



# Land Division Code Update

July 2024 – Adopted Report

[portland.gov/bps/planning/land-division-code-update](http://portland.gov/bps/planning/land-division-code-update)

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*Adopted July 31, 2024  
Ordinance No. 191848  
Title 1 amendments effective  
August 30, 2024  
Title 33 amendments effective  
October 1, 2024.*

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**PLANNING &  
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**Visit:** [portland.gov/bps/planning/land-division-code-update](http://portland.gov/bps/planning/land-division-code-update) to learn more about the project and view maps, reports and other documents.

# Acknowledgments

## City Council

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Mingus Mapps  
Carmen Rubio  
Dan Ryan

## Portland Planning Commission

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Erica Thompson, Vice Chair  
Michael Alexander  
Wade Lange  
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## 191848

Ordinance

### Streamline and update the land division regulations and other related code provisions (amend Title 33 and Title 1; amend Ordinance 175965)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In November 2022, City Council passed Resolution #37593, that establishes key actions to increase affordable housing construction. This multi-pronged directive included a number of measures to spur residential development. The resolution in part directs the Bureau of Planning and Sustainability to collaborate with the Bureau of Development Services (now Portland Permitting & Development [PP&D]) and other infrastructure bureaus to bring a package of code amendments and operational improvements to Council to increase the clarity and efficiency of the residential land division process for small residential development. The Land Division Code Update (LDCU) project responds to this directive.
2. The LDCU project is also a response to changes in state legislation that require clear and objective standards for residential development (Oregon Revised Statute 197A.400: Clear and Objective Approval Criteria Required; Alternative Approval Process, and Oregon Administrative Rule (OAR) 660-007-0015: Clear and Objective Approval Standards Required), by augmenting the land division regulations with an alternative set of clear and objective development standards.
3. The LDCU project includes several streamlining measures intended to facilitate the land division process and enable more residential development, especially for small, less complex land division sites. The availability of standards simplifies the requirements and establishes clear expectations, while the retention of discretionary criteria offers appropriate alternatives to respond to specific site conditions. The project clarifies thresholds for when professional studies are required and removes regulations that are not achieving meaningful outcomes.
4. The LDCU project updates the 2002 Potential Landslide Hazard Area map, which was adopted with the Land Division Code rewrite project as an exhibit to the staff report, and not incorporated into the zoning

#### Introduced by

[Mayor Ted Wheeler](#)

#### Bureau

[Planning and Sustainability \(BPS\)](#)

#### Contact

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#### Requested Agenda Type

Time Certain

#### Date and Time Information

<b>Requested Council Date</b>
July 31, 2024
<b>Requested Start Time</b>
10:45 am
<b>Time Requested</b>
15 minutes

Changes City Code



- code. In addition to the updated data, the new map is being incorporated into Chapter 33.632, Sites in Potential Landslide Hazard Areas, which can then be updated more readily with zoning code updates in the future.
5. On November 13, 2023, the LDCU Discussion Draft was released, and public comments were accepted through December 31, 2023. During this period, staff contacted affordable housing builders and advocates, recent land division applicants, environmental, transportation, and business advocacy groups, and neighborhood coalitions. Staff presented the project to the North Portland Land Use and Transportation Group, Northeast Coalition of Neighborhoods, Central Northeast Neighbors, Welcome Home Coalition, Portland Audubon, Southeast Uplift Neighborhood Program, Habitat for Humanity, Urban Forestry Commission, and Trees for Life. Staff received three written public comments submitted through the Map App during this period.
  6. On February 20, 2024, the LDCU Proposed Draft was released which incorporated written and oral feedback received on the Discussion Draft. In addition to the legislative mailed notice to interested parties and notice to the Department of Land Conservation and Development (DLCD), staff mailed 5,259 Ballot Measure 56 notifications to affected property owners pertaining to the proposed update to the Potential Landslide Hazard Area map.
  7. On March 26, 2024, the Planning Commission heard a briefing and held a public hearing on the LDCU Proposed Draft. Five people testified virtually and 14 people submitted written testimony through the Map App.
  8. Following the March 26, 2024, meeting, one Planning Commissioner submitted suggestions for potential amendments to the draft, which staff posted on the project website on April 19, 2024.
  9. On April 23, 2024, the Planning Commission held a work session to learn more about the Potential Landslide Hazard Area mapping methodology, and further discuss the proposal and potential amendments. The Commission unanimously approved the amendments and subsequently voted unanimously to forward their recommendation to City Council on the amended package.
  10. On June 26, 2024, the LDCU Recommended Draft was released for public review. In addition to minor and more substantive changes to 37 chapters of Title 33, Planning and Zoning, the Planning Commission's recommendation also includes repealing the portion of Ordinance No. 175965 which established the 2002 Potential Landslide Hazard Area map.
  11. The LDCU project also clarifies the Planning Director's authority to make small refinements to the Constrained Sites overlay zone map, when property boundaries change as the result of property line adjustments, land divisions, replats, and/or lot confirmations. These changes are municipal code amendments to Chapter 1.01, Code Adoption that are outside the Planning Commissions advisory role, so they are not subject to the land use legislative process.

12. On June 26, 2024, notice of the July 17, 2024, City Council hearing on the LDCU Recommended Draft was mailed to those who presented oral and written testimony at the Planning Commission public hearing.
13. On July 17, 2024, the City Council held a hearing on the LDCU project and invited public testimony.
14. The Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the Statewide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 Comprehensive Plan.


NOW, THEREFORE, the Council directs:

- A. Adopt Exhibit A, Findings of Fact Report, as additional findings.
- B. Adopt Exhibit B, Land Division Code Update project (LDCU) Recommended Draft, dated June 2024 as further findings and legislative intent.
- C. Amend Title 33, Planning and Zoning, as shown in Section VII of Exhibit B, Land Division Code Update project (LDCU) Recommended Draft, dated June 2024.
- D. Amend Ordinance 175965 by repealing Appendix B to Exhibit A of that ordinance, which established the 2002 Potential Landslide Hazard Map.
- E. Portland City Code Section 1.01.037, Planning Director Authority to Correct Portland Comprehensive Plan and Zoning Code Maps, is amended as shown in Exhibit C and adopt the commentary on page 1 of that exhibit as findings and legislative intent.


Section 2. Directives A, B, C, and D will be in full force and effect on October 1, 2024. Directive E will be in full force and effect 30 days after final passage by City Council.

Section 3. If any section, subsection, sentence, clause, phrase, diagram, or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid, or unconstitutional, that will not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram, and drawing thereof, regardless of if any one or more sections, subsections, sentences, clauses, phrases, diagrams, or drawings contained in this Ordinance, may be found to be deficient, invalid, or unconstitutional.

### Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-ldcu\\_findings.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a-ldcu_findings.pdf) 1.06 MB

 [Exhibit B \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b-land\\_division\\_code\\_update\\_recommended\\_draft.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b-land_division_code_update_recommended_draft.pdf) 6.56 MB

 [Exhibit C \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-c-title-1-amendment.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-c-title-1-amendment.pdf) 286.69 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council  
July 31, 2024

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

The LDCU project proposes zoning code changes to encourage new housing development, streamline and speed up the residential land division review process, and reduce regulatory barriers and uncertainty, while providing beneficial outcomes for the community. The project includes many small and technical changes in addition to more substantive changes. Together, these changes carry out the following proposals affecting the land division regulations:

1. Create clear and objective standards as an alternative to discretionary approval criteria.
2. Update Portland's Potential Landslide Hazard Area Map.
3. Recalibrate standards, thresholds, and review procedures.

### Financial and Budgetary Impacts

This project does not amend the budget, change staffing levels, reclassify staff, or authorize new spending or other financial obligations (IGAs, contracts, etc.) and therefore there are no financial or budgetary impacts to the City.

While the addition of clear and objective regulations and improved thresholds for when professional reports are required can have significant cost and time savings for applicants, this comes with the tradeoff of more options embedded in the code and thus potentially more time required for staff to explain the different available choices to applicants and respond to public inquiries. Nevertheless, the overall longer-term outcome of these changes will be a more streamlined application process for more applicants.

The code changes reduce the review procedure for 2 and 3 lot land divisions with concurrent environmental review from a Type III review to a Type IIx

review. This change removes the preapplication and public hearing requirement. However, there is no current fee to reflect this type of land division application. Portland Planning & Development (PP&D) has indicated that due to the low number of these cases, this fee will not need to be updated until the next budget cycle. In the meantime, PP&D will apply the Type II land division fee with concurrent Type II environmental review fee.

### Community Impacts and Community Involvement

Community engagement activities for this project are summarized in the Recommended Draft Staff Report. Staff provided briefings to neighborhood coalition land use groups as well as with BDS's Development Review Advisory Committee, in conjunction with the release of the Proposed Draft. Email updates were provided to a list of approximately 240 people who subscribe to get information about bureau projects. Briefings were held with the Community Involvement Committee early in the engagement planning phase of the project. The Urban Forestry Commission was briefed in February of 2024. The Planning Commission public hearing on March 26, 2024, was a hybrid meeting at which five community members testified. Fourteen pieces of written testimony were submitted to the Planning Commission through the Map App. Notice of the City Council hearing is being mailed to all those who testified at the Planning Commission.

### 100% Renewable Goal

Not applicable.

### Budget Office Financial Impact Analysis

No fiscal impact.

### Document History

Item 671 Time Certain in [July 17, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/7/17)  
(<https://www.portland.gov/council/agenda/2024/7/17>)

City Council

Passed to second reading

Passed to second reading July 31, 2024 at 10:45 a.m. time certain.  
Oral and written record are closed.

