, trim, windows, and eaves..

ADUs are limited in size to no more than 33 percent of the living area of the house or 800 square feet, whichever is less. At the August 25 hearing, there was testimony about the constraints on ADUs being onerous and acting as a barrier to development. In particular, the size limitations were said to be problematic, and an increase in allowed size was requested.

Staff looked at ADU permitting data over the past several years, both those that received adjustments for size, and those that did not. Beginning in 1990, there have been 190 ADUs permitted, or slightly less than 24 per year. Of those, 37 received adjustments for size; 24 for detached ADUs and 13 for internal conversions. This means slightly less than 5 ADUs per year received adjustments for size, or about 1 in 5 since 1990.

After examining the permit data (including information about square footage and size relationship to the primary dwelling), staff felt—and we agreed—that an increase in the percentage is appropriate; it will make it easier for smaller houses to create ADUs of a reasonable size. A size limit of 75 percent of the primary dwelling would ad more flexibility for lots where the existing house is small, while still preserving the intent of the regulation – that the ADU be clearly smaller than the primary dwelling. In considering a change in the allowed size of ADUs, we looked to the purpose statements of the regulations, which, among other things, calls for the ADUs to be clearly accessory to the main dwelling unit. We are concerned that an 800 square-foot ADU, if built on a site with an existing 800 square-foot house, would be the same as building either two 800 square-foot houses, or, if an internal conversion, a duplex with two 800 square foot units. This would be in conflict with the purpose of having the ADU be accessory and would raise questions of whether we would allow duplexes or two detached houses in similar circumstances.

Several other issues emerged as we reviewed the permitting data. Many of the permitted ADUs were built on properties with very large primary dwellings, leading in some cases to very large ADUs, and in some cases Adjustments have been granted for ADUs larger than 1000 square feet. In addition, many ADU save been built above large garages, and as a result, the combined structure can appear quite massive in proportion to the primary dwelling. This observation is something we would like to follow up on in Portland Plan discussions. It is not an issue specific to ADUs, but a larger issue with how we regulate accessory structures in general.

The sentence added to the end of C.6 clarifies how we measure the relative sizes of the two units.

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

33.205.030 Design Standards

A. and B. [No change]

C. Requirements for all accessory dwelling units. All accessory dwelling units must meet the following:

1. through 5. [No change]

6. Maximum size. The size of the accessory dwelling unit may be no more than ~~33%~~75 percent of the living area of the primary dwelling unit ~~house, attached house, or manufactured home~~ or 800 square feet, whichever is less. The measurements are based on what the square footage of the primary dwelling unit and accessory dwelling unit will be after the accessory dwelling unit is created.

7. through 11. [No change]

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

CHAPTER 33.218
COMMUNITY DESIGN STANDARDS

33.218.100 Standards for Primary and Attached Accessory Structures in Single-Dwelling Zones

N. Solar energy systems.

O. Water cisterns.

P. Additional standards for historic resources.

The Community Design Standards are an alternative that can be used instead of discretionary design review for many proposals that are in design overlay zones and conservation districts. These amendments will allow solar panels and water collection cisterns to be installed when standards that limit their visibility can be met. More stringent standards are proposed for historic resources that are located in conservation districts, recognizing the important role that conservation districts play in preserving the City's heritage.

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

AMEND CHAPTER 33.218, COMMUNITY DESIGN STANDARDS

33.218.100 Standards for Primary and Attached Accessory Structures in Single-Dwelling Zones

The standards of this section apply to development of new primary and attached accessory structures in single-dwelling zones.

A-M [no change]

N. Solar energy systems. Solar energy systems must meet one of the following installation standards:

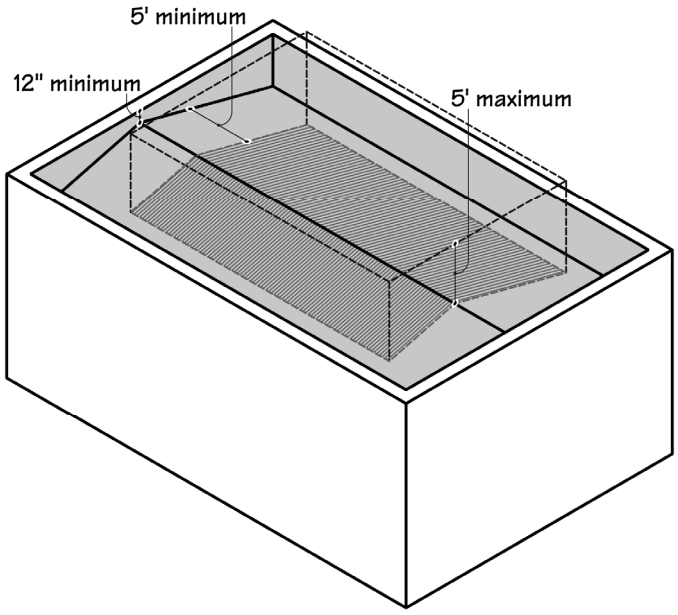
1. Panels on a flat roof, the horizontal portion of a mansard roof, or roofs surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface. The panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet. The panels must be set back 5 feet from the edge of the roof. See Figure 218-4; or

2. Panels on a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5.

3. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface.

4. Photovoltaic glazing may be integrated into windows or skylights.

Figure 218-4
Solar Panels on Flat Roof, Mansard Roof or Roof with Parapet
(New Image)



Commentary

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

O. Water cisterns. Above-ground cisterns for rainwater or greywater collection must match the color of the adjacent building wall, the color of the trim, or the color of the rain gutter. Cisterns for rainwater or greywater collection with a capacity of more than 80 gallons, or racks of cisterns with a total capacity of more than 80 gallons, may not be attached to the front façade of the primary structure.

~~N~~ **P. Additional standards for historic resources.** The following standards are additional requirements for conservation districts and conservation landmarks.

1-7 [no change]

8. Solar panels. Solar panels in conservation districts are subject to the following additional standards:

   a. On a flat roof or horizontal portion of a mansard roof. Solar panels must be screened from the street by:

      (1) An existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

      (2) Setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

   b. On a pitched roof. Solar panels 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 218-6.

   c. Solar panels may not be installed on a conservation landmark.

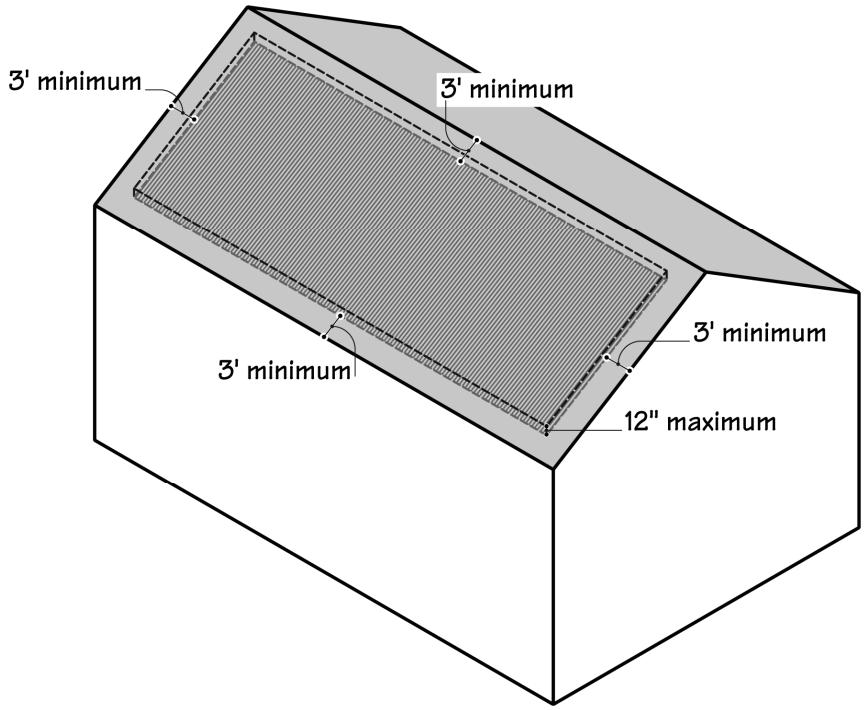
9. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

Commentary

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

9. Cisterns. Cisterns for rainwater or greywater collection may not be located closer to the street than the primary street-facing building façade and they must be screened by development, plantings, or fences so they are not visible from the street.

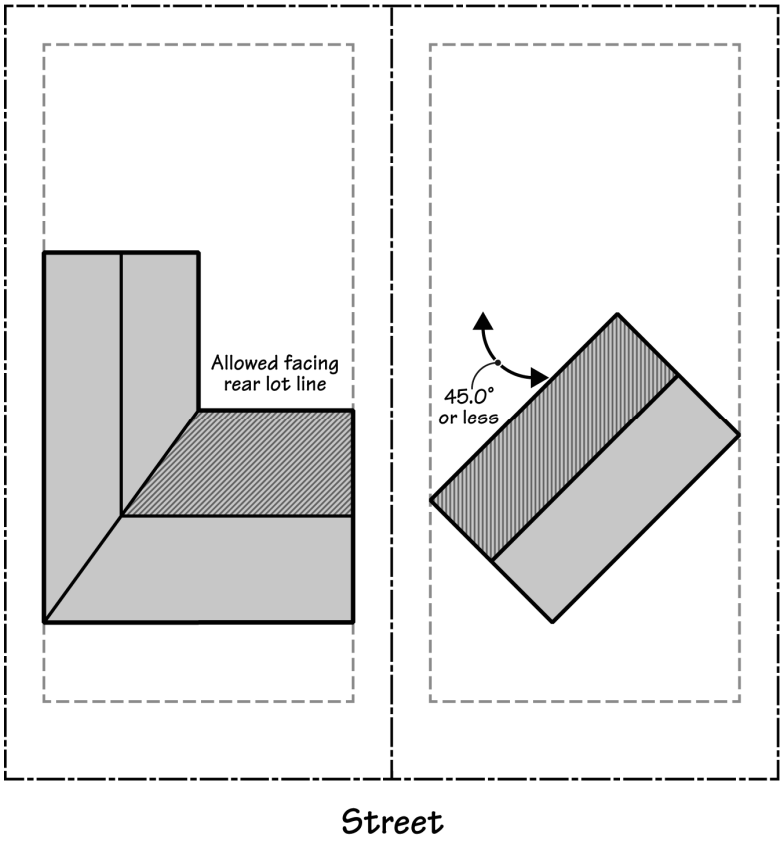
Figure 218-5
Solar Panels on a Pitched Roof
(New Image)



Commentary

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

Figure 218-6
Solar Panel Location on Rooftop
(New Image)



Item 19 - Community. Design Standards: Vehicle Access Through Buffer

33.218.110 Standards for Primary and Attached Accessory Structures in R3, R2, and R1 Zones

C. Residential Buffer.

2.

b. On sites across a street from a lower density zone, the Community Design Standards require a lower height and additional landscaping to help step down and screen the more intense development from less intense development. Included in these standards is a prohibition on vehicle access from a local service street through the landscape buffer. These standards were created when most design overlay zones were located along busier arterial streets, and sites had their primary access from these arterial streets. Over time, the design overlay has been expanded beyond these corridors, affecting sites that only have access from local service streets. It was not the intent of the Community Design Standards to force a project to go through design review in order to provide a driveway if the only available vehicle access is through the buffer.

This code change amends the vehicle access limitation so that a driveway can be placed through the landscape buffer if that is the only location where vehicle access is available to the site. Other provisions in the Community Design Standards and the parking regulations limit the amount of vehicle area along this street frontage.

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

33.218.110 Standards for Primary and Attached Accessory Structures in R3, R2, and R1 Zones

The standards of this section apply to development of new primary and attached accessory structures in the R3, R2, and R1 zones. The addition of an attached accessory structure to a primary structure, where all the uses on the site are residential, is subject to Section 33.218.130, Standards for Exterior Alteration of Residential Structures in Residential Zones.

A-B. [No Change.]

C. Residential buffer. Where a site zoned RX, RH, or R1 abuts or is across a street from an RF through R2 zone, the following is required. Proposals in the Kenton plan district are exempt from this standard:

1. On sites that abut an RF through R2 zone the following must be met:

   a. In the portion of the site within 25 feet of the lower density residential zone, the building height limits are those of the adjacent residential zone; and

   b. A 10 foot deep area landscaped to at least the L3 standard must be provided along any lot line that abuts the lower density residential zone.

2. On sites across the street from an RF through R2 zone the following must be met:

   a. On the portion of the site within 15 feet of the intervening street, the height limits are those of the lower density residential zone across the street; and

   b. If the site is across a local service street from an RF through R2 zone, a 5-foot deep area landscaped to at least the L2 standard must be provided along the property line across the local service street from the lower density residential zone. Vehicle access is not allowed through the landscaped area unless the site has frontage only on that local service street. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

D-L. [No Change.]

M. Roof-mounted equipment. All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened in one of the following ways~~. Solar heating panels are exempt from this standard~~. Solar energy systems are subject to Subsection N below, and exempt from this standard:

1. A parapet as tall as the tallest part of the equipment;

2. A screen around the equipment that is as tall as the tallest part of the equipment;

3. The equipment is set back from the street-facing perimeters of the building 4 feet for each foot of height of the equipment; or

4. If the equipment is a satellite dish or other communication equipment, it is added to the façade of a penthouse that contains mechanical equipment, is no higher than the top of the penthouse, is flush mounted, and is painted to match the façade of the penthouse.

Commentary

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

33.218.110 Standards for Primary and Attached Accessory Structures in R3, R2, and R1 Zones

M. Roof-mounted equipment.

N. Solar energy systems.

Q. Water cisterns.

(see commentary for Section 33.218.100)

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

N. Solar energy systems. Solar energy systems must meet one of the following installation standards:

1. Panels on 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 panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet. The panels must be set back 5 feet from the edge of the roof. See Figure 218-4; or

2. Panels on a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5.

3. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface.

4. Photovoltaic glazing may be integrated into windows or skylights.

O-P [no change, except renumbering]

Q. Water cisterns. Above ground cisterns for rainwater or greywater collection must match the color of the adjacent building wall, the color of the trim, or the color of the rain gutter. Cisterns for rainwater or greywater collection with a capacity of more than 80 gallons, or racks of cisterns with a total capacity of more than 80 gallons, may not be attached to the front façade of the primary structure.

Commentary

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

~~P~~ R. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-8. [no change]

9. Solar panels. Solar panels in conservation districts are subject to the following additional standards:

   a. On a flat roof or horizontal portion of a mansard roof. Solar panels must be screened from the street by:

      (1) an existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

      (2) setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

   b. On a pitched roof. Solar panels 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 218-6.

   c. Solar panels may not be installed on a conservation landmark.

10. Cisterns. Cisterns for rainwater or greywater collection may not be located closer to the street than the primary street facing building façade and they must be screened by development, fences, or plantings so they are not visible from the street.

11. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

33.218.120 Standards for Detached Accessory Structures in Single-Dwelling, R3, R2, and R1 Zones.

H. Solar energy systems.

I. Water cisterns.

J. Additional standards for historic resources.

(see commentary for Section 33.218.100)

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

33.218.120 Standards for Detached Accessory Structures in Single-Dwelling, R3, R2, and R1 Zones.
The standards of this section are applicable to development of new detached accessory structures in single dwelling, R3, R2, and R1 zones.

A-G. [no change]

H. Solar energy systems.

1. Solar energy systems on detached accessory buildings are subject to the same standards as would apply to new primary and attached accessory structures. See applicable solar standards in Sections 33.218.100 and .110.

2. Ground or pole mounted solar panels systems are subject to the following standards:

   a. The tallest part of the system may not exceed 8 feet in height;

   b. The system may not be located closer to the street than the primary street-facing building façade.

I. Water cisterns. Above-ground cisterns for rainwater or greywater collection must match the color of the adjacent building wall, the color of the trim, or the color of the rain gutter. Cisterns for rainwater or greywater collection with a capacity of more than 80 gallons, or racks of cisterns with a total capacity of more than 80 gallons, may not be located closer to the street than the primary street-facing building façade.

J. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-3 [no change]

4. Cisterns. Cisterns for rainwater or greywater collection must be screened by development, fences, or plantings so they are not visible from the street.

5. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

Commentary

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

33.218.130 Standards for Exterior Alteration of Residential Structures in Single-Dwelling, R3, R2, and R1 Zones

F. Solar energy systems.

G. Water cisterns.

H. Additional standards for historic resources.

(see commentary for Section 33.218.100)

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

33.218.130 Standards for Exterior Alteration of Residential Structures in Single-Dwelling, R3, R2, and R1 Zones
The standards of this section apply to exterior alterations of primary structures and both attached and detached accessory structures in residential zones. These standards apply to proposals where there will be only residential uses on the site.

A-E. [no change]

F. Solar energy systems. Solar energy systems must meet one of the following installation standards:

1. Panels on 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 panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet. The panels must be set back 5 feet from the edge of the roof. See Figure 218-4; or

2. Panels on a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5.

3. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface.

4. Photovoltaic glazing may be integrated into windows or skylights.

G. Water cisterns. Above ground cisterns for rainwater or greywater collection must match the color of the adjacent building wall, the color of the trim, or the color of the rain gutter. Cisterns for rainwater or greywater collection with a capacity of more than 80 gallons, or racks of cisterns with a total capacity of more than 80 gallons, may not be attached to the front façade of the primary structure.

H. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-5. [no change]

6. Solar panels. Solar panels in conservation districts are subject to the following additional standards:

   a. On a flat roof or horizontal portion of a mansard roof. Solar panels must be screened from the street by:

      (1) An existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

      (2) Setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

Commentary

Item 19 - Community. Design Standards. - Vehicle Access Through Buffer

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

D. Residential Buffer.

2.

b. (See commentary for 33.218.110.C.2.b,)

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

b. On a pitched roof. Solar panels 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 218-6.

c. Solar panels may not be installed on a conservation landmark.

7. Cisterns. Cisterns for rainwater or greywater collection may not be located closer to the street than the primary street facing building façade and they must be screened by development, fences, or plantings so they are not visible from the street.

8. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

33.218.140 Standards for All Structures in the RH, RX, C and E Zones
The standards of this section apply to development of all structures in RH, RX, C, and E zones. These standards also apply to exterior alterations in these zones.

For proposals where all uses on the site are residential, the standards for the R3, R2, and R1 zones may be met instead of the standards of this section. Where new structures are proposed, the standards of Section 33.218.110, Standards for R3, R2, and R1 Zones, may be met instead of the standards of this section. Where exterior alterations are proposed, the standards of Section 33.218.130, Standards for Exterior Alteration of Residential Structures in Residential Zones, may be met instead of the standards of this section.

A-C. [No Change.]

D. Residential Buffer. Where a site zoned E, C, RX, or RH abuts or is across a street from an RF through R2 zone, the following is required. Proposals in the Hollywood and Kenton plan districts, the Main Street Corridor Overlay Zone, and the Main Street Node Overlay Zone are exempt from this standard:

1. On sites that abut an RF through R2 zone the following must be met: [No change]

2. On sites across the street from an RF through R2 zone the following must be met:

   a. On the portion of the site within 15 feet of the intervening street, the height limits are those of the lower density residential zone across the street; and

   b. If the site is across a local service street from an RF through R2 zone, a 5-foot deep area landscaped to at least the L2 standard must be provided along the property line across the local service street from the lower density residential zone. Vehicle access is not allowed through the landscaped area unless the site has frontage only on that local service street. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

Commentary

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

J. Roof-mounted equipment.

K. Solar energy systems.

L. Water cisterns.

(See commentary for Section 33.218.100.)