Item 680 Time Certain in [July 31, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/7/31)  
(<https://www.portland.gov/council/agenda/2024/7/31>)

City Council

Passed



7/31/24, 1:29 PM

191848 | Portland.gov

**Commissioner Mingus Mapps Yea**

**Commissioner Carmen Rubio Yea**

**Commissioner Dan Ryan Yea**

**Commissioner Rene Gonzalez Yea**

**Mayor Ted Wheeler Absent**

<https://www.portland.gov/council/documents/ordinance/passed/191848>

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## Portland Planning Commission

Mary-Rain O'Meara, Chair

Erica Thompson, Vice Chair  
Nikesh Patel

Michael Pouncil, Vice Chair  
Michael Alexander  
Steph Routh

Wade Lange  
Eli Spevak



June 11, 2024

Mayor Wheeler and City Commissioners  
City Hall  
1221 SW 4<sup>th</sup> Ave  
Portland, OR 97204

Dear Mayor and City Commissioners,

The Planning Commission is pleased to offer its support for the Land Division Code Update (LDCU) project. On March 26, 2024, the Planning Commission held a hearing on the staff proposal, and on April 23, 2024, the Commission voted unanimously to recommend approval of the Land Division Code Update project.

The LDCU project responds to City Council's directive<sup>1</sup> to simplify the land division process for small residential development. Dividing oversized lots and parcels in residential zones increases the opportunities for additional housing and is an especially important tool for increasing housing in areas that are zoned for houses, duplexes,

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<sup>1</sup> Resolution #37593, adopted November 3, 2022



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triplexes and fourplexes. To this end, the LDCU project proposes zoning code amendments that will streamline the residential land division review process by reducing regulatory barriers and uncertainty.

The City's land division regulations were last updated in 2002. This project is a comprehensive update to the 2002 regulations and includes many technical clarifications in addition to substantive changes. Together, the changes:

1. Create clear and objective standards for the aspects of land division regulations that currently only have discretionary approval criteria,
2. Recalibrate existing standards, thresholds, and review procedures, and
3. Update the Portland's Potential Landslide Hazard Area Map.

The amendments create an innovative set of land division regulations that will allow the applicant to choose between the clarity of clear and objective standards or the flexibility of discretionary approval criteria. Clear and objective standards are a one-size-fits-all approach that offers certainty around what is required, while discretionary approval criteria offer flexibility to meet the intent of the regulation when site specific circumstances make it hard or impractical to meet the standard. This approach allows the applicant to tailor each set of land division regulations to create the most expedient review for their purposes.

The Planning Commission appreciates the amount of work that project staff put into this proposal. The update to the landslide hazard map resulted in over 5,000 notices to potentially affected property owners. Staff responded to nearly 60 calls from stakeholders, and we took testimony from 16 individuals. Many were complimentary of staff and grateful for the information they received. While some of the testimony expressed concerns related to the map update, staff was able to allay the concerns by reiterating that the only purpose of the map is to determine if additional geotechnical analysis is warranted as part of an application for a land division – in other words, the map has no effect except as part of land division process.



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## Recommendation

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

1. Adopt the Land Division Code Update Recommended Draft report
2. Amend the Zoning Code (Title 33), as shown in the Recommended Draft.
3. Repeal the 2002 Potential Landslide Hazard Map (Appendix B to Exhibit A of Ordinance Number 175965).

Thank you for considering our recommendations.

Respectfully submitted,



Mary-Rain O'Meara, Chair





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# Section I: Project Summary

## Proposal

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

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

1. Create clear and objective standards as an alternative to discretionary approval criteria
2. Update the Portland’s Potential Landslide Hazard Area Map
3. Recalibrate standards, thresholds, and review procedures

On April 23, 2024, the Planning Commission voted unanimously to recommend that City Council:

- Adopt this report and commentary as further legislative intent
- Amend Title 33, Planning and Zoning, as shown in this Proposed Draft
- Repeal the Potential Landslide Hazard Map adopted by Ordinance No. 175965, Appendix B to Exhibit A (i.e. the appendix to the Staff Report)

## Project Impetus

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

Land divisions, by statute, are considered “limited land use decisions” (ORS 197.015) and must therefore follow established State procedures for review including notification, opportunity for public comment, opportunity to appeal the decision, and potentially include a public hearing. Cities are also obligated to ensure its land division regulations comply with State rules and statutes that require clear and objective standards for residential development (Oregon Revised Statute 197A.400: Clear and Objective Approval Criteria Required; Alternative Approval Process, and Oregon Administrative Rule (OAR) 660-007-0015: Clear and Objective Approval Standards Required).

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

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

## Overall Project Approach

The approach to the *Land Division Code Update* amendments is largely to maintain the existing flexibility

provided through current approval criteria, and supplement those with an alternative set of clear and objective standards for housing development. These clear and objective standards will be available for land division applications in single-dwelling residential zones. Depending on the regulations, they may also be available for land divisions sited in other zones.

The project evaluates the utility and functionality of the current regulations to determine whether they should be expanded upon, improved, or removed from the code. The project proposes to recalibrate applicability thresholds and assigned review procedures to improve review times and reduce costs for residential development. The new standards and review thresholds facilitate land divisions, especially for smaller, less complicated sites.

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

Outside of single-dwelling residential zones, land divisions are not necessary to create more housing. This is because in the other zones where housing is allowed, multi dwelling development (like apartments, or multiple detached dwellings on a single lot) is allowed by right, and maximum density is controlled through floor area ratios (FAR) instead of through lots. In other words, in these other zones, development of needed housing at the densities contemplated by and allowed through the Comprehensive Plan is provided through a clear and objective development permit track that does not necessitate the dividing of land.

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

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

## Section II: Land Division Process Overview

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

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

Land division regulations include several functions:

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



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



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

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

## The Structure of Portland's Land Division Code

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

### Title 33 (Zoning Code)

- Chapters 33.605 through 33.615 establish density<sup>1</sup> and lot dimension standards;
- Chapters 33.630 through 33.641 address land hazards and resource protection (for example, limitations on floodplain development, and tree preservation requirements);
- Chapter 33.651 through 33.654 address water, sanitary, stormwater management and transportation adequacy;
- Chapters 33.660 through 33.677 address City review procedures;

### Title 17 (Public Improvements)

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

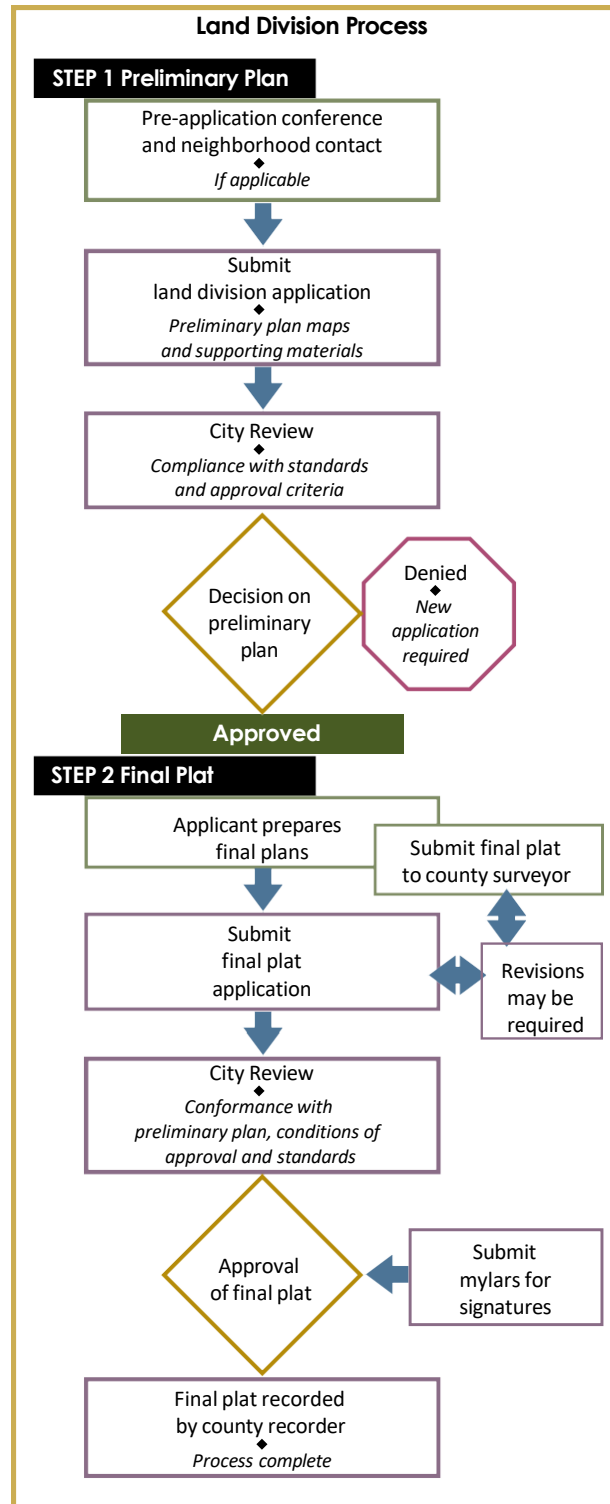
### Title 21 (Water Code)

### Title 24 (Building Code)

### Title 31 (Fire Code)

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

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



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

# Section III: Summary of Amendments

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

## 1. Create a clear and objective set of standards

### The proposal

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

### What is the intended benefit?

Currently, land division regulations include various combinations of technical verifications, discretionary approval criteria, and clear and objective standards.

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

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

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

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

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

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

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

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

#### A “mix and match” system

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

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

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

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

***Focusing the standards on single-dwelling zoned land divisions.***

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

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

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

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

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

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

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

- Chapter not applicable
- Clear and objective standards path available
- Only approval criteria available

## 2. Update Portland’s Potential Landslide Hazard Area Map

### The Proposal

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

### What is the intended benefit?

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

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

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

The 1997 landslide hazard map affects about 35,000 lots. The proposed map removes the hazard designation from roughly 14,000 lots while adding about 4,300 lots, for a net total of around 25,200 affected lots. The updated map reduces the amount of area affected on approximately 7,300 lots while 1,900 lots have a larger hazard area identified. 11,700 lots have no change. In the single dwelling zones about 12,100 lots will be removed, while roughly 1,900 lots will be added to the map.

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

In order to obtain approval for a land division, properties within the updated potential landslide hazard areas must either meet the proposed standards or meet criteria in Chapter 33.632. The potential landslide area hazard map is only applicable to land division proposals and is not a factor for other development actions. Building permits are subject to their own geotechnical review requirements in Title 24.70.

### How was the map created?

The Oregon Department of Geology and Mineral Industries (DOGAMI) has created a series of maps that study several types of landslide risk throughout the state. These maps, known as the “Interpretative Maps Series”, determine what areas have an increased risk of landslides occurring due to factors like geology, slope, and the locations of previous landslides.

The proposed regulatory Potential Landslide Hazard Area Map was constructed using the following data published by DOGAMI. This map differs from the previous discussion draft proposal primarily in how the shallow landslide susceptibility data was post processed, as further described below.

**IMS-22, 2002**, <https://www.oregongeology.org/pubs/ims/p-ims-022.htm>

*GIS Overview Map of Potential Rapidly Moving Landslide Hazards in Western Oregon*

All areas of potential rapidly moving landslide hazards were included. This map includes potential debris flow runout zones which are not included in the IMS-57 maps.

**IMS-57, 2018**, <https://www.oregongeology.org/pubs/ims/p-ims-057.htm>

*Landslide Inventory Map of Central and Eastern Multnomah County*

All areas of existing mapped landslide deposits were included. The inventory was also updated using landslide deposit data from SLIDO-4.4 (October 2021)

*Deep Landslide Susceptibility Map of Central and Western Multnomah County*

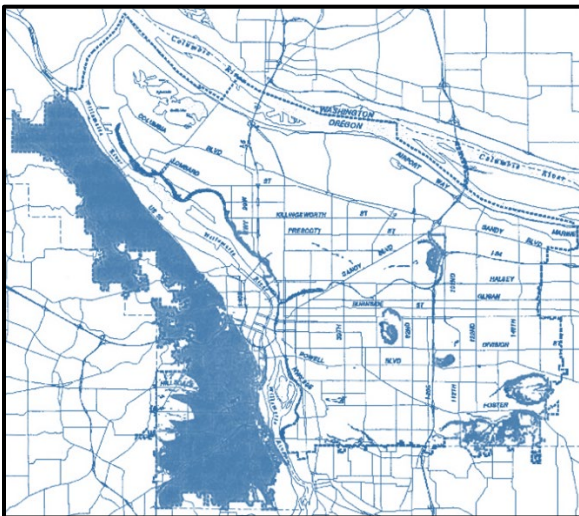
All areas of moderate and high deep landslide susceptibility were included.

*Shallow Landslide Susceptibility Map of Central and Western Multnomah County*

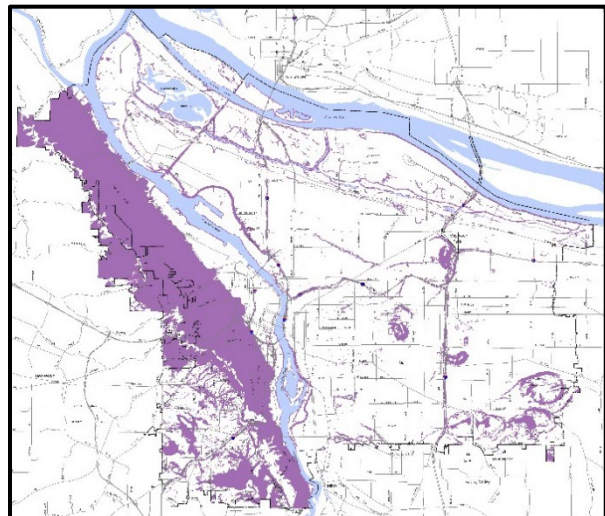
The methodology by which the shallow landslide susceptibility areas were determined is described in detail in DOGAMI Special Paper 45, Protocol for Shallow Landslide Susceptibility Mapping. <https://www.oregongeology.org/pubs/sp/p-SP-45.htm>, and modified as follows:

Moderate shallow landslide susceptibility areas were not included in the proposed regulatory Potential Landslide Hazard Area Map due to the conservative methodology used to determine factors of safety against slope instability. Although useful for other screening purposes, the shallow moderate susceptibility includes areas where the risk of losses due to landslide is low provided the proposed development is constructed in accordance with local and state building codes reviewed at the time of building permit. The shallow susceptibility mapping is based upon Light Detection and Range (LiDAR) data. Due to the precision and accuracy of the data, the high susceptibility areas published by DOGAMI include very localized slopes such as retaining walls in otherwise gently sloping neighborhoods where landslides are improbable or where hazards can be adequately addressed at the time of development design and permitting.

To reduce the number of properties which would be unnecessarily included in the regulatory map, the high landslide susceptibility areas were reduced to include only areas where the overall neighborhood slope averaged 30 percent or greater. Areas of 30 percent or greater slope were derived by smoothing the LiDAR digital elevation model. Smoothing was accomplished by applying bilinear resampling to a 12-foot cell and then calculating the percent slope using the surface parameters tool by ESRI and a neighbor distance of 84 feet. The method adequately smooths the surface to screen out most minor slopes while preserving areas of shallow landslide susceptibility. The final shallow landslide susceptibility layer used for regulatory purposes is the intersection of the IMS-57 publication and 30 percent grade derived slopes. These refinements better correlate the potential landslide risk with the geospatial location, as opposed to lower resolution grid cells that overly captured lots that were not part of the shallow landslide risk (such as lots across the street).



1997 Potential Landslide Hazard Map



2023 Proposed Potential Landslide Hazard Map



### 3. Recalibrate standards, thresholds, and review procedures

#### The Proposal

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

#### What is the intended benefit?

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

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

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

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

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

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

When the R2.5 zone was first created, it was designed to be the “attached house” zone. Lot width and area requirements were set to better accommodate townhouses and other attached homes. Other requirements of the zone (such as minimum density and lot width for detached houses) were the same as the R5 zone. Over time and with subsequent code projects, there are fewer differences between the R2.5 zone and other single-dwelling zones. Most recently, with the House Bill 2001 (2019) requirement to allow attached houses in all residential zones, the R2.5 zone is nearly indistinguishable from the remaining single-dwelling zones (apart from maximum density requirements). These changes consolidate, simplify and ensure better consistency when applying the lot dimension and density requirements for single-dwelling zoned land divisions.

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

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

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

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

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

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

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

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

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

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

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

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

# Section IV: Land Division Data and Analysis

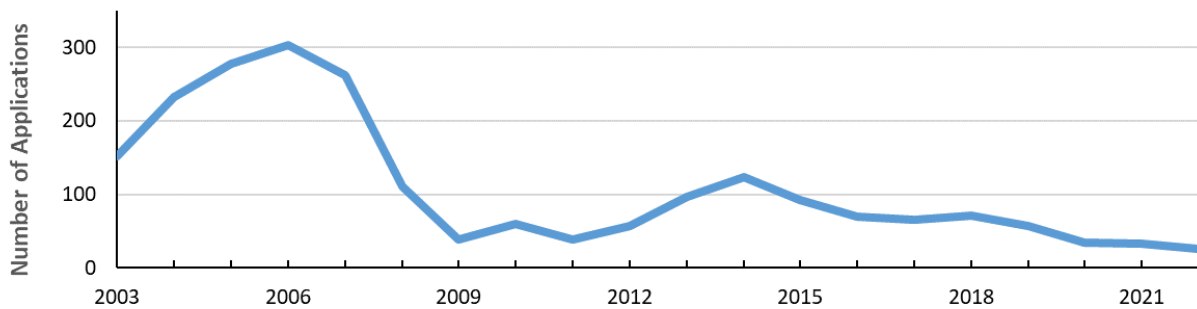
## Data and Analysis – Introduction

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

## Land Division Activity Over Time

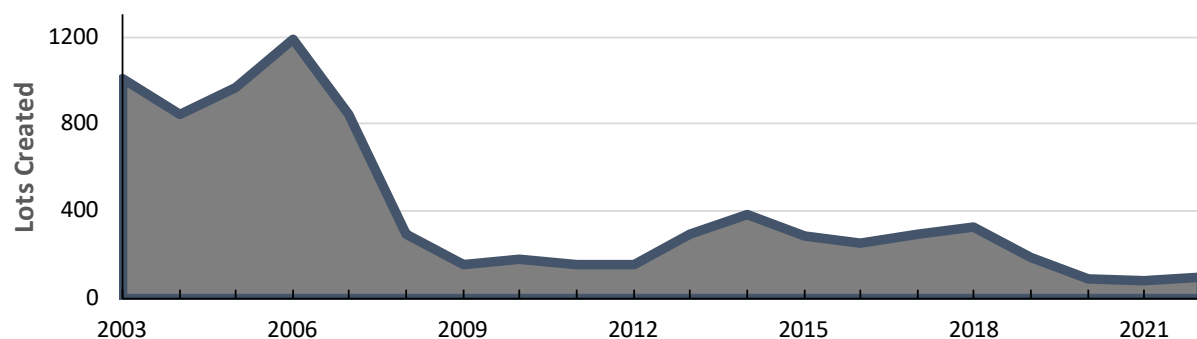
The rate of applications for land divisions has fluctuated over the past 20 years, largely following region-wide housing construction trends. Since 2002 there have been 2,202 applications that proposed 8,060 lots. There was a peak in the number of applications submitted for land divisions in 2006, which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