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

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

E-I. [No Change.]

J. Roof-mounted equipment. All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened in one of the following ways. ~~Solar heating panels are exempt from this standard.~~ Solar energy systems are subject to paragraph K below, and exempt from this standard:

1. - 4 [No change]

K. Solar energy systems. Solar energy systems must meet one of the following installation standards:

1. Panels on 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 panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet. The panels must be set back 5 feet from the edge of the roof. See Figure 218-4; or

2. Panels on a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5.

3. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface.

4. Photovoltaic glazing may be integrated into windows or skylights.

5. Ground or pole mounted solar panel systems are subject to the following additional standard: On sites that abut an RF through R2 zone, the system must be set back one foot for every one foot of height, from the lot line abutting the RF through R2 zone.

L. Water cisterns. Above ground cisterns for rainwater or greywater collection must to match the color of the adjacent building wall, the color of the trim, or the color of the rain gutter. Cisterns for rainwater or greywater collection with a capacity of more than 80 gallons, or racks of cisterns with a total capacity of more than 80 gallons, may not be attached to the front façade of the primary structure.

M-P. [no change, except renumbering]

Item 37 – Solar Panel Historic Design Review Exemption

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

Q. Additional standards for historic resources.

(See commentary for Section 33.218.100.)

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

33.218.140 Standards for All Structures in the RH, RX, C and E Zones

~~O~~ **Q.** **Additional standards for historic resources.** The following standards are additional requirements for conservation districts and conservation landmarks.

1-12. [no change]

13. Solar panels. Solar panels in conservation districts are subject to the following additional standards:

    a. On a flat roof or horizontal portion of a mansard roof. Solar panels must be screened from the street by:

        (1) An existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

        (2) Setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

    b. On a pitched roof. Solar panels 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 218-6.

    c. Solar panels may not be installed on a conservation landmark.

14. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

Item 1 – Water Collection Cisterns
Item 32 – Solar Panel Design Review Exemption
Item 37 – Solar Panel Historic Design Review Exemption

33.218.150 Standards for I Zones

H. Roof-mounted equipment.

I. Solar energy systems.

L. Additional standards for historic resources.

(see commentary for Section 33.218.100)

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

33.218.150 Standards for I Zones
The standards of this section apply to development of all structures in the I zones. These standards also apply to exterior alterations in these zones.

A-G. [no change]

H. Roof-mounted equipment. All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened in one of the following ways. ~~Solar heating panels are exempt from this standard:~~ Solar energy systems are subject to Subsection K below, and exempt from the standard of this subsection:

1. - 4. [No change]

I. Solar energy systems. Solar energy systems must meet one of the following installation standards:

1. Panels on 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 panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet. The panels must be set back 5 feet from the edge of the roof. See Figure 218-4; or

2. Panels on a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5.

3. Photovoltaic roofing shingles or tiles may be directly applied to the roof surface.

4. Photovoltaic glazing may be integrated into windows or skylights.

5. Ground or pole mounted solar panels are subject to the following additional standards:

   a. On sites that abut an RF through R2 zone, the system must be set back one foot for every one foot of height, from the lot line abutting the RF through R2 zone;

   b. The system may not be located closer to the street than the portion of the street-facing façade that is closest to the street

Commentary

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

J-K. [no change, except to renumber]

~~K~~ L. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-8. [no change]

9. Solar panels. Solar panels in conservation districts are subject to the following additional standards:

   a. On a flat roof or horizontal portion of a mansard roof. Solar panels must be screened from the street by:

      (1) An existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

      (2) Setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

   b. On a pitched roof. Solar panels 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 218-6.

   c. Solar panels may not be installed on a conservation landmark.

10. Photovoltaic glazing, roofing shingles, or tiles may not be installed on a conservation landmark.

Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

CHAPTER 33.258
NONCONFORMING SITUATIONS

33.258.065 Nonconforming Lots, Lots of Record, and Lot Remnants in the Single-Dwelling Zones

The Zoning Code currently contains provisions for several nonconforming situations:

- nonconforming uses (ex: a retail store operating in a residential zone)
- nonconforming development (ex: a parking lot without any landscaping)
- nonconforming residential density (ex: a 5-unit apartment building in a single-dwelling zone).

It is unclear which of these provisions apply to situations where there is one dwelling unit on a site that is too small. For example, in the R5 zone the maximum density is 1 unit per 5000 sq. ft. of site area. When small lots exist and a house is built on a 2500 sq. ft. lot, the density is exceeded. Yet, the site has one unit per lot, which is in keeping with the purpose of the single-dwelling zones. In addition, Section 33.258.060, Nonconforming Residential Densities, clearly applies to situations where there are multiple dwelling units on one site where only one is allowed or where there is one unit that does not meet the minimum required density.

This amendment adds a new section to the Nonconforming Situations Chapter that specifically addresses pieces of property that are below the minimum standards.

A. Changes to Dwellings.

This amendment clarifies the status of an existing single dwelling that is located on a lot or lot of record that does not meet standards for existing lots in the base zones. While the development may continue, it cannot go further out of compliance with any of the development standards. These restrictions are similar to other limitations on development expansion for sites with nonconforming residential densities.

B. Discontinuance and Damage.

Currently, it is unclear what policy should apply to houses built on nonconforming lots or lots of record, and their rebuilding rights if one of them were to be damaged by fire or intentionally demolished. Current code is not clear whether the lot would have to remain vacant for five years, or not. This code amendment, along with the provision in 33.110.212 to waive the five year vacancy rule for dangerous buildings should provide clear policy on the rebuilding rights for houses on nonconforming lots.

1. Under these regulations, a structure that is unintentionally damaged or destroyed may be rebuilt using the nonconforming development rights it may have for setbacks, building coverage, etc.

2. Under these regulations, a structure that in intentionally damaged or demolished may be rebuilt, but it must meet current development standards.

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

AMEND CHAPTER 33.258, NONCONFORMING SITUATIONS

33.258.065 Nonconforming Lots, Lots of Record, and Lot Remnants in Single-Dwelling Zones

A. Changes to dwellings. Existing dwelling units on nonconforming lots, lots of record, or lot remnants may continue, may be removed or enlarged, and amenities may be added to the site, but the building may not move further out of compliance with the base zone development standards.

B. Damage.

1. When a nonconforming lot, lot of record, or lot remnant contains a dwelling unit that is damaged or destroyed by fire or by other causes beyond the control of the owner, the structure may be rebuilt.

2. When a nonconforming lot, lot of record, or lot remnant contains a dwelling unit that is damaged or intentionally demolished, the structure may be rebuilt if it complies with the development standards that would apply to new development on the site.

Item 56 – Nonconforming Upgrades, Green Technologies Exemption

33.258.070 Nonconforming Development

D. Development that must be brought into conformance.

2. a. (6)

Within the Nonconforming Situations chapter is a section about bringing nonconforming development into conformance with current zoning code requirements. One set of requirements are triggered when improvements are made to the site, and the value of the improvements exceeds a threshold value. The threshold value is adjusted annual for inflation; it is currently about $130,000.

Certain items are not counted towards that threshold, such as life/safety improvements. This amendment would add energy efficiency or renewable energy improvements to the list of items that are not counted towards the threshold. The amendment refers to the "Public Purpose Administrator", which is currently the Energy Trust of Oregon. An increase in energy efficiency and renewable energy site improvements is expected as a result of rising energy prices, and an increase in federal funding for these kinds of investments. Energy efficiency and renewable energy improvements include, for example, installation of solar panels, weatherization, window replacement, and upgrades to HVAC systems.

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

33.258.070 Nonconforming Development

A-C. [No Change.]

D. Development that must be brought into conformance. The regulations of this subsection are divided into two types of situations, depending upon whether the use is also nonconforming or not. These regulations apply except where superseded by more specific regulations in the code.

1. [No Change.]

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made that are over the threshold of Subparagraph D.2.a., below, the site must be brought into conformance with the development standards listed in Subparagraph D.2.b. The value of the alterations is based on the entire project, not individual building permits.

   a. Thresholds triggering compliance. The standards of Subparagraph D.2.b., below, must be met when the value of the proposed alterations on the site, as determined by BDS, is more than $124,100. The following alterations and improvements do not count toward the threshold:

      (1) Alterations required by approved fire/life safety agreements;

      (2) Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;

      (3) Alterations required by Chapter 24.85, Interim Seismic Design Requirements for Existing Buildings;

      (4) Improvements to on-site stormwater management facilities in conformance with Chapter 17.38, Drainage and Water Quality, and the Stormwater Management Manual; and

      (5) Improvements made to sites in order to comply with Chapter 21.35, Wellfield Protection Program, requirements.

      (6) Energy efficiency or renewable energy improvements that meet the Public Purpose Administrator incentive criteria.

   b-c. [No Change.]

Item 21 – Nonconforming Upgrades, Option 2

33.258.070 Nonconforming Development

D. Development that must be brought into conformance.

2. d. (2) Option 2 –

Within the Nonconforming Situations chapter is a section about bringing nonconforming development into conformance with current zoning code requirements. One set of requirements are triggered when improvements are made to the site, and the value of the improvements exceeds a threshold value. Option 1 requires the application to spend up to 10% of their project cost on upgrades, which are done at the time of the other improvements.. A disadvantage of Option 1 is that the 10% is rarely enough to bring a site fully into conformance with current regulations. Each time an applicant makes improvements under Option 1 they come closer to conformance, but it may take a long time for a site to be brought fully into conformance.

Option 2 is an alternative that allows an applicant to bring a site into conformance at a later date, but requires that the site be brought fully into conformance, regardless of cost. An advantage of Option 2 is that it allows an applicant to make the improvements at a later date. There is a concern that Option 2 is not used frequently because applicants are afraid that regulations will change so quickly that by the time the compliance period is over they may again be out of compliance and will have to make new upgrades.

This code amendment is intended to alleviate this fear by providing a 2 year "grace" period after a site is brought into conformance with the regulations that were in place when Option 2 was first used. It is hoped that this grace period will give applicants confidence that the upgrades they make to meet Option 2 will not immediately be out of date and will encourage them to use Option 2 more often.

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

d. Timing and cost of required improvements. The applicant may choose one of the following options for making the required improvements:

(1) Option 1. Under Option 1, required improvements must be made as part of the alteration that triggers the required improvements. However, the cost of required improvements is limited to 10 percent of the value of the proposed alterations. It is the responsibility of the applicant to document the value of the required improvements. When all required improvements are not being made, the applicant may choose which of the improvements listed in Subparagraph D.2.b to make. If improvements to nonconforming development are also required by regulations in a plan district or overlay zone, those improvements must be made before those listed in Subparagraph D.2.b.

(2) Option 2. Under Option 2, the required improvements may be made over several years, based on the compliance period identified in Table 258-1. However, by the end of the compliance period, the site must be brought fully into compliance with the standards listed in Subparagraph D.2.b. When this option is chosen, the following applies:

- Before a building permit is issued, the applicant must submit the following to BDS:

  - Application. An application, including a Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in subparagraph D.2.b.

  - Covenant. The City-approved covenant, which is available in the Development Services Center, is required. The covenant identifies development on the site that does not meet the standards listed in subparagraph D.2.b, and requires the owner to bring that development fully into compliance with this Title. The covenant also specifies the date by which the owner will bring the nonconforming development into full compliance. The date must be within the compliance periods set out in Table 258-1. The covenant must be recorded as specified in Subsection 33.700.060.B.

- The nonconforming development identified in the Nonconforming Development Assessment must be brought into full conformance with the requirements of this Title that are in effect on the date when the permit application is submitted ~~within the compliance periods~~. The compliance period begins when a building permit is issued for alterations to the site of more than $131,150. The compliance periods are based on the size of the site. The compliance periods are identified in Table 258-1.

Commentary

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

- By the end of the compliance period, the applicant or owner must request that the site be certified by BDS as in compliance with the standards listed in Subparagraph D.2.b on the date when the permit application was submitted. A permit documenting full conformance with these standards is required and must receive final inspection approval prior to BDS certification.

- If certification is requested by the end of the compliance period and BDS certifies the site as in compliance, a two-year grace period begins. The grace period begins at the end of the compliance period, even if BDS certifies the site before the end of the compliance period. During the grace period, no upgrades to nonconforming development are required.

- If certification is not requested, or if the site is not fully in conformance by the end of the compliance period, no additional building permits will be issued until the site is certified.

- If the regulations referred to by Subparagraph D.2.b, or in D.2.b itself, are amended after the Nonconforming Development Assessment is received by BDS, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant must, at the end of the grace period, address the new nonconforming development using Option 1 or Option 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant, ~~and~~ compliance period will be required for the new nonconforming development.

Table 258-1
Compliance Periods for Option 2

Square footage of site	**Compliance period**
Less than 200,000 sq. ft.	2 years
200,000 sq. ft. or more, up to 500,000 sq. ft.	3 years
More than 500,000 sq. ft., up to 850,000 sq. ft.	4 years
More than 850,000 sq. ft.	5 years

Item 56 – Nonconforming Upgrades, Green Technologies Exemption

33.258.070 Nonconforming Development

D. Development that must be brought into conformance.

2. d. (3) Option 3 –

An additional option is recommended to allow energy efficiency or renewable energy improvements to occur as a substitute for the upgrades to nonconforming development required in D.1 and 2.. This would allow a property owner to defer upgrades to nonconforming development if their project costs include money spent on energy efficiency or renewable energy improvements.

This suggested policy shift responds to changes in federal policy that will make more funds available for energy-related improvements in the coming years. This policy recognizes the importance of rapidly diversifying our energy sources, reducing dependence on foreign sources of energy, and decreasing the emissions of climate-changing greenhouse gases. That objective may be as important as the other policy goals behind non-conforming upgrades, at least in the short term. The proposal sunsets in 2012.

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

(3) Option 3, Energy Investment.

- This option is used in conjunction with Option 1.
- Under Option 3, dollars spent on energy efficiency or renewable energy improvements count towards the dollar amount required to be spent on upgrading nonconforming development in Option 1.
- To qualify, energy efficiency or renewable energy improvements must meet the Public Purpose Administrator incentive criteria.
- This option sunsets on June 30, 2012.

E-G. [No Change.]

CHAPTER 33.266
PARKING AND LOADING

Item 23 – Courtyard Housing: Separate Parking Tract

33.266.100 General Regulations

E. Proximity of parking to use.

This amendment provides a clarification to the current option that residential required parking can be provided in a commonly owned tract. Parking provided off-site in tracts should be limited to specific parking tracts or special shared use situations such as shared courts. The current intention is not to let a development's required parking be provided through on-street parking on a private street tract. In addition, other tracts such as common greens, pedestrian connections, environmental and tree resource tracts are not intended to include parking areas. This amendment states the limited situations when required parking for residential uses can be placed off site.

33.266.120 Development Standards for Houses and Duplexes

B. Structures these regulations apply to.

The provisions of this section apply to houses, duplexes, manufactured homes, and is intended to apply when a parking pad, driveway and/or garage is provided on the site of the house or duplex. However, other sections of the parking chapter (33.266.100.E) allow the required parking for this type of development to be placed within a tract that is owned in common by the owners of the house/duplex lots. If parking is placed in a tract, it is not clear what kind of standards the parking tract should be held to. This amendment clarifies that a parking lot in a parking tract should be held to the same standards as other parking lots.

As already required by the land division regulations, parking that is part of a shared court tract must be approved by the Bureau of Development Services as an element within the configuration of the shared court right-of-way.

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

AMEND CHAPTER 33.266, PARKING AND LOADING

33.266.100 General Regulations

A-D. [No change.]

E. Proximity of parking to use. Required parking spaces for residential uses must be located on the site of the use or within a shared court or parking tract owned in common by all the owners of the properties that will use the tract. On-street parking within a private street-tract other than a shared court does not count towards this requirement. Required parking spaces for nonresidential uses must be located on the site of the use or in parking areas whose closest point is within 300 feet of the site.

F-G. [No change.]

33.266.120 Development Standards for Houses and Duplexes

A. Purpose. The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods.

B. Structures these regulations apply to. The regulations of this section apply to houses, attached houses, duplexes, attached duplexes, manufactured homes, and houseboats. The regulations apply to required and excess parking areas. The following are exceptions to this requirement:

1. Parking that is in a parking tract is subject to the standards of Section 33.266.130 instead of the standards of this section. However, perimeter landscaping is not required where the parking tract abuts a lot line internal to the site served by the tract.

2. Parking for manufactured dwelling parks is regulated in Chapter 33.251.

C. Parking area locations. [No change.]

Item 26 – Shared Driveways Across Lot Lines

33.266.120 Development Standards for Houses and Duplexes

D. Parking space sizes.

Shared driveways have a number of benefits: They reduce curb-cuts, which allows for more space for on-street parking. They also reduce the number of driveways, which reduces impervious surface and runoff into the stormwater system. Although shared driveways are common, and often required by City policy, the code is not clear that shared driveways are allowed to be located on more than one property. This amendment clarifies that shared driveways can straddle a property line. Shared driveways require an easement that allows owners of both properties access to the driveway. This change also clarifies that an easement is required.

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33.266.120 Development Standards for Houses and Duplexes

D. Parking space sizes.

1. A parking space must be at least 9 feet by 18 feet.

2. The minimum driveway width on private property is 9 feet.

3. Shared driveways are allowed to extend across a property line onto abutting private properties if the following are met:

   a. The width of the shared driveway is at least 9 feet; and

   b. There is a recorded easement guaranteeing reciprocal access and maintenance for all affected properties.

E. [No Change.]

Item Add 63 – Minimum Number of Long-Term Bike Parking Spaces for Multi-Dwelling Development

33.266.220 Bicycle Parking Standards

Table 266-6: Minimum Required Bicycle Parking Spaces

This item was not part of the workplan for RICAP 5. However, there was a great deal of testimony at the Planning Commission hearings about the need for more long-term bicycle parking for multi-dwelling development. There was some information indicating that the average dwelling unit needs long-term parking for at least one bike, and more likely two. The current standard is 0.25 spaces per unit.

The Bureau of Transportation has documented that 70 percent of Portlanders own a bicycle and more than half of city residents own more than one bicycle. Eight percent of Portlanders reported that bicycling was their primary commute mode in 2008.

Recognizing that the Bicycle Master Plan will be looking at bike parking needs more comprehensively, we see this increase as an interim step. We don't think 1.1 spaces will be enough for many close-in dwelling units, but it may be too much for developments that are not in such proximity to the Central City. We leave that further analysis to the Bicycle Master Plan

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Table 266-6
Minimum Required Bicycle Parking Spaces

Use Categories	Specific Uses	Long-term Spaces	Short-term Spaces
Residential Categories			
Household Living	Multi-dwelling	~~1 per 4 units~~ 1.1 per unit	2, or 1 per 20 units
Group Living	[No change]		
Commercial Categories			
Industrial Categories			
Institutional Categories			
Other Categories			

Item 27 – Bicycle Parking in Multi-dwelling Development

33.266.220 Bicycle Parking Standards

B. Long-term bicycle parking.

2. Standards.

The same long-term bike parking standards that apply more generally to commercial, industrial, and institutional uses also apply to multi-dwelling development with the exception that in multi-dwelling development the code allows bike parking to be located within individual dwelling units.