**Figure 1 | Land Divisions Applications, 2003 - 2022**



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

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



## Land Division Location and Context

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

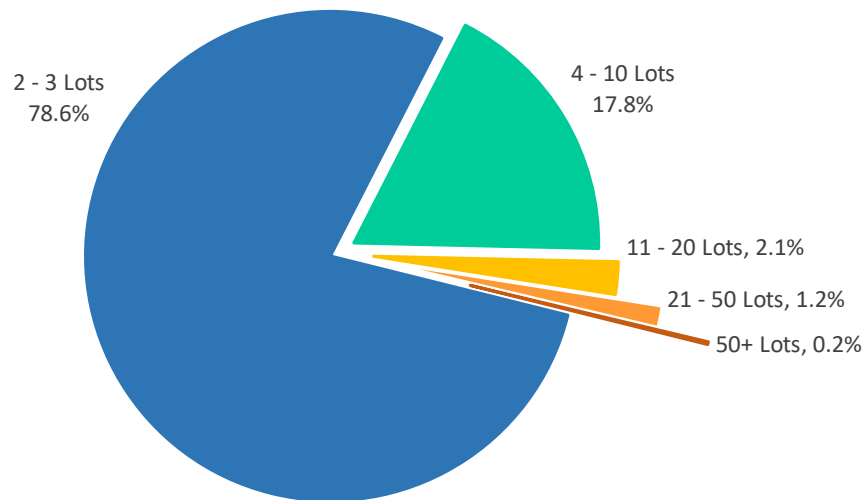


## Characteristics of Land Divisions

### Number of Lots

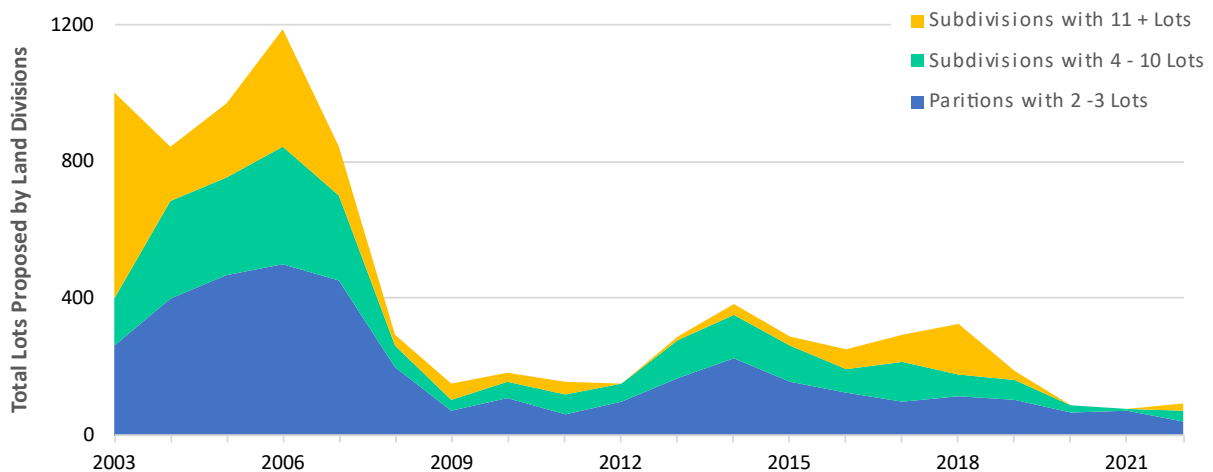
Since the adoption of the Land Division Code Rewrite Project, land divisions with a small number of lots comprise the majority of applications submitted. Partitions (land divisions that create either 2 or 3 lots) are the most common type of land division proposed, making up nearly 80 percent of all applications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

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



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

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



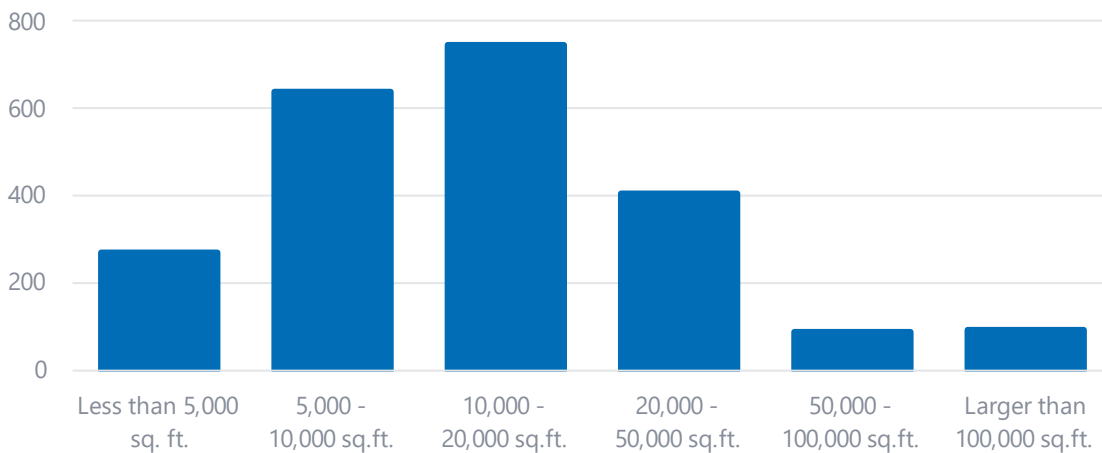
### Size of Land Division Sites

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

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

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

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



### Zoning

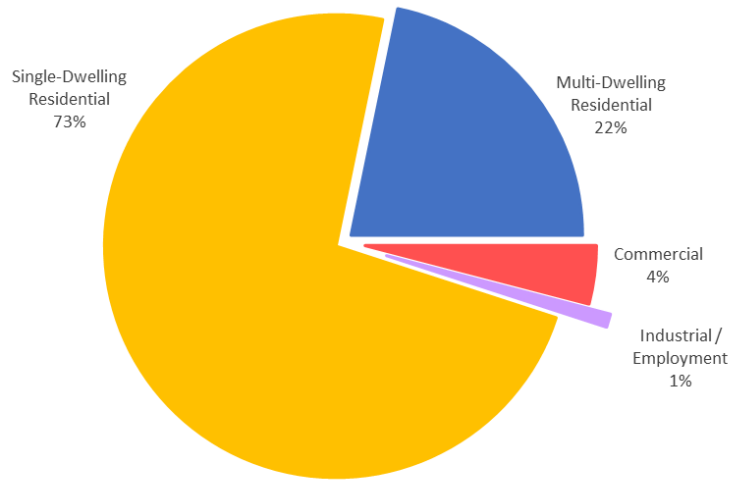
Land divisions are most common within residential zones, especially single-dwelling residential zones, as they are the main mechanism to achieve greater density on a larger site.

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

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

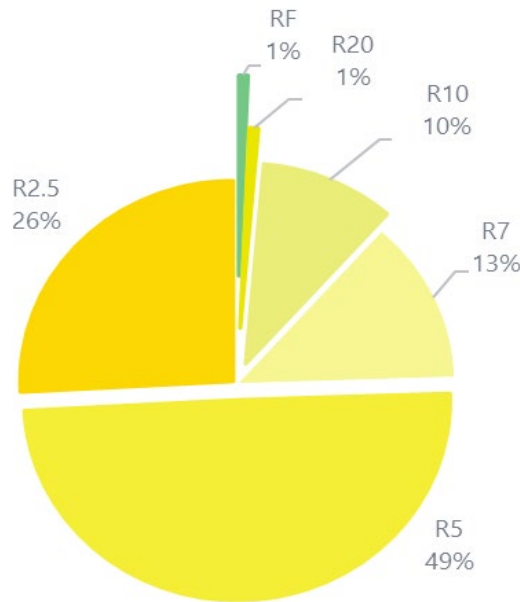
applications for subdivisions in Industrial and Employment zones have increased from 1 percent to 4 percent, but continue to account for a very small number of land division cases.

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



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

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





**Level of Review**

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

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

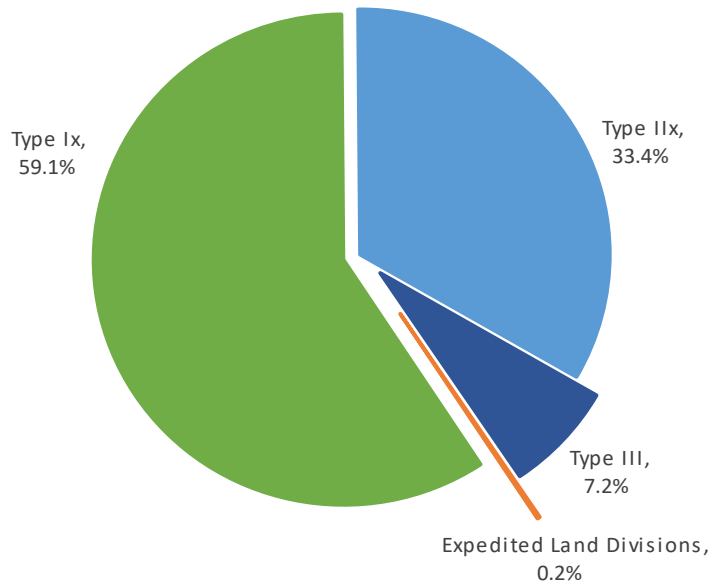
**Summary of current land division review procedure types**