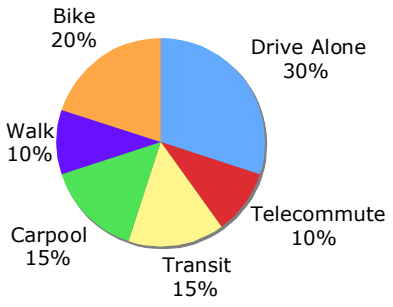
Users of long-term bike parking in multi-dwelling developments have different needs than those of users at commercial, industrial, and institutional uses: the bikes will be parked overnight or for even longer periods.

Allowing long-term parking to be provided inside dwelling units has led to several problems. First, although building plans may state that bike parking is being provided within dwelling units, building management may prohibit tenants from bringing their bikes into the elevator or hallways, effectively prohibiting parking in the dwelling units. Second, although bike parking spaces may be designated within units, the size and location is not specified, resulting in residents having to carry their bike through other habitable spaces in the unit to reach the only practical location for storage. Requests have been made to address these problems by requiring that all long-term bike parking in multi-dwelling development be located outside of dwelling units in a secure covered area.

Current code exempts long-term bike parking located in a dwelling unit from being in a rack or locker. By removing this exemption we expect that most developers will find it more convenient to provide groupings of racks or lockers in a secure area rather than providing separate facilities in each unit. This will encourage more bike parking to be outside of dwelling units and will help overcome the problem of building management prohibiting tenants from getting their bikes to their units.

The mode share chart at right is from the City's draft Climate Action Plan.

2030 Target Commute Mode Share



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33.266.220 Bicycle Parking Standards

A. [No Change.]

B. Long-term bicycle parking.

1. Purpose. Long-term bicycle parking provides employees, students, residents, commuters and others who generally stay at a site for several hours, a secure and weather-protected place to park bicycles. Although long-term parking does not have to be provided on-site, the intent of these standards is to allow bicycle parking to be within a reasonable distance in order to encourage bicycle use.

2. Standards. Required long-term bicycle parking must meet the following standards:

   a. Long-term bicycle parking must be provided in racks or lockers that meet the standards of Subsection 33.266.220.C;

   b. Location. Long-term bicycle parking must be located on the site or in an area where the closest point is within 300 feet of the site;

   c. Covered Spaces. At least 50 percent of required long-term bicycle parking must be covered and meet the standards of Paragraph 33.266.220.C.5, Covered Bicycle Parking; and

   d. Security. To provide security, long-term bicycle parking must be in at least one of the following locations:

      (1) In a locked room;

      (2) In an area that is enclosed by a fence with a locked gate. The fence must be either 8 feet high, or be floor-to-ceiling;

      (3) Within view of an attendant or security guard;

      (4) Within 100 feet of an attendant or security guard;

      (5) In an area that is monitored by a security camera; or

      (6) In an area that is visible from employee work areas; ~~or~~

      ~~(7) In a dwelling unit or dormitory unit. If long-term bicycle parking is provided in a dwelling unit or dormitory unit, neither racks nor lockers are required.~~

C. Standards for all bicycle parking.

1. Purpose. These standards ensure that required bicycle parking is designed so that bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.

Commentary

2. Bicycle lockers. Where required bicycle parking is provided in lockers, the lockers must be securely anchored.

3. Bicycle racks. The Bureau of Transportation maintains a handbook of racks and siting guidelines that meet the standards of this paragraph. Required bicycle parking may be provided in floor, wall, or ceiling racks. Where required bicycle parking is provided in racks, the racks must meet the following standards:

   a. The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle;

   b. A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and

   c. The rack must be securely anchored.

4. Parking and maneuvering areas.

   a. Each required bicycle parking space must be accessible without moving another bicycle;

   b. There must be an aisle at least 5 feet wide behind all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way; and

   c. The area devoted to bicycle parking must be hard surfaced.

5. Covered bicycle parking. Covered bicycle parking, as required by this section, can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures. Where required covered bicycle parking is not within a building or locker, the cover must be:

   a. Permanent;

   b. Designed to protect the bicycle from rainfall; and

   c. At least 7 feet above the floor or ground.

6. Signs.

   a. Light rail stations and transit centers. If required bicycle parking is not visible from the light rail station or transit center, a sign must be posted at the station or center indicating the location of the parking.

   b. Other uses. For uses other than light rail stations and transit centers, if required bicycle parking is not visible from the street or main building entrance, a sign must be posted at the main building entrance indicating the location of the parking.

Item 58 – Dimensions in Bike Parking Figure

Figure 266-9
Short-term bike parking – one building, multiple entrances

This amendment corrects an typographical error. This figure is being changed to more accurately reflect the requirement that there be an aisle at least 5 feet wide behind all required bicycle parking to allow room for maneuvering.

Language to be **added** is underlined
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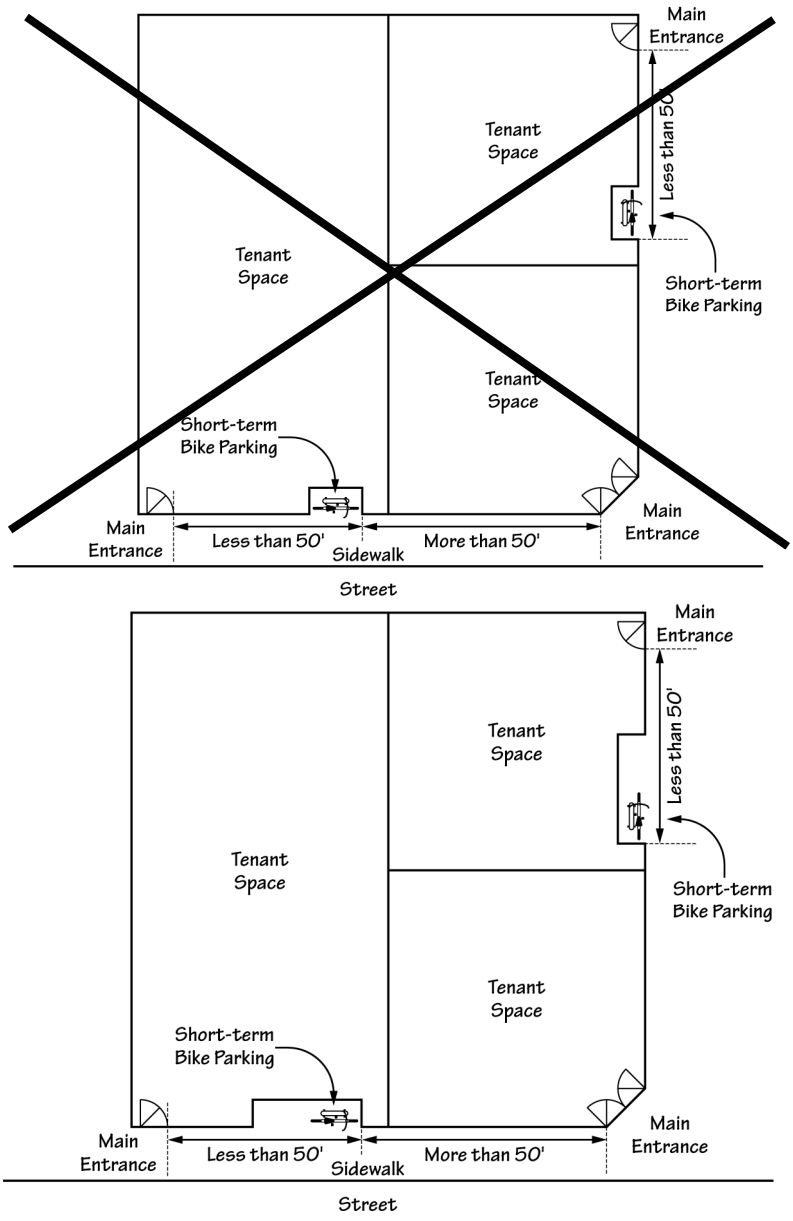
7. Use of required parking spaces.

   a. Required short-term bicycle parking spaces must be available for shoppers, customers, messengers, and other visitors to the site.

   b. Required long-term bicycle parking spaces must be available for employees, students, residents, commuters, and others who stay at the site for several hours.

REPLACE FIGURE
Figure 266-9
Short-term bike parking – one building, multiple entrances



Item 28 – Loading Space Dimensions
Item 29 – Loading Space Triggers

33.266.310 Loading Standards

C. Number of loading spaces.

D. Size of loading spaces.

Loading spaces with dimensions of 35' feet long by 10' feet wide and with a 13 foot clearance are required for all types of development. This is a loading space that is large enough to accommodate trucks making deliveries to larger commercial and industrial uses. Most deliveries to multi-dwelling development are made in smaller delivery vans. This is also true of multi-dwelling development that includes small retail uses on the ground floor such as cafes and flower shops. These amendments will allow smaller loading spaces that are more tailored to the actual moving and delivery needs in multi-dwelling developments, including multi-dwelling development that includes some small retail uses.

At the August 25 hearing, there was quite a bit of discussion about the proposal to reduce both the size and number of loading spaces required for buildings that are entirely residential, or are primarily residential with a small amount of commercial use. Southeast Uplift raised two concerns: First, without loading spaces, delivery trucks will block already congested streets. Second, the neighborhood sometimes appeals the developers' request for an adjustment as a way to force the developer to talk with them, and perhaps modify other aspects of the development. Members of the Planning Commission asked for feedback on trade-offs, such as requiring space on-site that is rarely used vs. blocking streets, or requiring curb cuts for loading spaces (which may eliminate on-street parking) vs. blocking streets. There were also questions about bicycle safety when trucks stop in the street to unload.

Dedicating loading spaces (and maneuvering area) on site reduces the amount of space available for more desirable uses such as retail, dwelling units, etc. Locating loading spaces—signed for loading only—on the street removes the availability of the public right-of-way for other uses, such as on-street parking or bike lanes, wider sidewalks and other amenities. The effects on the public right-of-way may be offset to some extent because the same area that will be used as the driveway approach for the loading space could be used as a dedicated loading space in the street. Alternatively, in the absence of specific loading areas, trucks may stop in the travel lanes, leading to congestion and inconvenience for other drivers.

From observation and anecdotal evidence, it appears that most trucks that use the travel lanes for loading/unloading stop for just a few minutes. In some cases, they may use the travel lanes because there is no loading space, but it also appears that on-site loading spaces are often inconveniently located, and may require the driver to stop in the travel lane anyway to ask that the loading space be unlocked and opened.

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Commentary

On-site loading spaces may affect pedestrians if a truck parked in the loading space blocks the sidewalk. forcing them to walk into the street to get around the vehicle. Wider curb-cuts with larger aprons are also required for commercial driveways to accommodate the wider turning radii of trucks, which makes for a less inviting pedestrian environment.

The impact on bicyclists of trucks stopped in the street to make deliveries depends on the design of the street. If there are separated vehicle lanes, bike lanes, and parking lanes , a truck might pull into the bike lane and block it if the parking lane is full. If there is only a vehicle lane and a parking lane, bike traffic is affected in a similar way as motor vehicle traffic.

Although there is a lack of hard data regarding the use of loading spaces, anecdotal evidence coupled with a review of adjustments finds:

Multi-dwelling residential – Move-ins and move-outs entail a broad range of vehicle sizes. A permit to park on the street can be issued from the Bureau of Transportation for larger vehicles. The type of loading configuration proposed in RICAP 5 has been approved for a number of adjustments granted for multi-dwelling development over the past 10 years.

Small commercial use within multi-dwelling residential – Currently, the zoning code does not require loading spaces for commercial buildings less than 20,000 square feet in area. The sense is that these small uses are generally able to meet their loading needs through demarcated on-street spaces, space in existing parking areas, and occasional stopping of delivery vehicles in street. The delivery vehicles that serve this kind of use are thought to be generally smaller vehicles that make "circuit" deliveries of smaller items and therefore do not need to park on the site for a long period of time to load or unload. The change proposed in RICAP 5 will require that retail or other commercial that is less than 20,000 and that is located in a building that also includes multi-dwelling units meet the standards of the multi-dwelling use. This can be viewed as a more stringent standard for this commercial use, since if it was a stand alone use no loading space would be required.

Different types of commercial uses have different needs for loading spaces: a grocery store or fast food restaurant may need to have deliveries from many large trucks that stay on site for some time, while a small office may only receive deliveries from UPS and the like. While an analysis of these different needs might help refine our loading standards, it is beyond the scope of this project.

Staff discussed this proposed amendment with the Design and Historic Landmarks Commissions. Both say they support the amendment on the grounds that the trucks are going to use the street anyway.

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33.266.310 Loading Standards

A. Purpose. A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

B. Where these regulations apply. The regulations of this section apply to all required and non required loading areas.

C. Number of loading spaces.

1. Buildings where all of the floor area is in Household Living uses must meet the standards of this Paragraph.

   a. One loading space meeting Standard B is required where there are more than 50 dwelling units in the building and the site abuts a street that is not a streetcar alignment or light rail alignment.

   b. One loading space meeting Standard B is required where there are more than 20 dwelling units in a building located on a site whose only street frontage is on a streetcar alignment or light rail alignment.

   c. One loading spaces meeting Standard A or two loading spaces meeting Standard B are required when there are more than 100 dwelling units in the building.

2. Buildings where any of the floor area is in uses other than Household Living must meet the standards of this Paragraph.

   a. Buildings with any amount of floor area in Household Living and with less than 20,000 square feet of floor area in uses other than Household Living are subject to the standards in C.1, above.

   b. One loading space meeting Standard A is required for buildings with at least 20,000 ~~or more square feet, up~~ and up to 50,000 square feet of floor area in uses other than Household Living.

   c. Two loading spaces meeting Standard A are required for buildings with more than 50,000 square feet of floor area in uses other than Household Living.

D. Size of loading spaces. Required loading spaces must meet the standards of this subsection.

   a. Standard A: the loading space must be at least 35 feet long, 10 feet wide, and have a clearance of 13 feet.

   b. Standard B: The loading space must be at least 18 feet long, 9 feet wide, and have a clearance of 10 feet.

E-G. [No Change.]

Item 48 – Solar Panels and Conditional Use
Item 49 – Parking and Conditional Use Review Type

CHAPTER 33.281
SCHOOLS AND SCHOOL SITES

33.281.050 Review Thresholds for Development

A.

5. (See Commentary for 33.815.040)

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AMEND CHAPTER 33.281, SCHOOLS AND SCHOOL SITES

33.281.050 Review Thresholds for Development

The following thresholds state the type of procedure used in the conditional use review for changes to development at schools and on school sites in the OS and R zones. Changes that are allowed by right are also stated.

A. Allowed by right. Alterations to the site that meet all of the following are allowed without a conditional use review.

1-4. (No Change.)

5. Alterations to parking areas other than Special Event Parking that meet the following:

   a. Will not ~~result in a net gain in the number of parking spaces~~ increase the net number of parking spaces by more than 1 space or 4 percent of the total number of parking spaces, whichever is greater. However, an individual or cumulative addition of more than 5 parking spaces requires conditional use review; and

   b. Sites with up to 15 spaces, not including those used for Special Event Parking: will not result in a net loss in the number of parking spaces;

   c. Sites with 16 or more spaces, not including those used for Special Event Parking: will not decrease the number of spaces except as follows:

      (1) No reduction in shared parking spaces is allowed;

      (2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and

      (3) An individual or cumulative removal of parking spaces in excess of 5 spaces is ~~prohibited~~ requires a conditional use review. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present.

6-8. (No Change.)

9. The addition of ground mounted solar panels.

B-C. [No Change.]

Item 60 – Wind Turbine Standards and Exemption to Reviews

CHAPTER 33.299
WIND TURBINES

Small Wind Turbines

A new generation of small wind turbines are coming on the market with the potential for successful residential and commercial energy production. Advances in technology in recent years make it possible to incorporate wind power into urban areas, into building design, or add small systems to rooftops. This chapter sets out the rules for turbines.

The proposed rules borrow from concepts used in other cities. The Seattle City Council amended its zoning code earlier this year to permit some small wind energy systems. The noise standard is borrowed from similar zoning code allowances that exist in some Dutch cities. The proposed code also references an emerging standard being developed by the Small Wind Certification Council. A new definition is also proposed, to distinguish small turbines from larger systems that might have larger impacts: there are many different wind turbines at different scales. For example:

- A single Vestas wind turbine such as those at the PGE Biglow Canyon wind farm in eastern Oregon produces up to 2,000,000 watts, has a rotor diameter of 270 feet, is mounted on a tower 265 feet tall, has an overall height of 400 feet, and a swept rotor area of over 57,000 square feet. The equipment cost is over $1.5 million.
- The Skystream 3.7 , a popular small commercial and residential wind turbine, produces up to 2,400 watts, has a rotor radius of 12 feet, can be mounted on a tower 40 feet tall or a building, and has a swept rotor area of 130 square feet. Installed cost is approximately $14,000.
- The Helyx HE-100 by Oregon Wind is a vertical axis design that produces up to 80 watts, is 42 inches tall by 17 inches wide, can be mounted on the roof of a building, and has an estimated cost of $2,000.

These regulations limit the size of turbines and towers, particularly in residential areas. Allowing large systems in those areas would likely produce conflict over noise and visual impacts. Allowing them to be taller than most buildings will ensure turbines are functional: they generally need to be located above the height of surrounding buildings and trees to avid turbulence. Not all properties are well suited for wind energy systems. The best locations may be on tall buildings, at ridgetops, along bluffs, and near rivers.

Impacts to bird and bat populations have been raised as a possible concern associated with urban wind turbines. The Bureau of Planning and Sustainability is working with the Bureau of Environmental Services on a study framework to evaluate the effect of urban wind turbines on birds.

Because this entire chapter is new, for ease of reading it is not underlined

ADD CHAPTER 33.299, WIND TURBINES

Sections:

33.299.010 Purpose.
These regulations allow small, urban-scale wind turbines while limiting potential negative impacts. In concert with a variety of City, State, and Federal programs, allowing the turbines in more locations may encourage further development of wind turbines that are appropriate for urban settings.

33.299.100 When These Regulations Apply
The regulations of this chapter apply to small wind turbines.

Large wind turbines and utility-scale wind turbines are regulated by the base zones, and are not subject to the regulations of this chapter.

33.299.110 Rotor Swept Area
The rotor swept area is the projected area as defined by the American Wind Energy Association (AWEA). In Residential zones, the maximum rotor swept area is 20 square feet. In Commercial zones, the maximum rotor swept area is 100 square feet. There is no maximum in the E and I zones.

33.299.120 Setbacks and Height
The height of a turbine is measured to the tip of the rotor blade at its highest point. For pole mounted turbines, height is measured from grade at the base of the pole. For building mounted turbines, height is measured from the base point of the building.