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

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

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

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



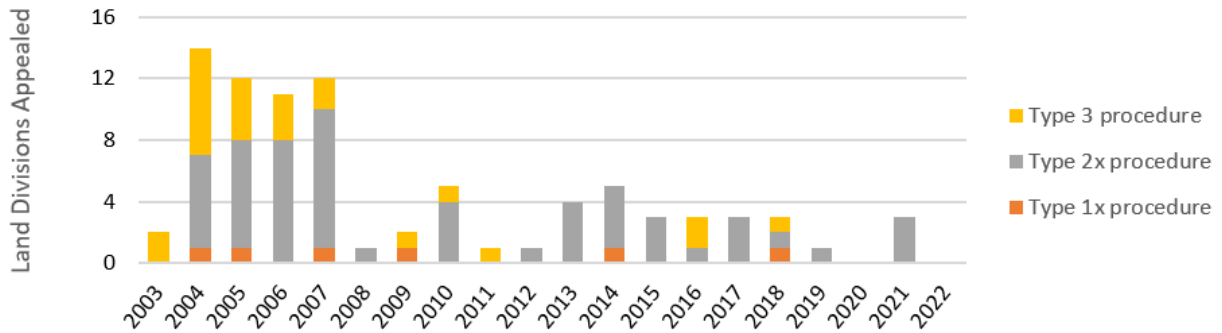
### Land Division Appeals

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

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

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

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



## Section V: Relationship to the Comprehensive Plan

### Comprehensive Plan Guiding Principles

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

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

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

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

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

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

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

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

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

#### *Recognizing Portland’s History of Land Ownership*

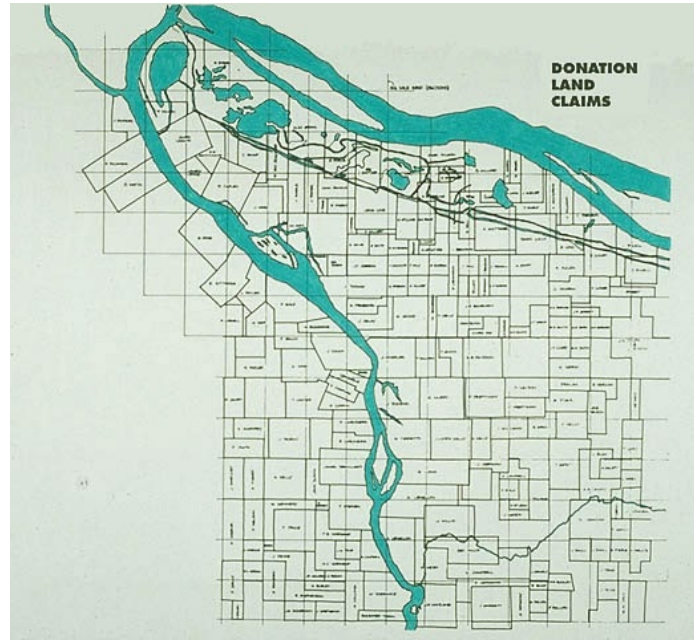
It is important to recognize the pattern and history of land ownership within the state and the Portland area more specifically. Some historical accounts of Portland begin with descriptions like “...the area began in the mid-1840s when immigrants arrived over the Oregon Trail and established Donation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

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

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

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

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



#### *Equity Considerations*

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

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

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



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

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

## Section VI: Public Involvement

### Discussion Draft

In November 2023, Bureau of Planning and Sustainability staff released a Discussion Draft, for the public to review. The Discussion Draft provided an opportunity for community members to review the detailed code amendments before this formal proposal was formulated for the Planning Commission's public hearing and consideration. This allowed for additional time to understand the draft changes before the public hearing was scheduled, and to submit comments to project staff to highlight potential clarifications to the code language, remove ambiguity, or otherwise improve the effectiveness of the proposed changes.

Project staff reached out to a variety of stakeholder groups to seek input on the Discussion Draft. These groups included developers, land use professionals, engineers, property owners; affordable housing developers; advocacy groups and nonprofits; and recently land division applicants.

To inform the public about the project's proposed changes, staff presented at neighborhood meetings, met with stakeholder groups who requested more information, and fielded questions from the community. Feedback from the public on the Discussion Draft predominantly focused on the key issues described below:

### Clear and Objective Standards

Many community members supported the proposal to amend the land division requirements to provide the option to utilize clear and objective standards. Affordable housing developers said that replacing vague requirements would help reduce the time to complete an application for a land division and remove some financial impediments to constructing housing in the single-dwelling zones.

Some expressed concern that while more efficient, the standards are a less effective means to achieve the same quality of results in some cases, and that the city may sacrifice some level of oversight where standards are an imperfect match for discretionary criteria.

### Changes to Tree Preservation Requirements

As an example of this particular tension, some advocacy groups and non-profits expressed concerns about the proposed changes to the requirements for Tree Preservation (Chapter 33.630).

Currently, land division applicants must satisfy both a minimum tree preservation standard **and** tree preservation approval criteria:

Recent changes in Oregon state law require that local jurisdictions provide a clear and objective option for residential development, but cities may offer discretionary approval criteria as an alternative for applicants to choose. Consequently, the proposal separates the minimum standards and the approval criteria into two distinct paths to obtain approval. Some community members expressed concerns that separating the standards from criteria could hinder the City's ability to ensure that the highest quality trees on a site were preserved in favor of simply meeting quantifiable targets.

Consequently, the proposal was revised to increase the quantitative metrics for the preservation standard, in order to ensure a higher *quantity* of tree preservation in light of losing the discretion to ensure higher *quality* trees are retained. The approval criteria can continue to be used to demonstrate that tree preservation is being maximized to the extent practicable when the standards cannot be met.

### The Potential Landslide Hazard Area Map

Neighborhood groups from areas impacted by landslides were generally supportive of the revised version of the map. They found that the updated Potential Landslide Hazard Area reflected a more accurate portrayal of where landslide concerns were present. Some community members had concerns that some properties that had been captured in the updated map did not warrant being included. These properties had minor slopes that did not pose a significant risk or were a sufficient distance away from slopes where a landslide could occur.

In response, project staff revisited the methodology of how the Potential Landslide Hazard Area was created to ensure that the map more accurately represented the location of landslide risk. Consequently, the map was refined to better capture properties with these higher landslide risks. A more detailed explanation of these changes is provided in Section III of this report.

### **Proposed Draft**

On February 20, 2024, staff released the Proposed Draft for the Planning Commission's consideration, and public review that incorporated the above changes. Roughly 20 people testified orally or in writing. Testimony to the Planning Commission was either favorable to the proposals, or reflected continued concerns about properties that were still included in the revised Potential Landslide Hazard Area Map. These concerns included potential impacts to property values or insurance rates. Staff noted that the map is only applicable to a narrow circumstance when a property is applying to be divided, and that the mapping has been customized for this purpose. The data is derived from already existing statewide mapping sources, and the map serves to determine when a geotechnical report is not required to be submitted, as much as it is determining when such a report is required. Lacking an objective tool to make this determination, the alternative would be to require a geotechnical report for every land division application. The Planning Commission ultimately determined that the proposed map struck the right balance of flexibility and precaution.

## Section VII: Zoning Code Amendments

This section presents staff proposed zoning code amendments. The section is formatted to facilitate readability by showing draft code amendments on the right-hand pages and related commentary on the facing left-hand pages. Underlined formatting indicates added text, while ~~strikethrough~~ formatting shows what text is deleted.





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## Commentary

### How to Use This Document

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

The amendments to the preface reflect amendments to land division regulations being made as part of this project, and amendments that should have been made as part of previous projects but were inadvertently missed.

### Summary of changes:

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

The planned developments chapters of the zoning code used to be contained in the 600 series of chapters. Several years ago, the chapters were moved to other parts of the code (see 33.270 and 33.854)

Other amendments on this page reflect that the land division chapters also include the regulations for property line adjustments and replats, both of which serve to reconfigure lot lines.



## How To Use This Document

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### Organization of Title 33

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

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

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

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

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

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

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

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

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

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

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## **Commentary**

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

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

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

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

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

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

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

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

### **Determining the Zoning Regulations for a Specific Site**

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

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

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

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## **Commentary**

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

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

### **Determining Where a Specific Use May Locate**

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

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

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

### **Determining the Land Division Regulations for a Specific Site**

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

In the 600 series of chapters, you should first look in Chapters 33.605 through 33.615 for the zone of your site; these chapters contain the regulations on lot density and lot dimensions. Then review Chapters 33.630 through 33.641: Chapters 33.630, Tree Preservation, 33.635, Clearing, Grading, and Land Suitability, 33.636, Tracts and Easements, and 33.640, Streams, Springs, ~~and Seeps, and Wetlands~~ apply to all Land Divisions. ~~Chapter 33.639, Solar Access applies to land divisions where single dwelling detached development is proposed.~~ Chapters 33.631 and 33.632 apply only to sites that may be subject to flood or landslide; City maps can help you determine if your land may be subject to these hazards. Chapters 33.633, Phased Land Divisions Plans and Staged Final Plats apply to proposals that include those elements, while Chapter 33.634 only applies to sites where a recreation area is required. A traffic transportation impact study may be required as per 33.641. ~~Chapter 33.638 includes the regulations for Planned Developments.~~ Chapter 33.642, Land Divisions of Manufactured Dwelling Parks and Chapter 33.644, Middle Housing Land Divisions contain regulations for these alternative types of development.

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

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

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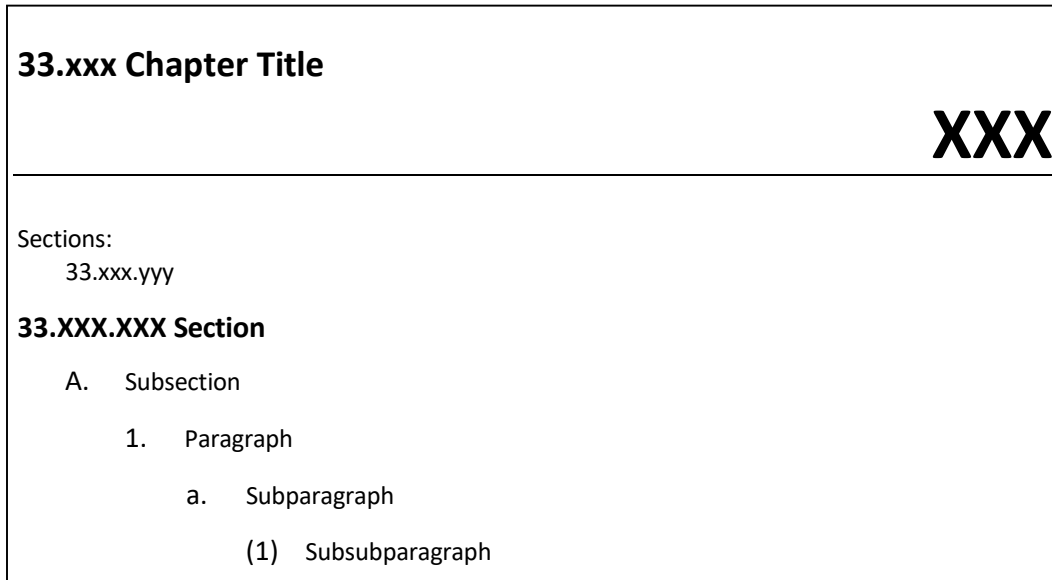
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## Commentary

No changes are proposed on this page.

### Format of Title 33

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



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

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

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

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

### Terms

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



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## Commentary

### List of Chapters

#### Summary of changes to this list:

- Amend the list of land division chapters to reflect corrections to chapter titles, name changes, and chapter renumbering

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

- 33.610 - This chapter now incorporates the R2.5 zone.
- 33.611 - This chapter is being deleted. The R2.5 zone is being combined with 33.610 (see page 110)
- 33.612 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.613 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.633 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.635 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.639 - This chapter is being deleted with this project. (see page 162)
- 33.640 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.644 - This chapter appears erroneously as 33.643. This is being corrected.
- 33.655 - This chapter is being deleted with this project. (see page 222)
- 33.660 - This correction reflects an update to the name of this chapter which had been amended previously.
- 33.663 - This chapter is being renumbered to 33.673 with this project to follow the land division review chapters, as it is the final step in the land division process.
- 33.664 - This correction reflects an update to the name of this chapter which had been amended previously.

## List of Chapters

[No changes to remainder of list of chapters]

### Land Divisions and Planned Developments

- 605 Lots in the Open Space Zone
- 610 Lots in RF through ~~R5~~R2.5 Zones
- ~~611~~ ~~Lots in the R2.5 Zone~~
- 612 Lots in Multi-Dwelling and IR Zones
- 613 Lots in Commercial/Mixed Use and CI Zones
- 614 Lots in Employment Zones
- 615 Lots in Industrial Zones
- 630 Tree Preservation
- 631 Sites in the Combined Flood Hazard Area
- 632 Sites in Potential Landslide Hazard Areas
- 633 Phased Land Divisions Plans and Staged Final Plats
- 634 Required Recreation Area
- 635 Clearing, ~~and~~ Grading and Land Suitability
- 636 Tracts and Easements
- ~~639~~ ~~Solar Access~~
- 640 Streams, Springs, ~~and Seeps~~, and Wetlands
- 641 Transportation Impacts
- 642 Land Divisions of Manufactured Dwelling Parks
- ~~643~~ 644 Middle Housing Land Divisions
- 651 Water Service
- 652 Sanitary Sewer Disposal Service
- 653 Stormwater Management
- 654 Rights-of-Way
- ~~655~~ ~~School District Enrollment Capacity~~
- 660 Review of Land Divisions in Open Space, Residential, and OS, R, & IR Zones
- 662 Review of Land Divisions in CI, Commercial/Mixed Use, Employment, and Industrial Zones
- ~~663~~ ~~Final Plats~~
- 664 Review of Land Divisions on Large Sites in Industrial Zones
- 668 Review of Changes to an Approved Planned Unit Development
- 669 Review of Changes to an Approved Industrial Park
- 670 Review of Land Divisions of Manufactured Dwelling Parks
- 671 Review of Middle Housing Land Divisions
- ~~673~~ ~~Final Plats~~
- 675 Replat
- 676 Lot Confirmation
- 677 Property Line Adjustments

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## Commentary

### 33.110 Single-dwelling Zones

#### Summary of changes to this chapter:

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

## 33.110 Single-Dwelling Zones

110

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### Sections:

#### General

- 33.110.010 Purpose
- 33.110.020 List of the Single-Dwelling Zones
- 33.110.030 Other Zoning Regulations
- 33.110.050 Neighborhood Contact

#### Use Regulations

- 33.110.100 Primary Uses
- 33.110.110 Accessory Uses

#### Development Standards

- 33.110.200 Housing Types Allowed
- 33.110.202 When Primary Structures are Allowed
- 33.110.205 Minimum Dwelling Unit Density
- 33.110.210 Floor Area Ratio
- 33.110.215 Height
- 33.110.220 Setbacks
- 33.110.225 Building Coverage
- 33.110.227 Trees
- 33.110.230 Main Entrances
- 33.110.235 Street-Facing Facades
- 33.110.240 Required Outdoor Areas
- 33.110.245 Detached and Connected Accessory Structures
- 33.110.250 Additional Development Standards for Garages
- 33.110.255 Additional Development Standards for Flag Lots
- 33.110.260 Additional Development Standards for Narrow Lots
- 33.110.263 Additional Development Standards for Shared Courts, Common Greens, and Alleys in  
Private Ownership
- 33.110.265 Residential Infill Options
- 33.110.270 Institutional Development Standards
- 33.110.275 Fences
- 33.110.280 Retaining Walls
- 33.110.285 Demolitions
- 33.110.290 Nonconforming Situations
- 33.110.292 Parking and Loading
- 33.110.295 Signs
- 33.110.296 Recycling Areas

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## **Commentary**

### **33.110.202 When Primary Structures are Allowed**

#### **33.110.202.C**

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

#### **33.110.202.D**

Primary structures are structures where the primary use (e.g. household living) is carried out. Accessory structures are secondary in importance (e.g. shed, garage). In the case of plots that are not lots or lots of record, development more broadly (i.e. primary structures, accessory structures and other site improvements) should be prohibited, not just primary structures. This amendment makes that clear.

### **33.110.210 Floor Area Ratios**

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

### 33.110.202 When Primary Structures are Allowed

A.-B. [No change]

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

1. - 3. [No change]

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

- a. Meets the minimum lot size requirements stated in Table 110-3; or
- b. Does not meet the minimum lot size requirements stated in Table 110-3 but meets all of the following:
  - (1) No portion of the lot, adjusted lot or combination is in an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental protection, environmental conservation, or river environmental~~ overlay zone;
  - (2) No portion of the lot, adjusted lot or combination is in the combined flood hazard area; and
  - (3) The lot, adjusted lot or combination has an average slope of less than 25 percent.

5. [No change].

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

### 33.110.210 Floor Area Ratios

A. [No change]

B. **Maximum FAR.** Maximum floor area ratios are stated in Table 110-4. Maximum FAR applies to all buildings on the lotsite, however the maximum allowed is based on the total number of dwelling units on the lotsite and whether a bonus option is chosen. In the R10 and R20 zones, the maximum FAR only applies to lotsites that are less than 10,000 square feet in area. The maximum FAR for a lotsite with a congregate housing facility is the same as shown in Table 110-4 for a lotsite with 1 total dwelling unit. The maximum FAR for institutional uses is stated in 33.110.270. Adjustments to the maximum FAR ratios, including bonus ratios, are prohibited.

C.-D. [No change]

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## Commentary

### **33.110.260 Additional Development Standards for Narrow Lots**

#### **33.100.260.C.1**

The required housing type regulation is being deleted because of implementation issues. The standard is difficult to enforce because an applicant can build a detached house on one half of a "site" comprised of two narrow lots, and subsequently build another detached house on the other half based on the fact that there are now primary structures on the adjacent lots that share a side lot line. Another implementation issue arises when two adjacent, vacant narrow lots were owned by different parties. The standard in effect requires that the two owners develop their lots together. Differentiating by ownership is also ineffective because lots can be owned by separate Limited Liability Corporations (LLCs) with the same managing member. These circumstances make implementation of this requirement ineffective and therefore, it is being deleted.

#### **33.100.260.C.1**

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

### **33.110.263 Additional Development Standards for Shared Courts, Common Greens and Alleys in Private Ownership**

Shared courts are currently not allowed in single-dwelling zones. This project includes an amendment to allow them (see amendments in 33.654). As a result, additional development standards based on those that apply in the multi dwelling zones (see 33.120.282) are being added to the single-dwelling zone regulations.

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



### **33.110.260 Additional Development Standards for Narrow Lots**

A.-B. [No change]

#### **C. Standards.**

~~1. Required housing type. Attached houses are required on lots and lots of record that are less than 26 feet wide. Attached houses are not required on sites that contain a combination of lots or lots of record when the combination is at least 26 feet wide. Attached houses are also not required when there are primary structures on all of the adjacent sites that share a side lot line with the development site. See 33.110.265.C. for development standards that apply to attached houses.~~

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

2.-3. [No change]

### **33.110.263 Additional Development Standards for Shared Courts, Common Greens and Alleys in Private Ownership**

#### **A. Purpose.** These standards:

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

#### **B. When these standards apply.** The following standards apply to:

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

#### **C. Standards.**

1. Housing types allowed. On a lot with a front lot line on a shared court, housing types are limited to a house, house with one ADU, attached house, attached house with one ADU, or duplex.

2. Setbacks.

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

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## Commentary

### **33.110.265 C.5**

This provision was adopted as part of the Residential Infill Project and was intended to be an incentive to encourage attached houses. The standard was intended to allow multiple attached houses (one dwelling unit on a lot) to calculate FAR as if the development was a duplex (2 dwelling units on a lot), triplex (3 dwelling units on a lot), or a fourplex (4 dwelling units on a lot). However, the standard did not adequately address situations when ADU's are proposed in conjunction with the attached houses, or when multiple pairs of attached houses are proposed in a project.

With one exception, this change will calculate floor area for attached houses the same as floor area for lots with detached houses (see changes in 33.110.260 for the exception in the R5 zone). If additional ADU's are proposed in conjunction with an attached house, the FAR will respectively be increased.

3. Building coverage. The building coverage on lots with a front lot line on a shared court or common green is 5 percent greater than the building coverage of the base zone.
4. Minimum required outdoor area. For lots with a front lot line on a shared court or common green, the minimum size of required outdoor area is 48 square feet per dwelling unit with a minimum dimension of 6 feet. The standards in 33.110.240.C continue to apply.
5. Garages facing shared courts. For garages accessory to houses or attached houses that are less than 22 feet wide that face a shared court, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.
6. The following standards apply to accessory structures in common greens, shared courts, and alleys in private ownership.
  - a. Detached accessory structures for the common use of residents are allowed within common greens and shared courts but are not allowed in privately owned alleys. Detached accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas;
  - b. Structures for enclosing recycling or waste disposal are allowed within common greens, shared courts, and privately owned alleys;
  - c. Accessory structures in common greens, shared courts, and privately owned alleys may be up to 15 feet high;
  - d. The accessory structure must be setback at least 10 feet from a public street. The minimum setback from all other edges of the right-of-way is 3 feet; and
  - e. The combined building coverage of all accessory structures located in common green, shared court, or privately owned alley tracts may not exceed 15 percent. In shared courts, at least 250 square feet must remain uncovered. In common greens, at least 400 square feet must remain uncovered.