A. Pole mounted. Pole mounted turbines must meet the following. Distances between lot lines and the pole and turbine are measured at the closest points. :

1. Front and street setback. The pole and turbine are not allowed in a required front or street setback;

2. Setback from all lot lines. The pole and turbine must be set back at least 10 feet from all lot lines;

Commentary

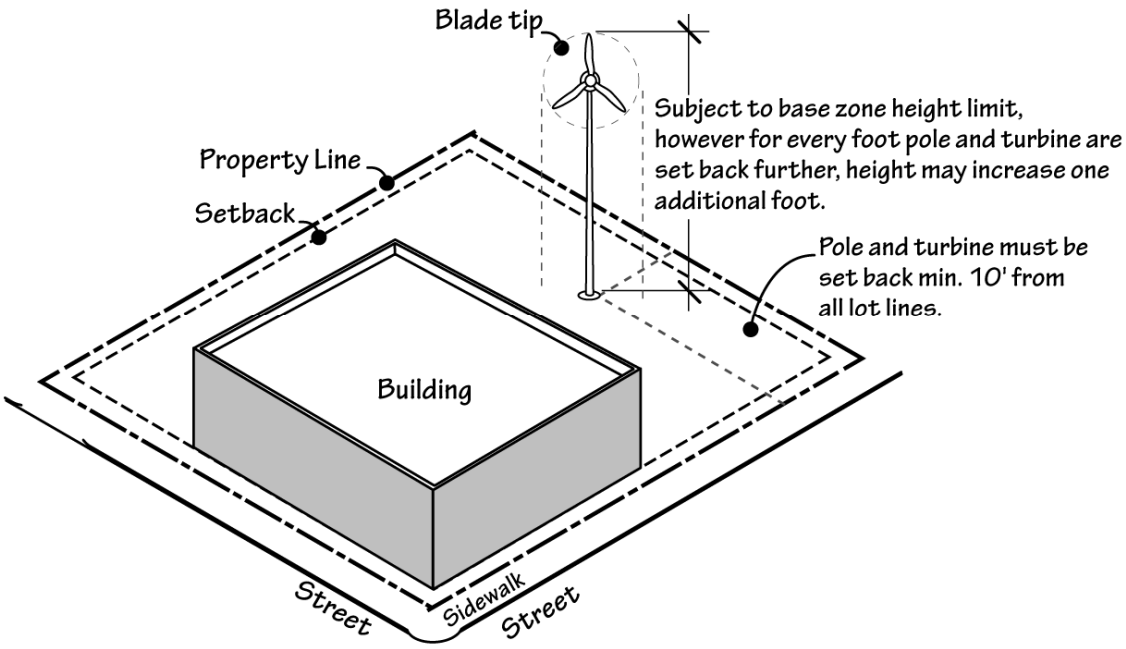
The proposed noise standard for urban wind systems is lower than the standard for other machinery or equipment in residential neighborhoods. For comparison:

Noise Source	Decibels (dBA)
Library whisper	30
Proposed Small Wind Energy System Noise Standard	45
Conversation at 3-5 feet distance	60-70
City traffic inside a car	85
Lawn mower	107

Because this entire chapter is new, for ease of reading it is not underlined

3. Height. The pole and turbine are subject to the base zone height limit. However, for every foot that the pole and turbine are set back farther than specified in A.1 and 2, the height of the turbine may increase one additional foot above the base zone height limit. Each additional foot of height is earned when the pole and turbine are set back from all property lines by an additional foot. The height may not increase more than 50 percent above the base zone height limit. See Figure 299-1.

Figure 299-1
Pole-Mounted Wind Turbine



Commentary

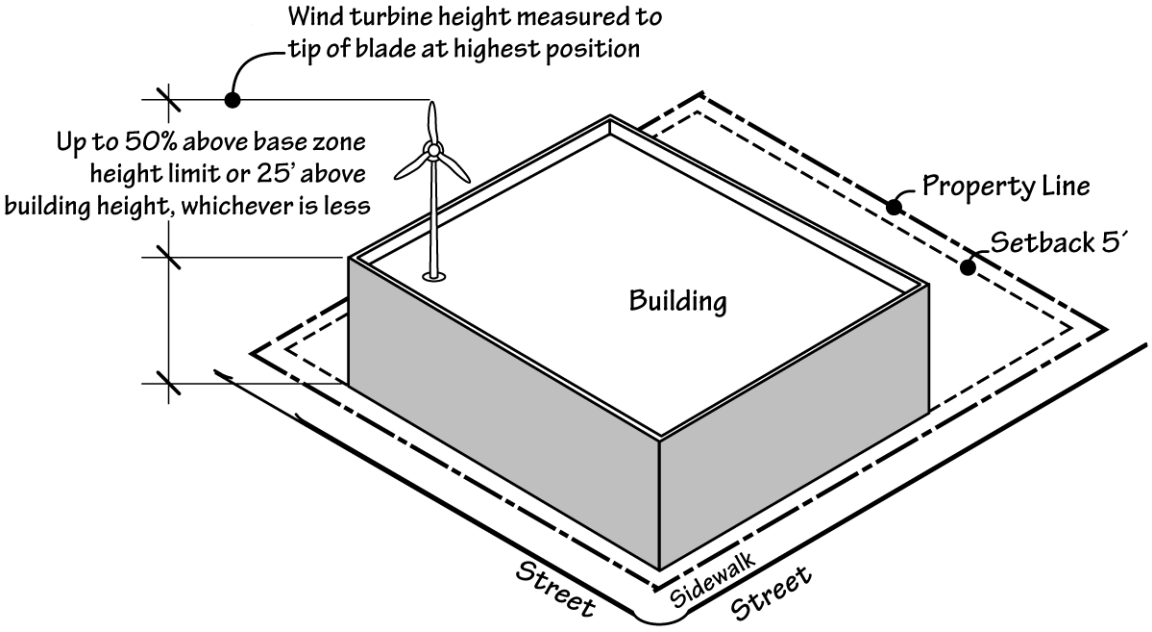
Because this entire chapter is new, for ease of reading it is not underlined

B. Building mounted.

1. Setbacks. Building mounted turbines are subject to the minimum building setbacks of the building they are mounted on.

2. Height. A turbine may be up to 50 percent above the base zone height limit, or 25 feet above the height of the building it is mounted on, whichever is less. See Figure 299-2.

Figure 299-2
Building-Mounted Wind Turbine



Commentary

Because this entire chapter is new, for ease of reading it is not underlined

C. Exceptions.

1. RF zone. Turbines in the RF zone are subject to Subsections A and B. However, there is no height limit if the turbine is set back from all lot lines a distance equal to its height.

2. EG2, IG, and IH zones. In the EG2, IG, and IH zones, there is no setback or height limit except where lot lines abut R-zoned sites. Where the lot lines abut R-zoned sites:

   a. Pole-mounted turbines are subject to the following:

      (1) Setback. They must be set back at least 10 feet from lot lines that abut R-zoned sites.

      (2) Height. They are subject to the height regulations for pole-mounted turbines that apply to the adjacent R-zone. If the site abuts more than one R-zone, the most restrictive height regulation applies.

      For every foot that the pole and turbine are set back farther than 10 feet from the adjacent R-zone., the height of the turbine may increase one additional foot above the adjacent R-zone base zone height limit. Using this provision, the height may not increase more than 50 percent above the adjacent R-zone base zone height limit.

      However, there is no height limit if the turbine is set back from all lot lines a distance equal to its height.

   b. Building-mounted turbines. Building-mounted turbines must meet the setbacks and height regulations that apply to building-mounted turbines in the adjacent R-zone. If the site abuts more than one R-zone, the most restrictive regulations apply.

33.299.130 Noise.
In residential zones, turbines must have an AWEA-rated sound level of 45dBA or less. The City noise standards of Title 18 also apply in all zones.

CHAPTER 33.420
DESIGN OVERLAY ZONE

33.420.045 Exempt from Design Review

Item 31 – Louvers in Design Overlay Zones
Louvers and exhaust vents are often required for certain tenants after a building has been approved and constructed. As a result, they are not examined as part of the original design review process. This is especially true when ground floor tenants, such as restaurants, move into space that was not previously a restaurant. Restaurants and similar uses require venting. These installations trigger a separate design review, which cause delays in the occupancy of the tenant space. Because the ventilation system has a limited number of installation options, the design reviews focus on a few key points, such as the location of the louvers and their integration into the existing window mullion system. The design team that reviews these cases for the Bureau of Development Services helped develop a set of simple standards that can achieve the same design integration as the design review process, while preventing delays in occupancy.

This amendment creates an exemption to design review for louvers/exhaust systems, provided they meet a set of standards. These standards include a maximum size limit, the requirement that the louver be placed at the top of the ground floor façade to limit the effect on pedestrians on the adjacent sidewalk, and standards to ensure the louver is integrated into the existing window mullion system. Louvers not meeting these standards would still be required to go through the design review process.

Item 32 – Solar Panel Design Review Exemption
Item 33 – Eco-roof Design Review Exemption

33.420.045 Exempt From Design Review
This amendment creates exemptions from discretionary Design Review for solar panels, and eco-roofs. This would allow these improvements to be added to existing buildings without triggering Design Review. The exemptions are focused on situations when nothing else is being done to the building. If these improvements are proposed as part of a larger change to the site or building, where design review is already required, then these improvements would still be evaluated as part of that Design Review.

A separate exemption for eco-roofs in Historic and Conservation Districts is found later in this report.

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33.420.045 Exempt From Design Review
The following items are exempt from design review:

A-W. [No Change.]

X. Louvers for mechanical ventilation placed within existing ground floor window mullions, which meet the following:

1. The maximum size of each louver is 8 square feet, and the maximum height of each louver is three feet. However, in no case may a louver have a dimension different from the size of the existing window mullion opening;

2. The window system containing the louver must not be higher than the bottom of the floor structure of the second story;

3. The bottom of the louvers must be at least 8 feet above adjacent grade;

4. The louvers may not project out further than the face of the window mullion;

5. The louvers must be painted to match the existing window mullion color/finish;

Y. Solar panels. Within the Central City and Gateway Plan Districts, solar panels installed on existing buildings where no other exterior improvements subject to design review are proposed.

1. This exemption applies only to panels installed on a flat roof or a roof surrounded by a parapet that is at least 12 inches higher than the highest part of the roof surface and must meet the following:

   a. The panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, not including the parapet.

   b. The panels and racks must be set back 5 feet from the edge of the roof.

Z. Eco-roofs. 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 exterior improvements subject to design review are proposed. Plants must be species that do not characteristically exceed 12-inches in height at mature growth.

Item 35 – Environmental Zone Development Standards for Land Divisions

33.430.150 Standards for Utility Lines
33.430.160 Standards for Land Divisions and Planned Developments

The environmental zones chapter includes standards for several types of development. Often, utility lines run through an area that can either meet the disturbance area standards of 33.430.140 or has been approved for disturbance as part of an Environmental Review. When the utility lines run through an area allowed per general development standards or approved for disturbance, there is no reason to impose a disturbance area limitation for the construction of the utility or to require replanting. Frequently, these utility lines run through allowed disturbance areas that are used to meet outdoor area requirements or underneath paved areas for driveways or walkways. Therefore, the replanting requirement conflicts with development that is allowed per the general development standards. The disturbance area limitations and replanting requirements should not apply when the utility runs through an area allowed or approved to be disturbed.

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33.430.150 Standards for Utility Lines
The following standards apply to private connections to existing utility lines and the upgrade of existing public utility lines in resource areas. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

A. The disturbance area for private connections to existing utility lines is no greater than 10 feet wide, unless the private connection extends through disturbance area allowed under Section 33.430.140;

B. The disturbance area for the upgrade of existing public utility lines is no greater than 15 feet wide, unless the private connection extends through disturbance area allowed under Section 33.430.140;

C. [No change]

D. Disturbance areas outside of disturbance area allowed by Section 33.430.140 must be planted with native species listed in the *Portland Plant List* according to the following densities:

1-3. [No change]

E. – F. [No change]

33.430.160 Standards for Land Divisions and Planned Developments
The following standards apply to land divisions and Planned Developments in the environmental overlay zones. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

A-I. **[No Change.]**

J. Utility construction must meet the applicable standards of Section 33.430.150. Private utility lines on a lot where the entire area of the lot is approved to be disturbed and where the private utility line provides connecting service directly to the lot from a public system are exempt from this standard.

Commentary

Item 50 Historic Designation and Removal and National Register properties

CHAPTER 33.445
HISTORIC RESOURCE PROTECTION OVERLAY ZONE

33.445.100 Designation of a Historic Landmark.
In conjunction with the amendments made to 33.846.030 and 040, this amendment clarifies that the city process for historic landmarks and districts only affects their local standing as landmarks or districts. The language for the removal of a designated landmark or district already contains a reference to the local designation.

33.445.300 Designation of a Historic District.
See above commentary.

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AMEND CHAPTER 33.445, HISTORIC RESOURCE PROTECTION OVERLAY ZONE

Historic Landmarks

33.445.100 Designation of a Historic Landmark
Local designation of Historic Landmarks may be established ~~designated~~ by the Historic Landmark Commission through a legislative or quasi-judicial procedure.

A. Designation by Historic Landmark Commission. Historic Landmark designation may be established by the Historic Landmark Commission through a legislative procedure, using the approval criteria of Section 33.846.030.C.

B. Quasi-judicial designation. Historic Landmark designation may be established through a quasi-judicial procedure; historic designation review is required.

Historic Districts

33.445.300 Designation of a Historic District
Local designation of Historic Districts may be established ~~designated~~ by the Historic Landmark Commission through a legislative or quasi-judicial procedure.

A. Designation by Historic Landmark Commission. Historic District designation may be established by the Historic Landmark Commission through a legislative procedure, using the approval criteria of Section 33.846.030.C.

B. Quasi-judicial designation. Historic District designation may be established through a quasi-judicial procedure; historic designation review is required.

Item 37 – Solar Panel Historic Design Review Exemption
Item 38 – Eco-roof Historic Design Review Exemption

33.445.320 Development and Alterations in a Historic District

B. Exempt from historic design review.
This amendment creates a new Historic Design Review exemptions, for solar panels and eco-roofs. This would allow solar panels and eco-roofs to be added to existing buildings in appropriate situations without triggering Historic Design Review. The exemption is focused on situations when nothing else is being done to the building. If these improvements are proposed as part of a larger change to the site or building, where design review is already required, then these improvements would still be evaluated as part of that Historic Design Review. These exemptions are more conservative than the exemption proposed for Design Review, recognizing the special role that Historic Districts play in preserving the City's heritage.

Language to be **added** is underlined
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33.445.320 Development and Alterations in a Historic District
Building a new structure or altering an existing structure in a Historic District requires historic design review. Historic design review ensures the resource's historic value is considered prior to or during the development process.

A. [No Change.]

B. Exempt from historic design review.

1-7. [No Change.]

8. Solar panels that are located:

a. On 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 panels must be mounted flush or on racks, with the panel or rack extending no more than 5 feet above the top of the highest point of the roof, Solar panels must also be screened from the street by:

(1) An existing parapet along the street-facing façade that is as tall as the tallest part of the solar panel, or

(2) Setting the solar panel back from the roof edges facing the street 4 feet for each foot of solar panel height.

b. On a pitched roof. Panels must be mounted flush, with the plane of the panels parallel with the roof surface, with the panel no more than 12 inches from the surface of the roof at any point, and set back 3 feet from the roof edge and ridgeline. See Figure 218-5. In addition, solar panels may not be on a street-facing elevation, or on the front half of any roof surface of an elevation facing within 90 degrees of the street. See Figure 218-6.

9. 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 design review are proposed. Plants must be species that do not characteristically exceed 12-inches in height at mature growth.

Item 38 – Eco-roof Historic Design Review Exemption

33.445.420 Development and Alterations in a Conservation District

B. Exempt from historic design review.

This amendment creates a new Historic Design Review exemption in Conservation Districts, for eco-roofs. This would allow eco-roofs to be added in some situations to existing buildings without triggering Historic Design Review. The exemption is focused on situations when nothing else is being done to the building. If these improvements are proposed as part of a larger change to the site or building, where design review is already required, then these improvements would still be evaluated as part of that Historic Design Review. These exemptions are more conservative than the exemption proposed for Design Review, recognizing the special role that Conservation Districts play in preserving the City's heritage.

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

33.445.420 Development and Alterations in a Conservation District
Building a new structure or altering an existing structure in a Conservation District requires historic design review. Historic design review ensures the resource's historic value is considered prior to or during the development process.

A. [No Change.]

B. Exempt from historic design review.

1-7. [No Change.]

9. 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 design review are proposed. Plants must be species that do not characteristically exceed 12-inches in height at mature growth

Item 37 – Solar Panel Historic Design Review Exemption

33.445.720 When Community Design Standards May Not Be Used

F. The community design standards can be used as an alternative to historic design review in conservation districts. Draft amendments to Chapter 33.218 earlier in this document include standards that will allow solar panels to be installed in conservation districts with historic design review. Conservation landmarks have special status in conservation districts. This amendment will require that a review be required before installing solar panels conservation landmarks.

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

33.445.720 When Community Design Standards May Not Be Used.
The Community Design Standards may not be used as an alternative to historic design review as follows:

A-E. [No Change.]

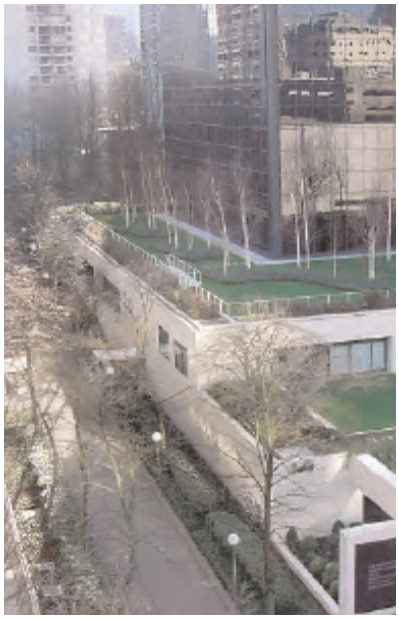
F. For installation of solar panels on a conservation landmark.

Item 39 Eco-Roof FAR Bonus

33.510.210 Floor Area and Height Bonus Options

C. Bonus floor area options

The code provides options for bonus floor area in the Central Plan District. Bonuses are an incentive for providing amenities that may benefit occupants of a building as well as the public at large. This list of amenities includes roof-top gardens and eco-roofs. The code includes a restriction against receiving bonus floor area for both roof-top gardens and eco-roofs at the same time. This restriction was intended to prevent "double-dipping" where two bonuses could be obtained by providing the same feature. The restriction does not allow for situations where part of the roof-top may be used as a roof-top garden and part as an eco-roof. This amendment allows the option to have part of the roof as a roof-top garden and part as an eco-roof and receive the appropriate bonus for each part.



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33.510.210 Floor Area and Height Bonus Options

A-B. [No Change

C. Bonus floor area options. Additional development potential in the form of floor area is earned for a project when the project includes any of the specified features listed below. The bonus floor area amounts are additions to the maximum floor area ratios shown on Map 510-2.

1-3. [No Change.]

4. Rooftop gardens option. [No change]

5-9. [No Change.]

10. Eco-roof bonus option. Eco-roofs are encouraged in the Central City because they reduce stormwater run-off, counter the increased heat of urban areas, and provide habitat for birds. An eco-roof is a rooftop stormwater facility that has been certified by the Bureau of Environmental Services (BES). Proposals that include eco-roofs receive bonus floor area. ~~A proposal may not earn bonus floor area for both the eco-roof option and the rooftop gardens option; only one of these options may be used~~. A proposal may earn bonus floor area for both the eco-roof option and the rooftop gardens option. However, the same square footage may not be counted towards both bonuses.

    a. Bonus. Proposals that include eco-roofs receive bonus floor area as follows:

        (1) – (3) [No change]

    b. Before an application for a land use review will be approved, the applicant must submit a letter from BES certifying that BES approves the eco-roof. The letter must also specify the area of the eco-roof. Final plans and specifications must be submitted with building permit applications.

    c. [No change].