### **33.110.265 Residential ~~Infill~~ Options**

**A–B.** [No change]

**C. Attached housing.** Attached housing allows for more efficient use of land and for energy-conserving housing. Attached houses are allowed in the R20 through R2.5 zones as follows:

1-4. [No change]

5. Floor area. The maximum floor area ratio allowed may be based on the total number of dwelling units in the attached house project. The maximum floor area ratio may be calculated, combined, and shared among the attached house lots. However, the floor area ratio on any no-lot cannot exceed .05 more than the base zone maximum allows for the site.

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## Commentary

### 33.120 Multi-Dwelling zones

#### Summary of changes to this chapter:

- Add "adjusted lots" and "lot remnants" throughout Section 33.120.205
- Remove the requirement to evaluate whether a site has existing development, meets minimum density and minimum parking when an ownership is being separated into individual lots or lots of record.
- Add a new lot dimension table for development on existing lots
- Minor clarifying changes to shared court and common green standards, including moving the standards to a new section.

## 33.120 Multi-Dwelling Zones

120

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Sections:

General

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

Use Regulations

- 33.120.100 Primary Uses

Development Standards

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

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## Commentary

### **33.120.205 When Primary Structures are Allowed.**

This section is being renamed "When Primary Structures are Allowed" to match the title of the comparable section that applies in the single-dwelling zones.

Currently, when multiple lots in one ownership are proposed to be separated, staff has to evaluate whether each lot will, on its own, meet all requirements of Title 33 including minimum parking and minimum density.

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

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

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

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

As part of the Residential Infill Project, distinctions between lots, adjusted lots and lot remnants were clarified. Adjusted lots are platted lots that have been reconfigured and are now larger in area than the original lot. Lot remnants are platted lots that have been reconfigured and are now smaller than the original lot. This section is being amended to clarify how adjusted lots and lot remnants are reviewed.

Additionally, SB534 (2019) requires local governments to allow the development of at least one dwelling unit on platted lots, except when certain conditions/constraints exist (e.g., environmental zone, flood, or steep slope).

As a result of these changes, the current provisions that seek to maintain ownerships in common when larger sites are vacant have been largely rendered invalid, therefore the regulations are being revised.

Supplemental Information

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

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

- A. Purpose.** The regulations of this section require lots, adjusted lots, lot remnants, and lots of record to be an adequate size so that new development on a site will in most cases be able to comply with all site development standards, including density. ~~Where more than one lot is in the same ownership, these standards prevent breaking up large vacant ownerships into small lots, which are difficult to develop in conformance with the development standards. However, where more than one lot is in the same ownership, and there is existing development,~~ allowing the ownership to be separated may increase opportunities for residential infill while preserving existing housing.
- B. Where these regulations apply.** These regulations apply to existing lots, adjusted lots, lot remnants, and lots of record in the multi-dwelling zones. The creation of new lots is subject to the lot size standards listed in Chapter 33.612, Lots in Multi-Dwelling Zones.
- C. Primary structures allowed.** Development of a primary structure is allowed as follows:
1. On a lot or adjusted lot created on or after July 26, 1979;
  2. On a lot created through the Planned Development or Planned Unit Development process;
  3. On a lot, adjusted lot, lot remnant or lot of record that did not abut a lot, adjusted lot, lot remnant, or lot of record, under the same ownership on July 26, 1979, and has not abutted a lot, adjusted lot, lot remnant, or lot of record under the same ownership since July 26, 1979;
  4. On a lot or adjusted lot or combination thereof that either:
    - a. Meets the minimum lot size requirements in Table 120-3; or
    - b. Does not meet the lot size requirements in Table 120-3, but meets all of the following:
      - (1) No portion of the lot, adjusted lot or combination is in an Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zone;
      - (2) No portion of the lot, adjusted lot or combination is in the combined flood hazard area; and
      - (3) The lot, adjusted lot or combination has an average slope of less than 25 percent.
  5. On a lot of record or lot remnant or combination thereof that meets the minimum lot size requirements of Table 120-3.



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## Commentary

### 33.120.205 When Primary Structures are Allowed (continued)

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

The addition of Table 120-3 eliminates the need to refer to the land division table in 33.612, which has been confusing regarding how and which lot size standards should be applied. These changes also address the challenge with the 10,000 sq ft minimum lot size for multi dwelling development requirement in 33.612. For example, a five unit multi dwelling apartment on a site comprised of two 5,000 sq ft lots in the RM2 zone would meet the lot size for multi dwelling development, but not when it was a single 5,000 sq ft lot and therefore would not have been permitted to be separated. Yet a multi dwelling development could be proposed on a single 5,000 sq ft RM2 zoned vacant lot by itself.

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

1. Any lot or adjusted lot (lots that have been increased in size) created after July 26, 1979 (when the city began implementing land division reviews)
2. Lots created through an alternative PD or PUD process
3. Lots and lots of record that have not been owned in common with an abutting lot
4. Platted lots that either meet lot dimensions in Table 120-3 or do not have constraints- per SB534 (2019)
5. Lots of record (created through deed transfer) and lot remnants (lots that have been reduced in size) that meet lot dimensions in Table 120-3.

### Table 120-3

For the RM1 through RM4 zones, the minimum lot area and width requirements for developable lots are the same as what applies for new multi-dwelling lots created via a land division in the RM1 zone. The RX zone (the highest density multi-dwelling zone) is the most flexible, requiring only that the lot have 10 feet of street frontage. The RMP zone is intended to preserve lots for manufactured home parks, so it has the least flexible lot size standards. Greater flexibility for lots in the RMP zones is attainable through the land division process (when creating lots for individual manufactured home lot ownership).

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

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

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

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

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

1. ~~If all requirements of this Title will be met after the separation, including lot dimensions, minimum density, and parking, the ownership may be separated; or~~
2. ~~If one or more of the lots or lots of record does not meet the lot dimension standards in Chapter 33.612, Lots in Multi-Dwelling Zones, the ownership may be separated if all requirements of this paragraph are met. Such lots and lots of record are legal.~~
  - a. ~~There is a primary use on at least one of the lots or lots of record, and the use has existed since December 31, 1980. If none of the lots or lots of record have a primary use, they may not be separated; and~~
  - b. ~~Lots or lots of record with a primary use on at least one of them may be separated as follows:~~
    - (1) ~~The separation must occur along the original lot lines;~~
    - (2) ~~Lots or lots of record with primary uses on them may be separated from lots or lots of record with other primary uses; and~~
    - (3) ~~Lots or lots of record with primary uses on them may be separated from lots or lots of record without primary uses.~~

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## Commentary

### 33.120.205 When Primary Structures are Allowed (continued)

The following is an estimate of the number of RM1-RM4 sites that have the potential to be separated into multiple ownerships in the future. The estimate does not differentiate between sites that are vacant, partially developed, or fully developed (e.g. an apartment built across several platted lots), nor does it account for lot lines that may not be legal, or that otherwise did not meet prior code, or would not meet the proposed regulations for separate development sites.

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

### 33.120.270.E

These standards are being moved to a standalone section because development on a shared court or common green is not really an alternative development option. (see 33.120.282, Additional Standards for Development Accessed by Common Greens, Shared Courts, or Private Alleys, on page 68)

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

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

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

### 33.120.270 Alternative Development Options

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

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

B-D. [No change]

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

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

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## Commentary

3. ~~Accessory structures.~~

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

4. ~~Setbacks.~~

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

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

6. ~~Building coverage.~~

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

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## Commentary

### **33.120.282 Additional Development Standards for Common Greens, Shared Courts, and Alleys in Private Ownership.**

These standards are adapted from the regulations in 33.120.270.E. and are being revised to simplify and be consistent with the standards in the single dwelling zones.

These revisions include:

- A new and expanded purpose statement, for when adjustments are requested.
- Inclusion of housing type limitations that are moving from the private street design standards in 33.654.
- Removing the provision that allowed the street setback on corner lots to be reduced from 3 feet to 0 feet for a portion of the façade area when a portion of that façade had window openings. This is overly cumbersome and conflicts with building code requirements.
- Removing the provision that increased the setback for accessory structures located in common greens and shared courts from 3 feet to 5 feet for the portion of the street tract that abuts an adjacent property for greater simplicity.
- Replacing a series of complicated building coverage standards that allowed the area within the shared court or common green to be calculated and divided amongst the lots that shared access. Instead, the building coverage standard has been increased by 5 percent for these lots.
- Reducing the required landscaped area on those lots commensurately by 5 percent.
- Combining the various standards pertaining to accessory structures.



- ~~(1) Buildings or structures in common greens, shared courts, private alleys, or parking tracts are included in the calculation for building coverage for the land division site;~~
  - ~~(2) The combined building coverage of all buildings and structures in common greens or shared courts may not exceed 15 percent of the total area of the common greens or shared courts.~~
  - ~~(3) Any amount of building coverage remaining from the calculation for the area of the common green, shared court, alley, or parking tract will be allocated evenly to all of the lots within the land division, unless a different allocation of the building is approved through the land division decision. The building coverage allocated to the lots will be in addition to the maximum allowed for each lot.~~
- b. ~~For attached houses, uncovered rear balconies that extend over an alley or vehicle maneuvering area between the house and rear lot line do not count toward maximum building coverage calculations.~~
7. ~~Garages fronting onto shared courts. For garages accessory to houses or detached houses that are less than 24 feet wide that front onto shared courts, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.~~

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

### **33.120.282 Additional Development Standards for Shared Courts, Common Greens, and Alleys in Private Ownership.**

**A. Purpose.** These standards:

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

**B. When these standards apply.** The following standards apply to:

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

**C. Standards**

1. Housing types allowed. On a lot with a front lot line on a shared court, housing types are limited to a house, house with one ADU, attached house, attached house with one ADU, attached duplex or duplex.