11-19. [No Change.]

Item 53 - Solar Panels Exemption from Standards
Item 60 - Wind Turbine Standards and Exemption to Reviews

CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT

33.515.235 Rooftops

C. Rooftop mechanical equipment.

Standards in the Columbia South Shore Plan District require that rooftop mechanical equipment be screened or painted to match the color of the rooftop. Solar panels and wind turbines differ from other rooftop installations in that their purpose is to generate energy. Solar panels need access to the sun to generate energy. Screening or painting the panels would block access. Wind turbines need access to the wind. Screening would block this access. Because wind turbines have large exterior moving parts, painting them is not practical.

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

33.515.235 Rooftops

A. Purpose. Rooftops in the plan district are highly visible from Marine Drive, view corridors, and Airport Way. Rooftop standards are intended to reduce the visual impact of rooftop surfaces and rooftop mechanical equipment from those vantage points.

B. Where the regulations apply. The rooftop standards apply to all parts of South Shore except for the Southern Industrial subdistrict.

C. Rooftop mechanical equipment. These standards apply to rooftop mechanical equipment. They do not apply to roof-mounted solar panels and wind turbines.

1.-2.[No change.]

Item 40 – Northwest Plan District FAR

CHAPTER 33.562
NORTHWEST PLAN DISTRICT

33.562.220 Floor Area Ratios

B. Minimum floor area ratio.

2. Regulation.

The Northwest plan district includes minimum floor area ratio requirements (FAR) in the CS and CM zones. These zones are located along commercial street frontages in the Northwest District. The intent of the FAR minimums is to ensure that these frontages are developed with buildings of at least 2 stories to help create a vibrant street front. Although they are commercial zones, the CM and CS zones also allow residential uses. This amendment clarifies that both the residential and non-residential portions of the development count towards the FAR minimum.

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AMEND CHAPTER 33.562, NORTHWEST PLAN DISTRICT

33.562.220 Floor Area Ratios

A. Purpose. [No change.].

B. Minimum floor area ratio.

1. Where this regulation applies. The regulation of this subsection applies:

   a. In the CM and CS zones; and

   b. In the EX zone, on the portion of a site within 200 feet of a main street or streetcar alignment. Main streets and the streetcar alignment are shown on Map 562-7.

2. Regulation. The minimum required floor area ratio is 1.5 to 1. This includes both residential and non-residential floor area.

C. Maximum floor area ratios. [No change.].

Item 8– Courtyard Housing: Density Gap between R1 and R2 zones
Item 42 – Courtyard Housing: Courtyard Tract and Density Calculations

33.612.100 Density

A. Single-dwelling or duplex development.
An issue that was illustrated during the review of the Courtyard Housing Competition entries was how the provision and size of the common green and/or shared courts could impact the allowed maximum density. Currently, the provision of larger, shared common tracts negatively impacts the number of units that can be placed on a site, since this tract can not be used to count toward the maximum density calculation. Also, developments done without land divisions can propose a higher number of units since their common area isn't taken out of land division calculations.

This amendment removes the disincentive for applicants to propose common greens and shared courts and, if proposed, allows them to be as large as possible without affecting the allowed number of units. The amendment allows applicants to include areas used for common greens and shared courts into the calculation for maximum density.

Under this provision, more flexibility will be provided for projects that propose a separate common green tract.

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AMEND CHAPTER 33.612, LOTS IN MULTI-DWELLING ZONES

33.612.100 Density

A. Single-dwelling or duplex development. When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is subtracted from the total site area in order to calculate minimum and maximum density. However, the area used for common greens and shared courts is not subtracted from the total site area to calculate maximum density.

B. All other development. When development other than single-dwelling or duplex is proposed, minimum and maximum density must be met at the time of development.

Item 43 – Planned Developments and Residential Uses in I zones

CHAPTER 33.638
PLANNED DEVELOPMENTS

Sections:
This list is amended to indicate the new section which creates limitations on residential development in I and E zones.

33.638.100 Additional Allowed Uses and Development

I. Transfer of development within a site.

4. All zones. In conjunction with the addition of the new section 33.638.110, which limits residential development in I and E zones, this section is amended to clarify that residential floor area cannot be transferred from I, EG1, and EG2 zones.

33.638.110 Limitations on Residential Uses and Development.
Residential uses are prohibited in Industrial zones. This prohibition ensures current City, Metro, and State requirements protect industrially-designated lands. Allowing residential uses in industrial zones as part of a planned development would violate this policy. In addition, the I zones do not have a maximum FAR. Under current regulations, they could transfer an infinite amount of floor area to adjacent residential zones. That was not the intent of the original planned development options. This amendment limits the uses in the industrial zones and the transfer of floor area from industrial zones.

A similar amendment is also proposed for the EG1 and EG2 zones. Current Metro and City policy is to limit certain uses in these areas, including residential uses. This change continues the policy that is implicit in our base zones. In addition, the amendment limits the ability to draw floor area from the EG zones to load onto residential zones.

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AMEND CHAPTER 33.638, PLANNED DEVELOPMENT

Sections:

33.638.100 Additional Allowed Uses and Development

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

A-H. [No change.]

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

1. RF through R1 zones. [No change]

2. RH and RX zones. [No change]

3. C, E, and I zones. [No change]

4. All zones. If the site is located in more than one zone, and at least one of the zones is RF through R1, and at least one of the zones is RH, RX, C, or EX, ~~or I,~~ then the total number of dwelling units allowed on the site is calculated as follows:

   a. through d. [No change]

J. Transfer of development between sites. [No change]

33.638.110 Limitations on Residential Uses and Development

The following limitations apply to Planned Developments proposed in EG or I zones

A. Industrial zones. Residential uses and development are prohibited in industrial zones. Using floor area transferred from industrial zones for residential uses is prohibited in all zones.

B. EG1 and EG 2 zones. If a residential use is allowed in an EG1 or EG2 zone through a Conditional Use Review, then residential uses proposed for an EG1 or EG2 zone as a Planned Development must also go through a Conditional Use Review. Using floor area transferred from EG1 and EG2 zones for residential uses is prohibited in all zones.

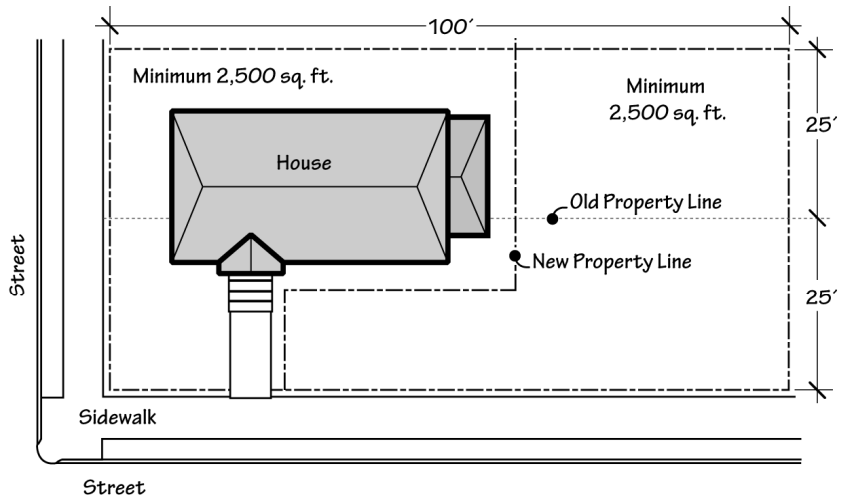
Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

CHAPTER 33.667
PROPERTY LINE ADJUSTMENTS

33.667.300 Regulations

A. Properties.

1.d. This amendment adds a new provision for lots, which include adjusted lots as defined in 33.910. Currently, a property line adjustment cannot bring an existing lot out of compliance with the minimum lot standards for new lots. If the existing lots don't currently meet these standards, they are not allowed to go further out of compliance. This means that a property line adjustment involving two – 2,500 square foot lots in an R5 zone cannot reduce the size of either of the lots. This has often created some interesting lot lines, especially when done on a corner lot, where the lot line has been 'swiveled' 90 degrees to create another buildable area (See drawing below).



This amendment allows a special provision when a property line adjustment involves a corner site in the R5 zone. This will allow a lot line to be swiveled 90 degrees and the resultant properties will be able to meet the lower size thresholds for existing lots in the new table in 33.110. Specifically, a 2500 square foot lot may be able to get reduced to 1600 square feet as long as it maintains a width of 36 feet.

Figure 667-1
This is a new figure that illustrates the intent of Standard A.1.d listed above.

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AMEND CHAPTER 33.667, PROPERTY LINE ADJUSTMENTS

33.667.300 Regulations

A request for a Property Line Adjustment will be approved if all of the following are met:

A. Properties. For purposes of this subsection, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

1. The Property Line Adjustment will not cause either property or development on either property to move out of conformance with any of the regulations of this Title, including those in Chapters 33.605 through 33.615 except as follows:

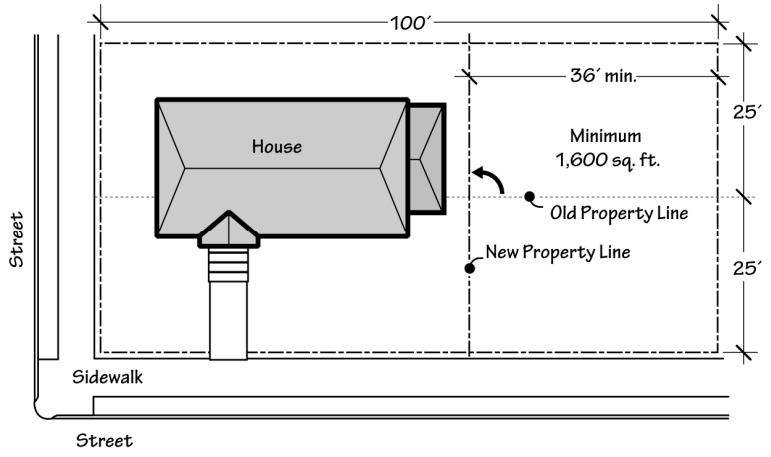
   a. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation;

   b. If both properties are already out of conformance with maximum lot area standards, they are exempt from the maximum lot area standard; ~~and~~

   c. If one property is already out of conformance with maximum lot area standards, it is exempt from the maximum lot area standard~~.~~; and

   d. If the site involves two lots or adjusted lots on a corner in an R5 zone, the lots may be 1600 square feet and 36 feet wide as an option to Chapter 33.610. See Figure 667-1.

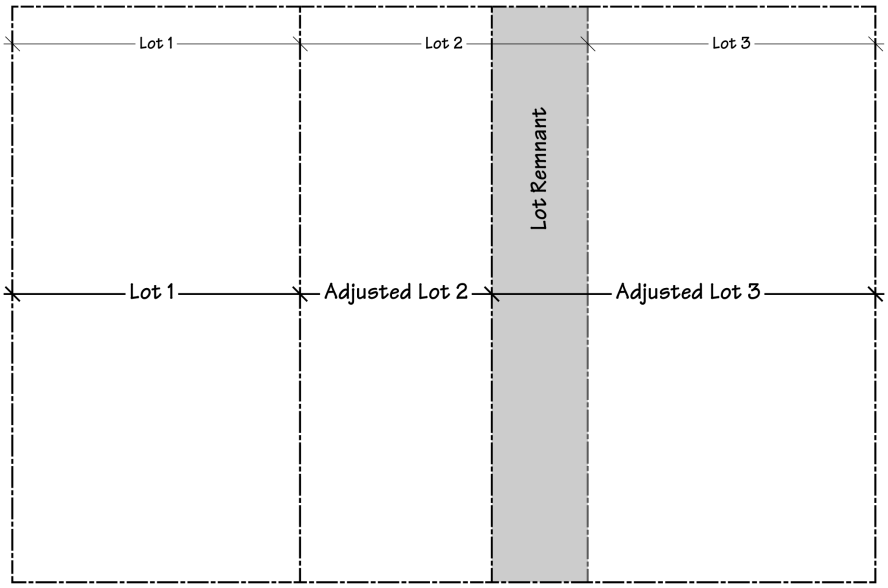
Figure 667-1
Property Line Adjustment on Corner Site in R5 Zone



2. The Property Line Adjustment will not configure either property as a flag lot, unless the property was already a flag lot;

Chapter 33.667, Property Line Adjustments (cont'd)

3. This is a new restriction which will not allow a property line adjustment to be used to turn a non-buildable lot remnant into a buildable property. Lot remnants are small portions of a lot that were often transferred in a property line adjustment and were never intended to be a separately buildable parcel. In the drawing below, for example, the remnant would not be buildable, nor could its property lines be adjusted to make it buildable.



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3. The Property Line Adjustment will not result in the creation of a buildable property from an unbuildable lot remnant;

4~~3~~. The Property Line Adjustment will not result in the creation of street frontage for a land-locked property;

5~~4~~. If any portion of either property is within an environmental overlay zone, the provisions of Chapter 33.430 must be met;

6~~5~~. The Property Line Adjustment will not result in a property that is in more than one base zone, unless that property was already in more than one base zone; and

7. The Property Line Adjustment will not create a nonconforming use.

Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

33.700.130 Legal Status of Lots

This amendment brings our code into consistency with the state regulations regarding the legal status of lots.

A.1. This amendment clarifies that a lot's configuration may change through the vacation of individual lot or parcel lines, as allowed through the City's Lot Consolidation process.

A.3 This section is no longer necessary. This code amendment package provides clarification within the definitions and single dwelling zones on how to determine the buildability of lots that have had one or more of their property lines altered.

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AMEND CHAPTER 33.700, ADMINISTRATION AND ENFORCEMENT

33.700.130 Legal Status of Lots

A. A lot shown on a recorded plat remains a legal lot except as follows:

1. The plat, or the individual lot or parcel lines haves been vacated as provided by City Code; or

2. The lot has been further divided, or consolidated, as specified in the 600 series of chapters in this Title, or as allowed by the former Title 34;.

~~3. The lot as originally platted is no longer whole and consists of individual property remnants. These remnants are not considered legal lots. However, they may still be considered lots of record. See the definition of "lot of record" in Chapter 33.910, Definitions.~~

B. Where a portion of the lot has been dedicated for public right-of-way, the remaining portion retains its legal status as a lot, unless it has been further altered as specified in Subsection A, above.

C. The determination that a lot has legal status does not mean that the lot may be developed, unless all requirements of this Title are met.

Item 44 – Type II Notice Procedure
Item 45 – Hearings Officer Decisions on Comprehensive Plan Map Amendments

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.010 Purpose

This section is amended to clarify that not all Quasi-Judicial Land Use Reviews are required to be completed within the State-mandated 120 days. See below for more information on the actual amendment to the decision dates for Type III reviews.

33.730.020 Type II Procedure

D. Processing Time. The current regulations for processing a Type II Land Use Review require that the reviewer wait at least 21 days from the mailing of the notice to make a decision. However, the notice of the decision must be sent out 28 days after the application is complete. Due to workload and job duties, it will sometimes take a day or two between when an application is deemed complete and when the notice is mailed out. This can cut into the time that the reviewer has to make a decision after allowing for public comment. To be more consistent, and provide the reviewer with a full week to review comments and make a decision, the code is amended to require that the decision be mailed out 28 days after the notice is mailed, rather than after the application is found complete.

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

AMEND CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

33.730.010 Purpose

This chapter . . . [no change] . . . of Review Bodies.

The regulations provide standardized methods for processing quasi-judicial land use reviews. The requirements provide clear and consistent rules to ensure that the legal rights of individual property owners and the public are protected. The rules implement state law, including the requirement that most quasi-judicial reviews must be completed within 120 days of filing a complete application. The Type II, Type IIx, Type III, and Type IV procedures, with their varying levels of review, provide the City with options when assigning procedures to each quasi-judicial review in this Title. The Type I procedure is an administrative procedure.

The Type I procedure . . . [no change] . . . historic resources.

33.730.020 Type II Procedure

The Type II procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A-C. [No change.]

D. Processing time. Upon determining that the application is complete, the Director of BDS will make a decision on the case as follows:

1. The Director of BDS will not make the decision until 21 days after the notice required by Subsection C, above, is mailed.

2. The Director of BDS will make a final decision on the case and mail a notice of decision within 28 days after the notice required by Subsection C. above is mailed ~~application is determined complete~~. The applicant may extend this time limit.

E-I. [No change.]

Item 45 – Hearings Officer Decisions on Comprehensive Plan Map Amendments

33.730.030 Type III Procedure

E. Decision by review body if site is in the City of Portland.

Most land use decisions in the City of Portland are subject to strict timelines. Many of the timelines come from state requirements, such as the state requirement that mandates quasi-judicial land use reviews to be completed within 120 days after filing a complete application. As a result, in situations involving a decision made by a Land Use Hearings Officer decision, our code requires that the Hearings Officer mail notice of the decision within 17 days of the close of record.

However, decisions involving amendments to the City's Comprehensive Plan Map are not subject to the state 120 day rule. These decisions can often be more complex, sometimes requiring the Hearings Officer to hold multiple hearings and weigh various options in order for the recommendation to be made. Assigning the Hearings Officer the same 17 day deadline that applies to other reviews has often been a problem for the Hearings Officer. Since there is no state requirement for completing a Comprehensive Plan Map Amendment within a certain time frame, it makes sense to provide additional time for the Hearings Officer to make and publish the recommendation.

This amendment extends the time that the Hearings Officer has to publish the recommendation for Comprehensive Plan Map Amendments from 17 days to 30 days. This provides enough time for the Hearings Officer to review the record while still requiring a timely recommendation.

Language to be **added** is underlined
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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-D.[No change.]

E. Decision by review body if site is in City of Portland.

1-2. [No change.]

3. Review body decision. The review body may adopt the Director of BDS's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.

   a. Hearings Officer.

      (1) Generally. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the close of the record~~.~~;

      (2) Comprehensive Plan Map Amendments. For Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer will make a written recommendation in the form of a report and mail notice of the recommendation within 30 days of the close of the record.

   b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

4. Amended decision report. If the review body modifies or rejects the Director of BDS's report, an amended report with findings supporting the decision will be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the close of the record. The report must comply with 33.730.090, Reports and Record Keeping.

5. Notice of decision (pending appeal). When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, or within 30 days for Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer or Director of BDS will mail notice of the review body's decision (pending appeal) to the applicant, owner, and all recognized organizations or persons who responded in writing to the notice of the request, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice.

F-H.[No change.]

Item 45 – Hearings Officer Decisions on Comprehensive Plan Map Amendments

33.730.030 Type III Procedure

I. Decision by review body if site is not in City of Portland.
This amendment provides the same allowance for a Hearings Officer recommendation within areas of the County that are in the City's regulatory jurisdiction.

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

I. Decision by review body if site is not in City of Portland.

1-2. [No change.]

3. Review body decision. The review body may adopt the Director of BDS's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.

   a. Hearings Officer.

      (1) Generally. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the close of the record~~.~~;

      (2) Comprehensive Plan Map Amendments. For Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer will make a written recommendation in the form of a report and mail notice of the recommendation within 30 days of the close of the record.

   b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

4. Amended decision report. If the review body modifies or rejects the Director of BDS's report, an amended report with findings supporting the decision will be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the close of the record. The report must comply with 33.730.090, Reports and Record Keeping.

5. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, or within 30 days for Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the applicant, owner, and to any recognized organizations or persons who commented in writing, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.I, Notice of final decision.

6-7. [No change.]

Item 46 – Land Use Fees and Complete Application

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.060 Application Requirements

C. Required information for land use reviews except land divisions.
The application filing fees are listed as one of several items needed to create a complete application for land use review. However, BDS will not even accept an application to determine its completeness unless the fees have been paid. This is re-iterated elsewhere in the chapter under the various procedural sections, where it is stated that the correct fee must be submitted with the application form in order for the request to be reviewed. The listing of the applicable fee as a requirement for a complete application is duplicative and can be removed.

D. Required information for land divisions.
See C. above.

Language to be **added** is underlined
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33.730.060 Application Requirements

A-B. [No change.]

C. Required information for land use reviews except land divisions. Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request.

1-5. [No change.]

~~6. The applicable filing fees.~~

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

   a-k. [No change.]

   ~~l. Fees. The applicable filing fees.~~

2-4. [No change.]

Item 57 – Adjustment Purpose Statement

CHAPTER 33.805
ADJUSTMENTS

33.805.010 Purpose

The current language in the adjustment purpose statement can be read to mean that alternative ways to meet the purposes of the code should only be allowed in unusual situations. The intent is that adjustments should allow flexibility for unusual situations and also should allow alternative ways to meet the purposes of the code even when there is no unusual situation. The amendment clarifies that adjustments can also be used to allow alternative ways of doing things that equally or better meet the purposes of the code.

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

AMEND CHAPTER 33.805, ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations ~~and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.~~ They also allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

Item 48 – Solar Panels and Conditional Use
Item 49 – Parking and Conditional Use Review Type

CHAPTER 33.815
CONDITIONAL USES

33.815.040 Review Procedures

B. Proposals that alter the development of an existing conditional use.

Solar Panels. When located on sites where there is a conditional use, such as schools in residential zones, ground mounted solar panels are subject to conditional use review. The approval criteria, however, are designed to evaluate and mitigate for the impacts of the school on the residential area. Solar panels have few impacts on adjacent properties and hardly any impact on public services. The impacts solar panels do have are primarily visual. Other standards in the code that require larger setbacks and landscaping for institutions will alleviate these visual impacts.

Parking Spaces. A secondary technical amendment addresses situations where parking is removed in order to complete stormwater upgrades in a parking lot. Removal of one space is often necessary in order to incorporate vegetated swales that meet current standards.

Increases or decreases in the number of parking spaces are often required when a conditional use changes in size, but the current thresholds do not allow any increase in number of parking spaces without a review, and do not differentiate between minor changes in parking quantity that can be processed as a Type II procedure, versus major changes in parking quantity that require a Type III review.

These amendments clarify that a nominal increase in number of parking spaces (the addition of 1 space, or 4% of the total number of spaces, whichever is greater) is allowed without a review. These amendments also clarify that the number of parking spaces can be increased or decreased by specific amounts under a Type II review, provided that the other Type II thresholds that apply to the size of structures and amount of non-parking exterior improved areas are not exceeded.

Increased flexibility for removal of spaces from small sites is necessary to accommodate stormwater-related retrofits.

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

AMEND CHAPTER 33.815, CONDITIONAL USES

33.815.040 Review Procedures

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

A. [No Change].

B. Proposals that alter the development of an existing conditional use. Alterations to the development on a site with an existing conditional use may be allowed, require an adjustment, modification, or require a conditional use review, as follows:

1. Conditional use review not required. A conditional use review is not required for alterations to the site that comply with Subparagraphs a through g. All other alterations are subject to Paragraph 2, below. Alterations to development are allowed by right provided the proposal:

   a. Complies with all conditions of approval;

   b. Meets one of the following:

      (1) Complies with the development standards of this Title, or

      (2) Does not comply with the development standards of this Title, but an adjustment or modification to the development standards has been approved through a land use review;

   c. Does not increase the floor area by more than 1,500 square feet;

   d. Does not increase the exterior improvement area by more than 1,500 square feet. Fences, handicap access ramps, ~~and~~ on-site pedestrian circulation systems, ground mounted solar panels, and parking space increases allowed by 33.815.040.B.1.f, below, are exempt from this limitation;

   e. Will not result in a net gain or loss of site area;

   f. Will not ~~result in a net gain in the number of parking spaces~~ increase the net number of parking spaces by more than 1 space or 4 percent of the total number of parking spaces, whichever is greater. However, an individual or cumulative addition of more than 5 parking spaces requires a conditional use review; and

Commentary

g. Will not result in a net loss in the number of parking spaces~~. However, sites with 16 or more spaces may decrease the number of spaces~~, except as follows:

(1) No reduction in shared parking spaces is allowed;

(2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; ~~and~~

(3) An individual or cumulative removal of parking spaces in excess of 5 spaces ~~is prohibited~~ requires a conditional use review. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present; and

(4) Removal of parking from sites with 4 or fewer required spaces requires a conditional use review.

2. Conditional use required. Conditional use review is required for the following:

a. Minor alterations. Except as provided in Paragraph B.1 above, conditional use review through a Type II procedure is required for the following:

(1) When proposed alterations to the site will not violate any conditions of approval;

(2) When there will be a net loss in site area that~~:~~

- ~~W~~will not take the site out of conformance, or further out of conformance, with a development standard; ~~and~~

- ~~Will be within the parking reduction limits stated in B.1.g above;~~

(3) When there will be an increase or decrease in the net number of parking spaces by up to 2 spaces or up to 10 percent of the total number of parking spaces, whichever is greater;

(4) When the individual or cumulative alterations will not increase the floor area on the site by more than 10 percent, up to a maximum of 25,000 square feet;

(5) When the individual or cumulative alterations will not increase the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by 33.815.040.B.2.a (3) are exempt from this limitation; or

Commentary

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

(6) When the individual or cumulative alterations will not increase the floor area and the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by 33.815.040.B.2.a (3) above are exempt from this limitation.

(~~6~~)(7) The increases in subparagraphs 3 through ~~5~~ 6, above, are measured from the time the use became a conditional use, July 15, 2004, or the last Type III conditional use review of the use, whichever is most recent, to the present.

b. [No Change.]

Chapter 33.815, Conditional Uses

Section 33.815.315, Utility Scale Energy Production in Specified C zones

Manufacturing And Production uses are allowed in most of the C zones, with some size limitations. Because of the potential impacts of Utility Scale Energy Production, which is a Manufacturing And Production use, these conditional use approval criteria are added to address those impacts.

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

AMEND CHAPTER 33.815, CONDITIONAL USES

Sections:
General [No change]
Approval Criteria
33.815.100 through 33.815.310 [No change]
33.815.315 Utility Scale Energy Production in Specified C zones.

33.815.315 Utility Scale Energy Production in Specified C zones.
These approval criteria provide for Utility Scale Energy Production in CN, CM, CS, CG, and CX zones. They allow energy-generating activities that have limited impact on the surrounding area, while supporting sustainability goals for energy. The approval criteria are:

A. The proposed Utility Scale Energy Production facility will serve the immediate area;

B. The off-site impact standards of Chapter 33.262 must be met;

C. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies; and

D. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Commentary

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

AMEND CHAPTER 33.848, IMPACT MITIGATION PLANS

33.848.070 Impact Mitigation Plan Requirements
[No change.]

A. Mission statement and uses. An impact mitigation plan must include a mission statement. The mission statement is intended to identify the scope of services and defines the range of uses and activities that the institution sees as ultimately occurring within the campus. The mission statement must include the following elements:

1. A statement of the mission of the institution and the campus;

2. A list of all the primary uses expected to occur on the campus with an explanation of the interrelationship between each and the institutional campus mission;

3. A list of all accessory uses expected to occur on the campus with an explanation of the role each accessory activity plays in implementing the campus mission statement. Except for Small Scale Energy Production, a~~A~~ctivities which provide goods or services to people or facilities that are not on the campus may not be listed as accessory activities;

4. through 6. [No change.]

Item 48 – Solar Panels and Conditional Use
Item 49 – Parking and Conditional Use Review Type

CHAPTER 33.820
CONDITIONAL USE MASTER PLANS

33.820.080 Implementation

B. Not conforming to the plan.

Solar Panels. When located on sites where there is a conditional use, such as schools in residential zones, ground mounted solar panels are subject to conditional use review. The approval criteria, however, are designed to evaluate and mitigate for the impacts of the school on the residential area. Solar panels have few impacts on adjacent properties and hardly any impact on public services. The impacts solar panels do have are primarily visual. Other standards in the code that require larger setbacks and landscaping for institutions will alleviate these visual impacts.

Parking Spaces: A secondary technical amendment addresses situations where parking is removed in order to complete stormwater upgrades in a parking lot. Removal of one space is often necessary in order to incorporate vegetated swales that meet current standards. This section states that development that is not in conformance with an approved Conditional Use Master Plan, but that meets all of the requirements of this section, is allowed without an amendment to the plan. The current thresholds do not allow any increase in number of parking spaces without an amendment to the plan.

These amendments clarify that a nominal increase in number of parking spaces (the addition of 1 space, or 4% of the total number of spaces, whichever is greater) is allowed without an amendment to the plan.

These amendments make the provisions of this section consistent with the proposed amendments to 33.815.040.B.1 (Conditional Uses – Proposals that alter the development of an existing conditional use).

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

AMEND CHAPTER 33.820, CONDITIONAL USE MASTER PLANS

33.820.080 Implementation

A. [No Change].

B. Not conforming to the plan. Uses that are not in conformance with the master plan require an amendment to the plan. Development that is not in conformance with the plan and does not meet the following requires an amendment to the plan. Development that is not in conformance with the plan and does meet all of the following is allowed:

1. All conditions of approval must be met;
2. One of the following must be met:
   a. Complies with the development standards of this Title, or
   b. Does not comply with the development standards of this Title, but an adjustment or modification to the development standards has been approved through a land use review;
3. Does not increase the floor area by more than 1,500 square feet;
4. Does not increase the exterior improvement area by more than 1,500 square feet, except that fences, handicap access ramps, ~~and~~ on-site pedestrian circulation systems, ground mounted solar panels, and parking space increases allowed by 33.820.080.B.6 below, are exempt from this limitation;
5. Will not result in a net gain or loss of site area;
6. Will not ~~result in a~~ increase the net ~~gain in the~~ number of parking spaces by more than 1 space or 4 percent of the total number of parking spaces, whichever is greater. However, the individual or cumulative addition of more than 5 parking spaces is not allowed without an amendment to the plan; and
7. Will not result in a net loss in the number of parking spaces except as follows:
   a. Sites ~~with 16 or more spaces~~ may decrease the number of spaces as follows:
      (1) No reduction in shared parking spaces is allowed;
      (2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and
      (3) An individual or cumulative removal of parking spaces in excess of 5 spaces is ~~prohibited~~ not allowed without an amendment to the plan. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present.
      (4) Removal of parking from sites with 4 or fewer required spaces is not allowed without an amendment to the plan.

Item 50 Historic Designation and Removal and National Register properties

33.846.030 Historic Designation Review

A. Purpose. The terms "historic landmark" and "historic district" refer to either resources that have been designated locally or to resources listed on the National Register of Historic Properties. However, the process in the zoning code for designating a property as a historic landmark or historic district is a local recognition process. A separate process is followed to achieve a National Register listing. Using this review to designate a historic resource does not affect the resource's listing on the National Register maintained by the National Park Service. This amendment clarifies this distinction.

33.846.040 Historic Designation Removal Review

A. Purpose. This process for removal of a historic designation is a local process and doesn't affect the property's listing on the National Register. See commentary for 33.846.030.

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

AMEND CHAPTER 33.846, HISTORIC REVIEWS

General

33.846.030 Historic Designation Review

A. Purpose. The Historic Designation Review is a process for the City of Portland to designate Historic Landmarks, Conservation Landmarks, Historic Districts, or Conservation Districts. This review does not affect a property or district's listing on the National Register of Historic Properties. 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 as part of the region's fabric; and
- Encouraging new development to sensitively incorporate historic structures and artifacts.

B-C. [No change.]

33.846.040 Historic Designation Removal Review

A. Purpose. These provisions allow for the removal of ~~a~~ the City's historic designation when it is no longer appropriate. This review does not affect a property or district's listing on the National Register of historic properties.

B-C. [No change.]

Item 51 Historic Resource Covenants for Incentives

33.846.050 Historic Preservation Incentive Review

C. Approval Criteria

The Historic Code Rewrite Project created additional incentives for historic perseveration, inclosing the allowance of certain types of uses in historic resources that are not otherwise allowed. Many of the incentives require a Historic Preservation Incentive Review, which was created at that time. As part of this review, it was intended that the applicant would provide a covenant on the landmark property. This covenant would state that any proposal to demolish the resource that had been subject to the Incentive Review would need to go through a Demolition Review. Although this language appears in the Historic Overlay chapter, 33.445, there is no reference to it in the approval criteria in 33.846 and so the requirement to record the covenant has been missed on several occasions.

This amendment adds a reference to the section on Historic Preservation Incentive Reviews to refer readers to the covenant requirements of 33.445 and so ensure that covenants are created for properties that take advantage of these incentives.

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

33.846.050 Historic Preservation Incentive Review

A. Purpose. These provisions increase the potential for Historic Landmarks and Conservation Landmarks, and contributing structures to be used, protected, renovated, and preserved.

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 in a Historic Landmark, Conservation Landmark, or a resource identified as contributing to the historic significance of 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 conflict with adopted provisions of neighborhood plans for the site and surrounding area; ~~and~~

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.

3. The regulations of 33.445.610, Historic Preservation Incentives are met

CHAPTER 33.855
ZONING MAP AMENDMENTS

Item 52 – State Transportation Planning Rule

33.855.050. Approval Criteria for Base Zone Changes

B. Adequate public services This is a technical amendment needed to bring the City's criteria for approving zone changes into line with recent changes to the State Transportation Planning Rule (TPR). The TPR is the Oregon Administrative Rule that mandates how the State land use goals for transportation are implemented at the local level. The TPR mandates in zone changes that transportation facilities must meet defined performance standards within a defined planning period. These amendments clarify that the TPR requirements apply to requests for zone changes that are made in the City.

The planning period is defined in the TPR and is about 20 years.

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

AMEND CHAPTER 33.855, ZONING MAP AMENDMENTS

33.855.050 Approval Criteria for Base Zone Changes
An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

A. Compliance with the Comprehensive Plan Map. [No change.]

B. Adequate public services. ~~Public services for water supply, transportation system facilities and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.~~

1. Adequacy of services applies only to the specific zone change site.

2. Transportation system facilities and capacity. The criteria of this paragraph apply only to transportation system facilities and capacity:

   a. Transportation system facilities and capacity are capable or will be made capable of supporting the uses allowed by the zone, in the planning period defined by the Oregon Transportation Planning Rule (TPR).

   b. For transportation services, adequacy of services is determined by the Bureau of Transportation and is based on performance standards for capacity.

   c. Analysis of transportation services must include the projected service demands of the site over the planning period. Analysis of the service demands of the specific proposal must be included if:

      (1) A specific proposal is submitted with the application; and

      (2) The Bureau of Transportation requires such an analysis.

3. Other public services. The criteria of this paragraph apply to public services other than transportation system facilities and capacity

   a. Public services for water supply and ~~, transportation system facilities and capacity, and~~ police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete~~;~~

   b. The proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services; and

~~2.~~ c. Adequacy of services, is based on the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.

~~3.~~ 4. [No change]

C-D. [No Change.]

Item 9 - Density for SROs
Item 18 – Accessory Dwelling Units and Density Calculation
Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone
Item 61 – Green Energy and Use

Chapter 33.910
Definitions

Biogas and Biomass. These definitions set out what is meant by the two types of energy-generating systems.

- -

Density.

Item 9 – Density for SROs. This amendment clarifies how density for SRO housing is calculated. The definition of SRO units differs from the definition of "dwelling units" in that SRO units may share bath, toilet, or kitchen facilities.

Item 18 – Accessory Dwelling Units and Density Calculation. The Infill Design Project, adopted in 2006, amended the policy for calculating density for Accessory Dwelling Units (ADUs), removing the need for this information in 33.910. The information on how to calculate density for ADUs is in Chapter 33.205, Accessory Dwelling Units.

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

AMEND CHAPTER 33.910, DEFINITIONS

Biogas: Generation of energy by breaking down biological material in anaerobic conditions to produce gas that can be used to generate electricity or heat. The process generally occurs inside a closed system such as a tank or container. See also Small Scale Energy Production.

Biomass: Generation of energy through the combustion of biological material to produce heat, steam, or electricity. See also Small Scale Energy Production.

- -

Density. A measurement of the number of people, dwelling units, living units in Single Room Occupancy (SRO) housing, or lots in relationship to a specified amount of land. Density is a measurement used generally for residential uses. ~~Accessory Dwelling Units are not counted in calculations of minimum or maximum density~~. See also Intensity.

Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

CHAPTER 33.910
DEFINITIONS

33.910.030 Definitions

Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone

It is difficult to explain the complexities of property line adjustments and the need for new definitions without understanding a little about the history of land divisions in Portland. There are basically two groupings of legally defined pieces of property in the City. Those created:

- **Pre-1979** - The Portland Planning Commission began administering subdivision and plats against regulations contained in State law in 1919. A property that is legally established by July 26, 1979 can be a lot (if it was created through a land division) or a lot of record (if it was created through a deed transfer). Pre-1979, lots and pieces of lots that were transferred from one owner to another were usually done by recording a deed. Sometimes another legal instrument was used. In short, the system for creating a piece of property pre-1979 was to record it with the County.

- **Post-1979** – We use July 26, 1979 as the cut-off date for determining whether a piece of property was legally established because the City adopted and began administering Title 34 (Subdivision and Partitioning) in 1978 and because we're confident in both the City and Multnomah County's records after that date. In 2002, Title 34 was repealed and a new land division code went into effect. In short, the system for creating or moving property lines since 1979 is through a City-approved subdivision, partition, or property line adjustment.

Language to be **added** is underlined
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Commentary

Lot. During research for this issue, staff concluded that there was no mechanism for identifying or defining legal lots whose dimensions had been altered through a post-1979 property line adjustment or a Pre-1979 deed transfer. It was also not clear how the transfer properties from either of these actions should be identified. The term 'lot of record' only referred to defined pieces of land that were in existence before July 26, 1979, but there was no mechanism to define land fragments from more recent transactions. This led to the creation of two new terms to describe lots, and/or pieces of lots that were altered through property line adjustments: adjusted lots and lot remnants. These definitions, in conjunction with the application of regulations within the base zones should aid in determining whether a piece of property is buildable, and what the minimum standards are in each case.

- **Adjusted Lot.** First, it should be noted that an "adjusted lot" is a subset of "lot." Therefore, when regulations refer to "lot," it applies to "adjusted lot" also. This is a new term to define a piece of property that was once defined as a legal lot through a land division, but has been altered to be made larger or smaller through a post-1979 property line adjustment or pre-1979 deed transfer. A lot will only be considered to be an adjusted lot if its size is 50% or greater of the original size of the platted lot. If it is 50% or less than the original lot size, it will be considered a lot remnant and subject to different standards. This is intended to ensure that the relocation of a lot line between two properties does not create a third buildable parcel. The 50% figure is used to clarify which piece of the original lot retains the lot's development potential. See Figure 910-17.

Figure 910-17 - A new illustration is created to work with the definitions to show what is meant by the terms "Adjusted Lot" and "Lot Remnant". In the illustration, there were three originally platted lots, #1, 2, and 3. Of these, only Lot 1 is still a lot. Lot 2 has been altered into an adjusted lot, and the property containing Lot 3 and the lot remnant from 2 is also an adjusted lot.

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

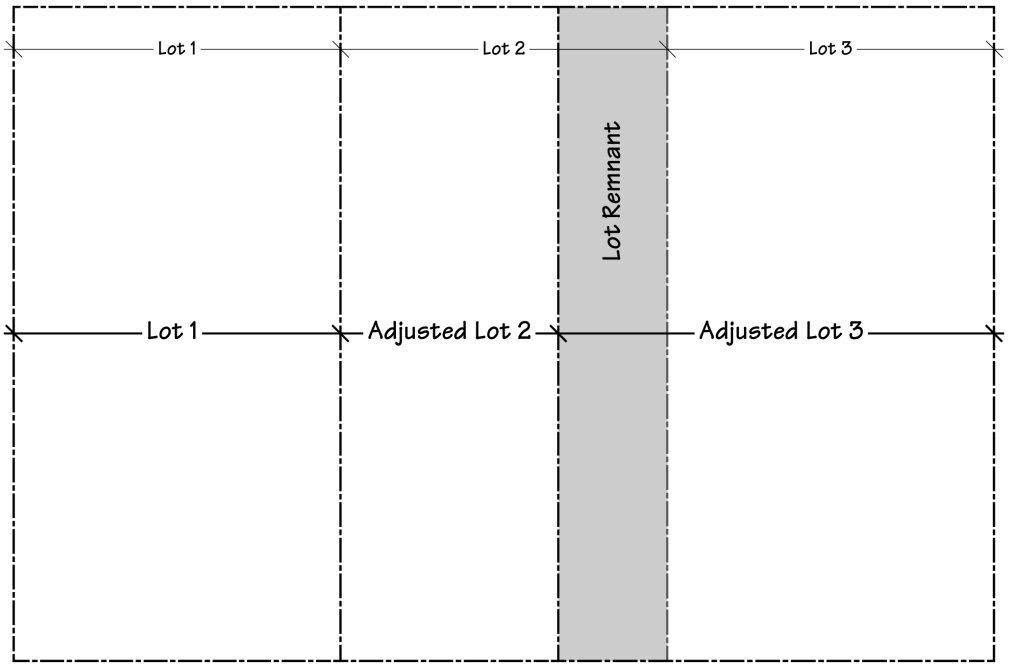
AMEND CHAPTER 33.910, DEFINITIONS

33.910.030 Definitions

Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. This definition includes the State definition of both lot, (result of subdividing), **and** parcel, (result of partitioning). See also, Ownership and Site.

- **Adjusted Lot.** A lot that has had one or more of its lot lines altered through an approved property line adjustment or through a deed, or other instrument relocating a property line, recorded with the appropriate county recorder prior to July 26, 1979. An adjusted lot may have equal or larger lot area than the original lot. An adjusted lot may have smaller lot area than the original lot, but must have a lot area that is more than 50% of the original lot area. Portions of an original lot that are 50% or less of the original lot area are defined as lot remnants. See Figures 910-17 and 010-18.

[NEW]
Figure 910-17
Adjusted Lot and Lot Remnant



Item 55 – Lots, Lots of Record and Small Lot Development in R5 zone (cont'd)

33.910.030 Definitions (cont'd)

Figure 910-18 - A new illustration is created to provide an example of a common occurrence. Nicknamed, the "corner swivel," the adjusted lots sizes are equal to the original lot sizes. Whether the property line was relocated prior to 1979 (through a deed transfer) or after 1979 (through an approved property line adjustment), the resulting lot configuration meets the definition of "Adjusted Lot."

Lot Lines. "Lot of record" and "lot remnant" are being added to the definition of lot line to clarify that property lines that define these pieces of property are also referred to as lot lines in the regulations.

Lot of Record. No changes are proposed to this definition, but it is included for illustrative purposes.

Lot Remnant. This is a new term to define a portion of a lot that no longer constitutes a majority of the original lot area. Lot remnants will not have the same development rights as adjusted lots.

Figure 910-19 - A new illustration is created to provide an example of another common occurrence. These lot remnants are exactly half of the original lot size. Whether the property line was relocated prior to 1979 or after 1979, configurations are treated the same. In the illustration, there were three originally platted lots, #1, 2, and 3. Of these, Lot 1 and 3 are Adjusted Lots (each comprised of a lot and a lot remnant. Lot 2 consists of two lot remnants that are each 50% of the original lot size. These remnants can only be developed if they meet the minimum dimension standards of Table 110-6.

Language to be **added** is underlined
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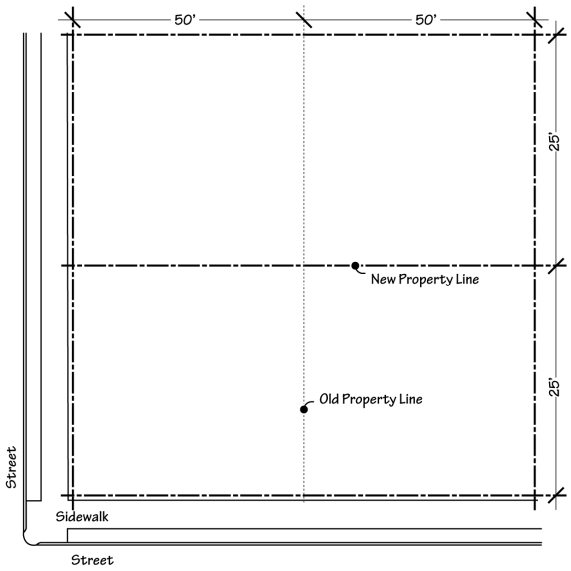
[New] Figure 910-18
Adjusted Lots with Equal Lot Areas as the Original Lots



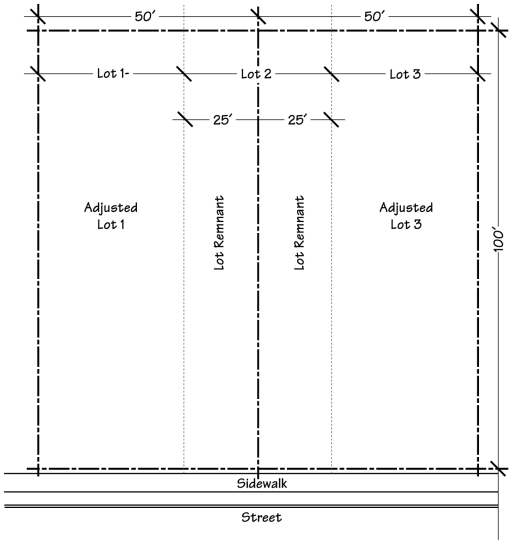
Lot Lines. The property lines along the edge of a lot, lot of record, lot remnant, or site.

Lot of Record. A lot of record is a plot of land:

- Which was not created through an approved subdivision or partition;
- Which was created and recorded before July 26, 1979; and
- For which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.

Lot Remnant. A portion of a lot that has a lot area of 50 percent or less of the original platted lot. See Figure 910-17 and 910-19.

[New] Figure 910-19
Lot Remnants that are 50% of the Original Platted Lot Area



Item 54 – Accessory Dwelling Unit versus Second Sink Agreements

Residential Structure Types

- **Accessory Dwelling Unit** and **Dwelling Unit.** There have been several instances of disagreement as to whether an area of a house is actually a separate Accessory Dwelling Unit (ADU). This determination affects which development standards are applied, and what fees are charged, including the System Development Charges. These amendments provide additional clarity to determine the elements that make up an accessory dwelling unit.

- -

Item 62 - Definition of Retaining Wall

This new definition clarifies what a retaining wall retains.

- -

Item 61 – Green Energy and Use

Small Scale Energy Production. This definition sets out a variety of means of energy production, most of which can, with limitations, fit into a small area. Small Scale Energy Production can provide some of the energy for a dwelling or a business, or provide energy for a neighborhood. Most of the means of energy production included are "green" energy. This definition works together with amendments to Chapter 33.920, Use Categories.

Utility Scale Energy Production. Energy production at this scale is larger and would serve a large area, not a single dwelling or business, or a neighborhood.

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Residential Structure Types

- **Accessory Dwelling Unit**. A second dwelling unit created on a lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home. The unit includes its own independent living facilities including provisions for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people, independent of the primary dwelling unit. Kitchen facilities for cooking in the unit are described in Section 29.30.160 of Title 29, Property and Maintenance Regulations. The unit may have a separate exterior entrance or an entrance to an internal common area directly accessible to the outside.

- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Kitchen facilities for c~~C~~ooking ~~facilities~~ are described in Section 29.30.160 of Title 29, Property and Maintenance Regulations. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory, such as an outdoor grill.

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Retaining Wall. A vertical, or near vertical structure, that holds back soil or rock, and prevents movement of material down slope or erosion on a site.

- - - - - - - - - - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - - -- - -

Small Scale Energy Production. Energy production where the energy is derived from the following:

- Solar;
- Small wind energy turbines;
- Geothermal;
- Hydroelectric systems that produce up to 100 kW;
- Waste heat capture, heat exchange or co-generation of energy as a byproduct of another manufacturing process;
- Biogas or Biomass systems that use only biological material or byproducts produced, harvested or collected on-site. Up to 10 tons a week of biological material or byproducts from other sites may be used where the base zone regulations specifically allow it; and
- Any of the methods listed here or natural gas used to produce steam, heat or cooling, with an output up to 1 megawatt.

See also Biogas, Biomass, Utility Scale Energy Production, and Wind Energy Turbine.

Utility Scale Energy Production. Energy production that does not meet the definition of Small Scale Energy Production.

Commentary

Item 60 – Wind Turbine Standards and Exemption to Reviews

Wind Turbines generate energy from the wind, and can range from those that provide a small amount of energy for a single dwelling or business, to those that serve a large area.

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Wind Turbine or **Wind Energy Turbine.** A wind turbine or wind energy turbine converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a mast or mounting frame and structural supports, electrical generator, transformer, energy storage equipment, and a rotor with one or more blades. Some turbines use a vertical axis/helix instead of rotor blades.

- Small Wind Turbines or Small Wind Energy Turbines are turbines with an American Wind Energy Association (AWEA) rated power output of 10 kW or less. They also are certified by the Small Wind Certification Council to meet the American Wind Energy Associations (AWEA) Small Wind Turbine Performance and Safety Standards. These turbines may or may not be connected to the power grid.

- Large Wind Turbines or Large Wind Energy Turbines are turbines with a rated power output of more than 10kW and up to 300 kW. These turbines may or may not be connected to the power grid.

- Utility-Scale Wind Turbines or Utility-Scale Wind Energy Turbines are turbines with a rated power output of more than 300 kW. These turbines are always connected to the power grid.

Item 61 – Green Energy and Use

CHAPTER 33.920
DESCRIPTION OF THE USE CATEGORIES

Industrial Use Categories

Chapter 33.920, Use Categories

These amendments clarify which types of energy-generating systems fall into which use category.

Generally, incinerators, whether they produce energy or not, are Waste-Related uses. Some small, energy-generating incinerators may be able to meet the definition of Small Scale Energy Production, and so are considered Basic Utilities.

Utility Scale Energy Production is a Manufacturing And Production use, while Small Scale Energy Production is a Basic Utility use.

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AMEND CHAPTER 33.920, USE CATEGORIES

Industrial Use Categories

33.920.310 Manufacturing And Production

A. Characteristics. Manufacturing And Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

B. Accessory uses. Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, or truck fleets. Living quarters for one caretaker per site in the E and I zones are allowed. Other living quarters are subject to the regulations for Residential Uses in the base zones.

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

D. Exceptions.

1. Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales And Service.

2. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

3. Small Scale Energy Production is a Basic Utility.

4. Solid waste incinerators that generate energy but do not meet the definition of Small Scale Energy Production are considered Waste Related Uses.

Item 61 – Green Energy and Use

33.920.340 Waste-Related

C. Examples.

D. Exceptions.

This amendment changes the Waste Related use category, to clarify that Small Scale Energy Production systems are allowed as basic utilities, and treated like local power lines and sewer pipes. Some types of neighborhood-scale or campus-scale renewable energy systems generate energy from the gas produced from compost or sewage waste. This amendment clarifies how biogas, biomass, cogeneration and heat recovery systems are treated.

Solid waste incinerators continue to be treated as a Waste-Related use because they have larger off-site impacts.

Biogas systems generate energy by the gas produced when organic matter breaks down in anaerobic conditions. This process generally occurs inside a closed system (like a tank or container). Biomass systems generate energy through the combustion of biological materials to produce heat, steam, or electricity. Biogas and Biomass are considered either Small Scale Energy Production or Utility Scale Energy Production, depending on their size.

Thermal power plants and engines do not convert all of their thermal energy into electricity. In most heat engines, a bit more than half is lost as excess heat. By capturing the excess heat, cogeneration facilities use heat that would be wasted in a conventional power plant. A car engine acts in this way in the winter, when the reject heat is useful for warming the interior of the vehicle. Similarly, power plants and engines within a manufacturing process can be used to produce heat. Cogeneration plants are commonly found in district heating systems, hospitals, prisons, wastewater treatment plants, and industrial plants with large heating needs.

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33.920.340 Waste-Related

A. Characteristics. Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods ~~or energy~~ from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

B. Accessory Uses. Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.

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

D. Exceptions.

1. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.

2. Infrastructure services that must be located in or near the area where the service is provided in order to function are considered Basic Utilities. Examples include s~~S~~ewer pipes that serve a development ~~are considered a Basic Utility;~~ or water re-use pipes and tanks, pump stations, and collection stations necessary for the water re-use that serve a development or institution.

3. Small Scale Energy Production is considered a Basic Utility.

4. Utility Scale Energy Production, other than solid waste incinerators that generate energy, is considered a Manufacturing and Production Use.

Commentary

Item 61 - Green Energy and Use

33.920.400 Basic Utilities

Language to be **added** is underlined
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33.920.400 Basic Utilities

A. Characteristics. Basic Utilities are infrastructure services which need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.

B. Accessory uses. Accessory uses may include parking; control, monitoring, data or transmission equipment; and holding cells within a police station.

C. Examples. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; Small Scale Energy Production, water quality and flow control facilities; water conveyance systems; water harvesting and re-use conveyance systems and pump stations; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops or turn arounds, light rail stations, suspended cable transportation systems, transit centers; and public safety facilities, including fire and police stations, and emergency communication broadcast facilities.

D. Exceptions.

1. Services where people are generally present, other than mass transit stops or turn arounds, light rail stations, transit centers, and public safety facilities, are classified as Community Services or Offices.

2. Utility offices where employees or customers are generally present are classified as Offices.

3. Bus and light rail barns are classified as Warehouse And Freight Movement.

4. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail Lines And Utility Corridors.

5. Utility Scale Energy Production is considered Manufacturing and Production.

6. Solid waste incinerators that generate energy but are not Small Scale Energy Production are considered Waste Related Uses.

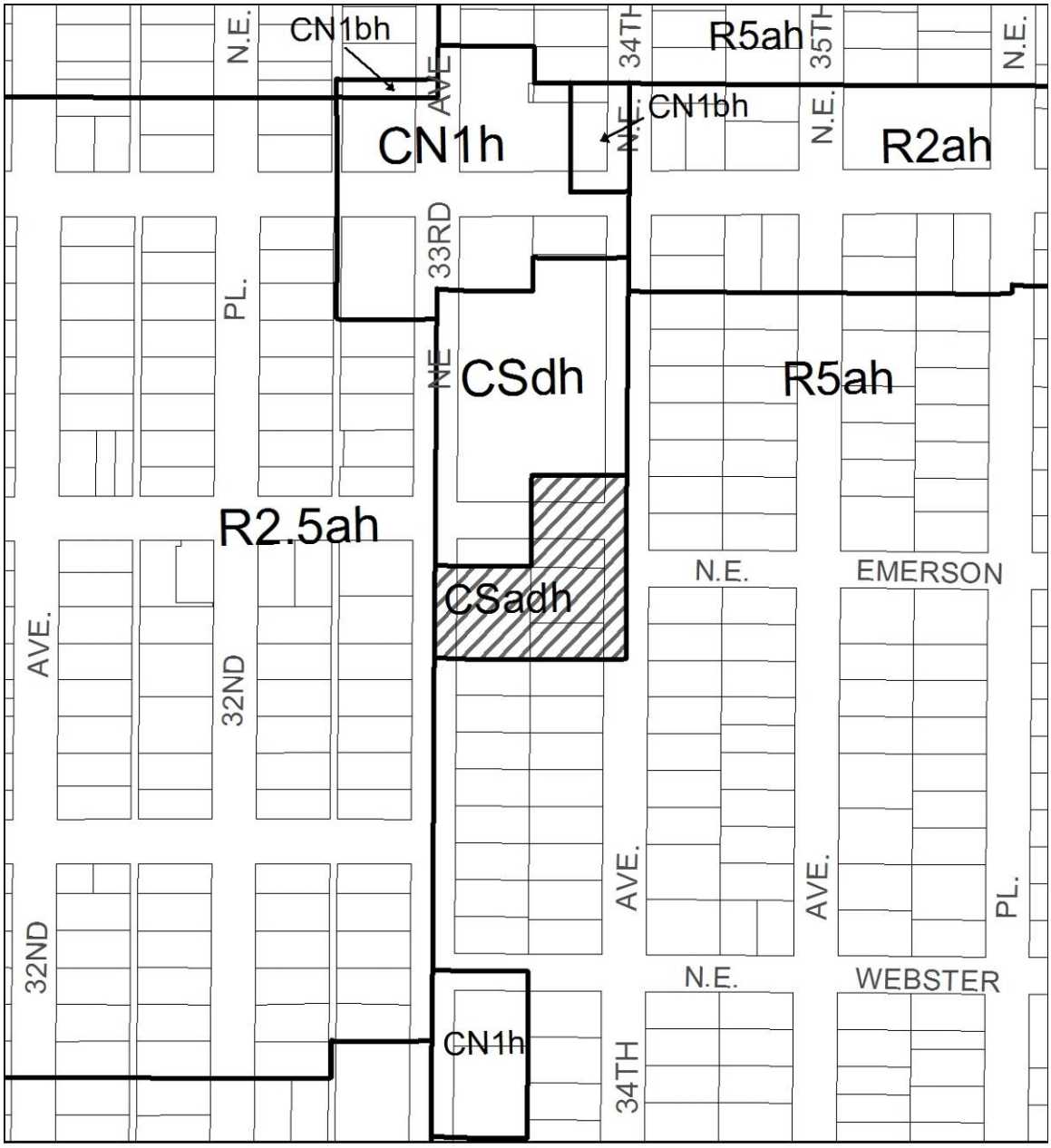
Commentary

IV. Amendments to the Official Zoning Maps

Item 30 – Alternative Design Density Overlay Zone Mapping

Portland Zoning Maps
The Alternative Design Density Overlay Zone (or a-overlay for short) provides options for development alternatives within residential base zones. It does not provide options within other base zones—commercial, employment. or industrial zones. The following pages address several properties with commercial zoning that also have the a-overlay. These properties were all part of quasi-judicial land use reviews over the past several years which amended their zoning but did not remove the a-overlay.

Since the a-overlay has no relevance in the commercial zones, this amendment removes it from the subject properties. This map change does not affect what uses or developments are allowed on the properties. The affected areas include an area at NE 33rd Avenue and NE Emerson Street, SE 13th Avenue and SE Clatsop Street, SE Division Street and SE 115th Avenue, and a piece of property north of SE Division Street near SE 162nd Avenue.



RICAP 5: Remove a overlay from Commercial Zoned properties

May 11, 2009

Existing Zoning Designations

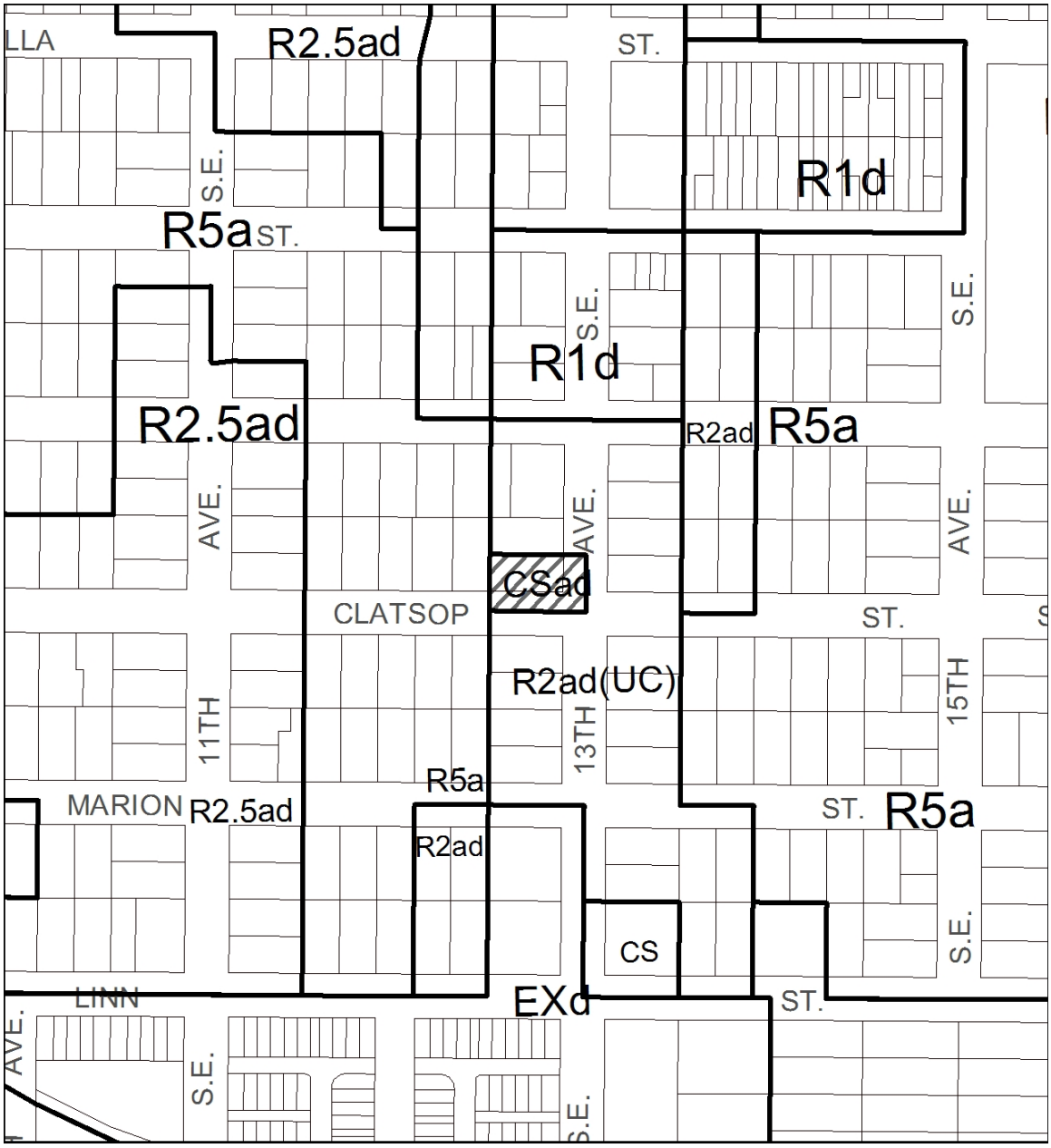
Change from CSadh to CSdh
(R307426, R307448, R307447, R307444, R307443)

0 100 200
Feet

City of Portland Bureau of
Planning & Sustainability

All data compiled from source materials at different scales.
For more detail, please refer to the source materials or
City of Portland, Bureau of Planning & Sustainability.

G:\CodeDevelop\A_overlay_PN\site_map\Rxxxxxx.mxd



RICAP 5: Remove a overlay from Commercial Zoned properties

May 11, 2009

Existing Zoning Designations

Change from CSad to CSd (R267122)

0 100 200

Feet

N

City of Portland Bureau of Planning & Sustainability

Sam Adams, Mayor | Susan Anderson, Director

All data compiled from source materials at different scales. For more detail, please refer to the source materials or City of Portland, Bureau of Planning & Sustainability.

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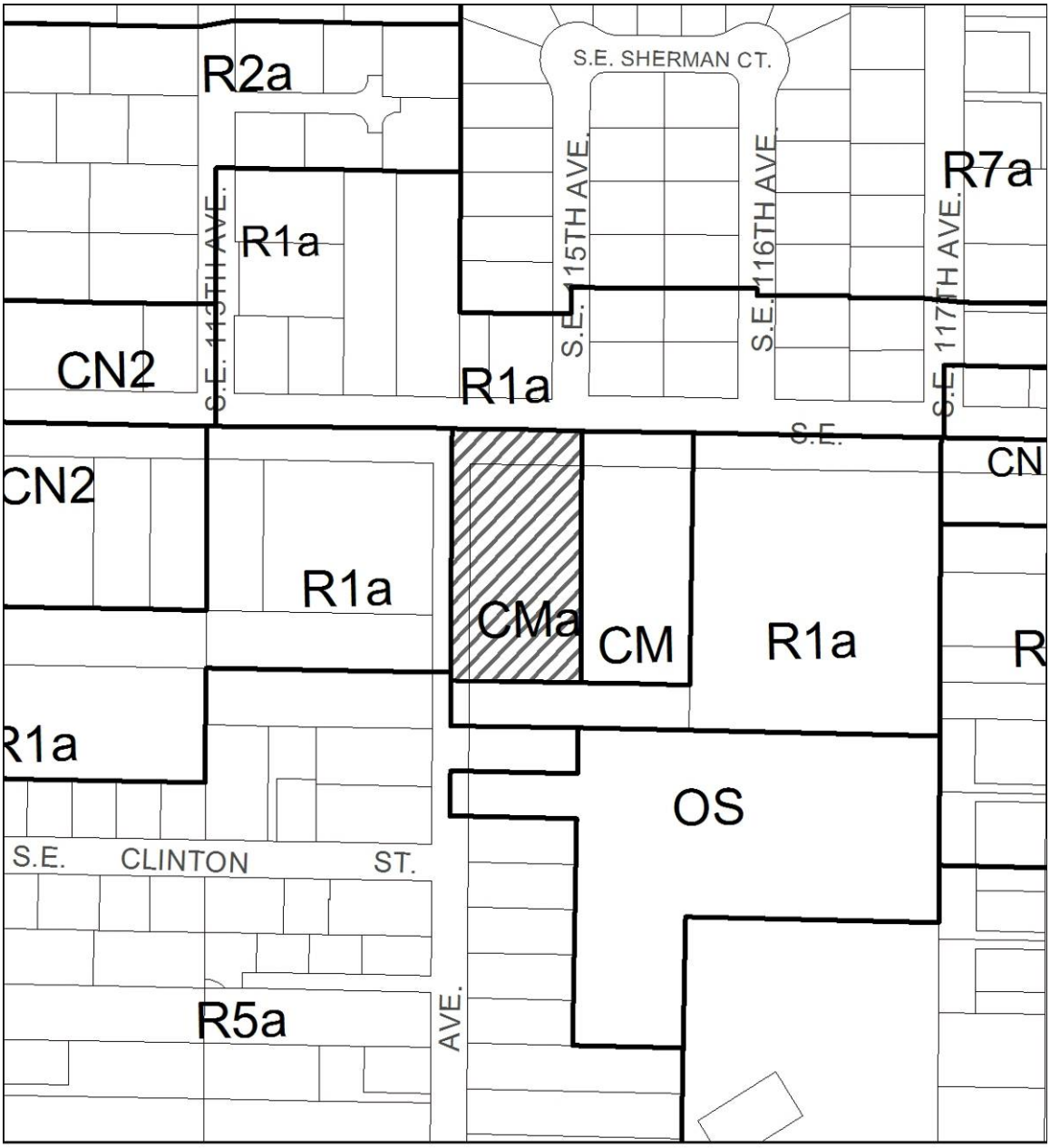

RICAP 5: Remove a overlay from Commercial Zoned properties

May 11, 2009

Existing Zoning Designations

Change from CMa to CM (R333886)

0 100 200
Feet

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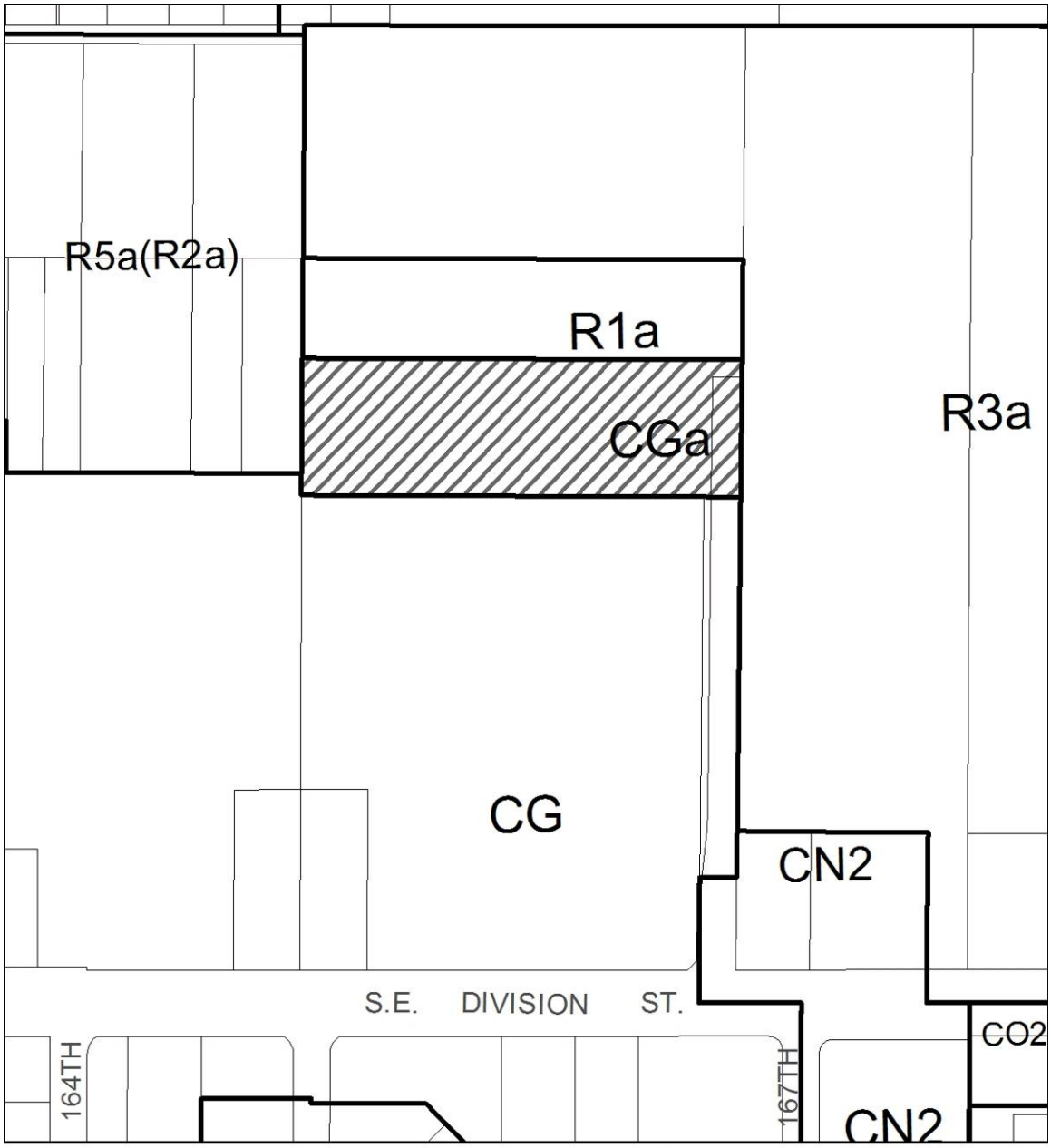
City of Portland Bureau of Planning & Sustainability
Sam Adams, Mayor | Susan Anderson, Director

All data compiled from source materials at different scales. For more detail, please refer to the source materials or City of Portland, Bureau of Planning & Sustainability.



RICAP 5: Remove a overlay from Commercial Zoned properties

May 11, 2009

Existing Zoning Designations

Change from CGa to CG (R337766)

0 100 200
Feet

N

City of Portland Bureau of
Planning & Sustainability
Sam Adams, Mayor | Susan Anderson, Director

All data compiled from source materials at different scales.
For more detail, please refer to the source materials or
City of Portland, Bureau of Planning & Sustainability.

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Appendix A

What is the Regulatory Improvement Workplan?

On June 26, 2002, the Portland City Council approved Resolution 36080, which sought to "update and improve City building and land use regulations that hinder desirable development." This was the beginning of the Council's charge to build an effective process of continuously improving the City's code regulations, procedures, costs and customer service. The resolution also directed that a procedure be formulated to identify both positive and negative impacts of proposed regulations. This Impact Assessment is now conducted as part of all projects where changes to City regulations are considered.

In August 2003, Council assigned ongoing responsibility for coordination of the implementation of the Regulatory Improvement Workplan (RIW) to the Bureau of Planning and the Bureau of Development Services. To develop the future workplans, the two bureaus established a process for selecting items. The process includes the following:

- An online database of potential amendments and improvements to the Zoning Code. These are items suggested by City staff, citizens, and others;
- The Regulatory Improvement Stakeholder Advisory Team (RISAT); and
- Presenting the Planning Commission with future workplan lists at the same time as proposed code language for the current workplan.

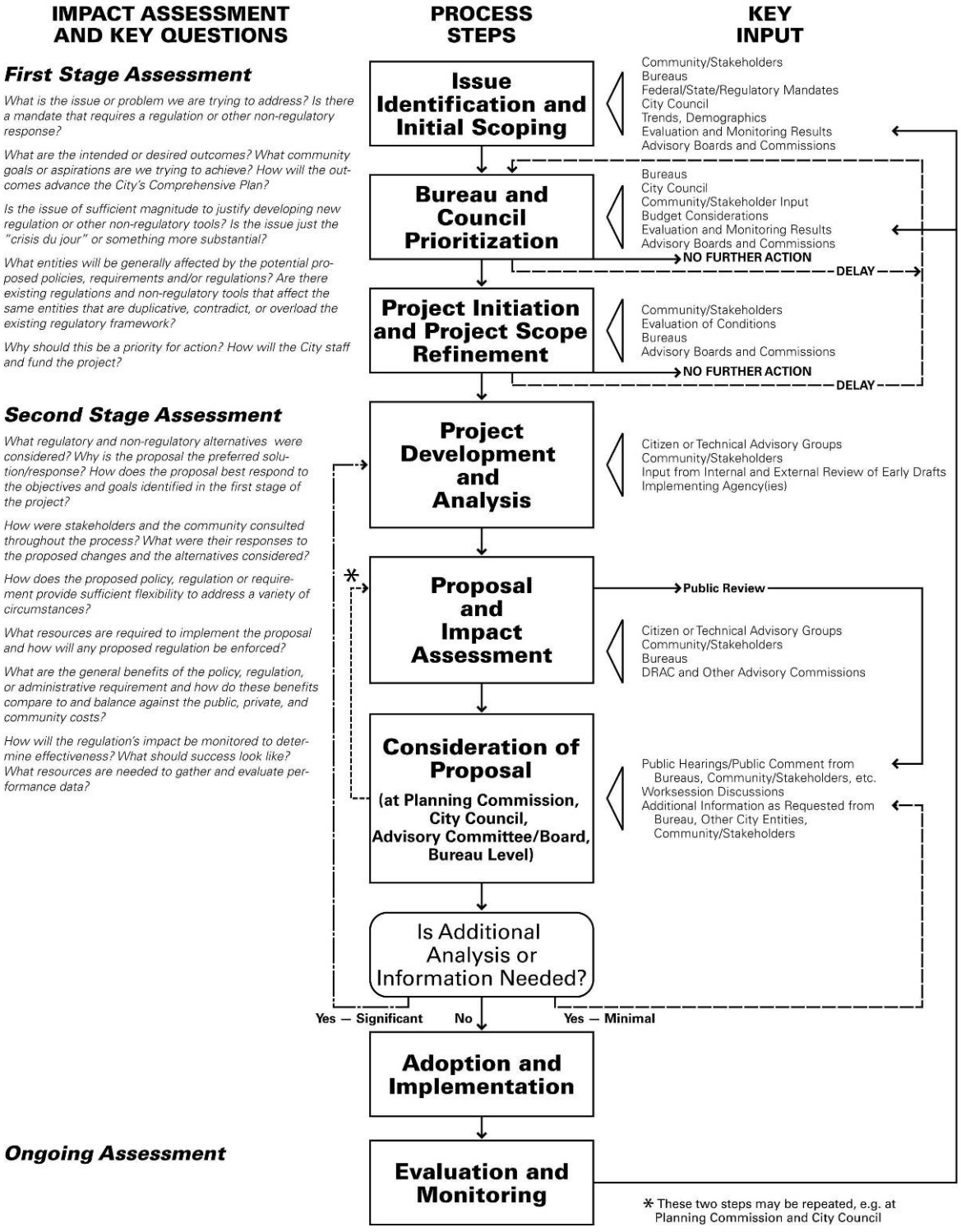
Both bureaus periodically review potential amendments and improvements to the Zoning Code and, with the assistance of the RISAT, rank the amendments and propose a workplan for the next package. The packages are called Regulatory Improvement Code Improvement Package (RICAP) RICAP 1, RICAP 2, and so on. This list of potential amendments is reviewed and adopted by the Planning Commission at a public hearing. The list selected for each package is not a list of amendments, but of issues and areas that will be researched and analyzed; each issue may or may not result in amendments to the code.

After Planning Commission adopts the workplan for the next RICAP package, the Planning Bureau, with assistance from the Bureau of Development Services, develops information and a recommendation on each issue. If an amendment to the Zoning Code is recommended, they also develop code language.

As with all projects that amend the Zoning Code, notice is sent to interested parties and all neighborhood and business associations. Open houses and public meetings are held when warranted. The Planning Commission holds a public hearing on the proposed amendments to the Code, as does City Council.

Appendix B

Model Process for Consideration and Assessment of Land Use and Development Actions



City of Portland Bureau of
Planning and Sustainability
Sam Adams, Mayor | Susan Anderson, Director