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## Commentary

2. Minimum density in RM1 and RM2 zones. For lots with a front lot line on a shared court or common green, the minimum density in the RM1 zone is 1 unit per 3,000 square feet and the minimum density in the RM2 zone is 1 unit per 2,000 square feet;
3. Setbacks.
  - a. The front and side minimum building setbacks from common greens and shared courts are reduced to 3 feet. Eaves, awnings, and trellises are allowed in this setback; and
  - b. The garage entrance setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line, or 18 feet or further from the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building.
4. Building coverage. The building coverage on lots with a front lot line on a shared court or common green is 5 percent greater than the building coverage of the base zone.
5. Minimum landscaped area. The minimum landscape area on lots with a front lot line on a shared court or common green is 5 percent less than the minimum landscape area of the base zone.
6. Garages facing shared courts. For garages accessory to houses or attached houses that are less than 22 feet wide and that face a shared court, the length of the garage wall facing the shared court may be up to 12 feet long if there is interior living area above the garage. The living area must be set back no more than 4 feet from the garage wall facing the shared court.
7. The following standards apply to accessory structures in common greens, shared courts, and privately owned alleys.
  - a. Detached accessory structures for the common use of residents are allowed within common greens and shared courts but are not allowed in privately owned alleys. Detached accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures and bike parking areas;
  - b. Structures for enclosing recycling or waste disposal are allowed within common greens, shared courts, and privately owned alleys;
  - c. Accessory structures in common greens, shared courts, and privately owned alleys may be up to 15 feet high;
  - d. The accessory structure must be setback at least 10 feet from a public street. The minimum setback from all other edges of the right-of-way is 3 feet; and
  - e. The combined building coverage of all accessory structures located in common greens, shared courts or privately owned alley tracts may not exceed 15 percent. In shared courts, at least 250 square feet must remain uncovered. In common greens, at least 400 square feet must remain uncovered.

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## Commentary

### 33.270 Planned Developments

#### Summary of changes to this chapter:

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

#### 33.270.020.B. Density

The R2.5 density standards are being merged with the density standards for the other single-dwelling zones. This amendment is consistent with an additional amendment in this proposal to merge the R2.5 land division lot density and dimension chapter (33.611) with the lot density and dimensions chapter for the rest of the single-dwelling zones (33.610).

## 33.270 Planned Development

270

### 33.270.020 Relationship to Other Regulations

A. **Flexibility.** No change]

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

~~1.~~ Density

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

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

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

~~(1)~~ (1) If the Planned Development is in the Constrained Sites Overlay or does not qualify to use the triplex or fourplex provisions of 33.110.265.E, maximum density is calculated as follows:

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

x 2

= Maximum number of dwelling units allowed.

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

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

x 4

= Maximum number of dwelling units allowed.

~~(3)~~ ~~R2.5.~~ In ~~R2.5~~ maximum density is calculated as follows:

• ~~If the Planned Development is in the Constrained Sites Overlay or does not qualify to use the triplex or fourplex provisions of 33.110.265.E, maximum density is calculated as follows:~~

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

~~x 2~~

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

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

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

~~x 4~~

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

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## Commentary

### **33.270.020.B.2. FAR**

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

### **33.270.100 I. Alternative residential dimensions**

The planned development process allows greater flexibility to better tailor a development to a particular site. In some cases, this means varying from the lot dimensions. Currently, minimum dimensions may be varied as part of a PD but exceeding maximum lot dimensions requires an adjustment. This change allows for a planned development to vary both minimum and maximum dimensions through the PD process. Exceeding maximum lot size dimensions may also be requested through an adjustment, when there is no PD proposed.

- ~~2.b.~~ Minimum density. Minimum density must be met in the Planned Development. Minimum density for single-dwelling zones is expressed as a number of lots. Minimum density can be met in a Planned Development by providing the same number of dwelling units. Minimum density for single-dwelling zones is stated in 33.610.100 and ~~33.611.100~~. Minimum density for all other zones is stated in the base zone chapters.

~~2.~~ **FAR**

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

- (1) ~~R20 through R2.5. The maximum FAR in the R20 through R2.5 zones is specified in 33.110.210.~~
- (2) ~~Multi-dwelling zones. The maximum FAR in the multi-dwelling zones is specified in 33.120.210.~~
- (3) ~~Commercial/mixed use zones. The maximum FAR in the commercial/mixed use zones is specified in 33.130.205.~~

~~b.~~ **Minimum FAR. Where the base zone requires a minimum FAR, the standard must be met in a Planned Development**

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

### **33.270.100 Additional Allowed Uses and Development**

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

**A-H.** [No change]

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

**J-L.** [No change]

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## Commentary

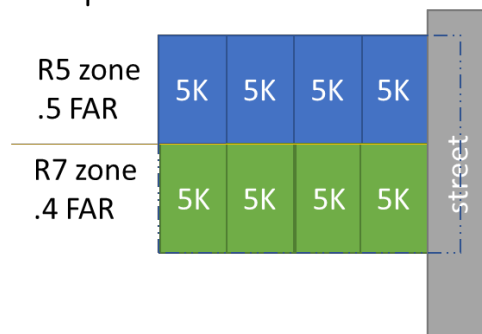
### 33.270.100.M. Transfer of development within a site

Additional clarity is being added to differentiate between transferring dwelling units (density) and transferring floor area (scale). The intent of the provision is to allow either dwelling units or floor area to be calculated based on their respective base zone allowances,, and then aggregated and redistributed throughout the site irrespective of the base zone boundary.

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

The R10 and R20 zones are not included in FAR transfers because larger lots in these zones are exempt from FAR limits (see 33.110.210.B)

Example:



The FAR for the four 5,000 sq ft R5 house lots would be .5 ( $.5 \times 5,000 \times 4 = 10,000$  sq ft)

The FAR for the four 5,000 sq ft R7 house lots would be .4 ( $.4 \times 5,000 \times 4 = 8,000$  sq ft)

The 18,000 sq ft of total floor area can be allocated to the lots regardless of zone boundaries, for example, each lot could be .45 FAR, ( $.45 \times 5,000 \times 8 = 18,000$  sq ft)



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

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

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

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## Commentary

### 33.418 Constrained Sites Overlay Zone

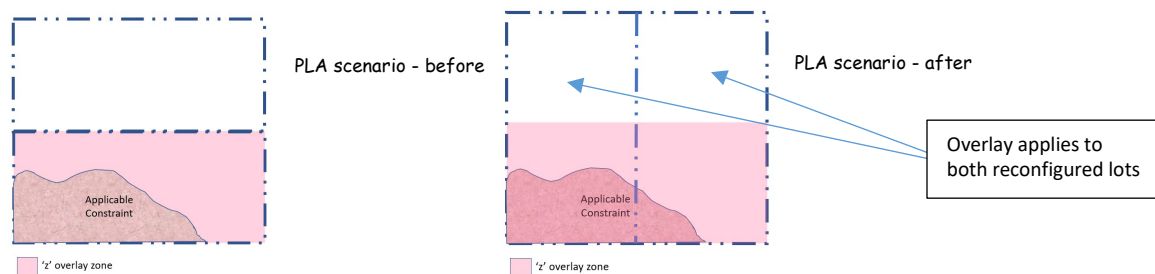
#### Summary of changes to this chapter:

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

#### 33.418.040 Housing Type Limitations

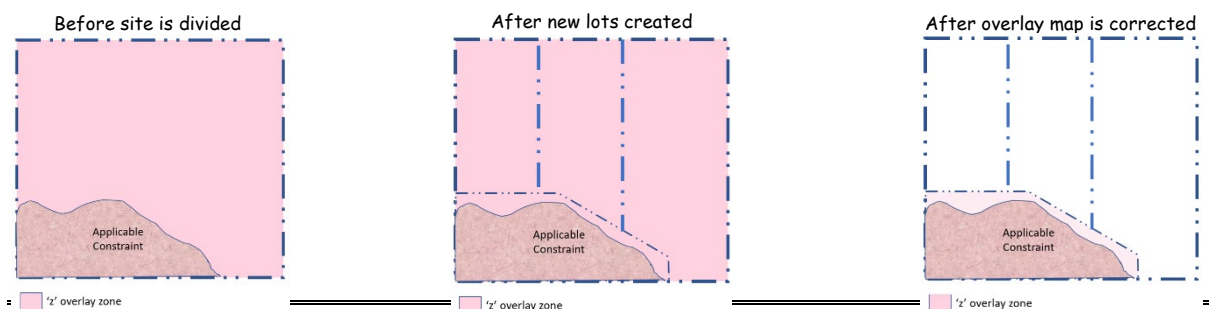
The 'z' overlay is applied to single dwelling zoned sites when any portion of the site has one of the applicable constraints present: Environmental or Pleasant Valley Natural Resource overlay; flood hazard area; certain types of landslide hazards; wildfire risk in the R10 and R20 zones; industrial sanctuary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

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



To prevent inadvertent permit approval of middle housing on sites that should be mapped with the 'z' between when a lot reconfiguration is approved and the overlay map is updated, the change to 33.418.040 Housing Type Limitations, will clarify that the restriction applies when *any portion* of the lot is mapped with the 'z'.

In the opposite scenario, when lots are created or configured in such a way that the constraint is no longer located on the lot, the overlay zone map can be corrected via the map correction process in Title 1.01.037 Planning Director Authority to Correct Portland Comprehensive Plan and Zoning Code Maps, since the legislative intent of the application of the 'z' overlay is that it apply to sites that contain the constraint. When the constraint is not present, the 'z' should not be applied to that site/lot. This will also be clarified through a parallel amendment to Title 1.



## Chapter 33.418 Constrained Sites Overlay Zone

# 418

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### 33.418.040 Housing Type Limitations

The following residential infill and accessory dwelling unit options do not apply to lots where any portion of the lot is in the Constrained Sites overlay zone:

- A. 33.110.265.D.2 which allows duplexes consisting of two detached primary dwelling units in the R20 through R2.5 zones;
- B. 33.110.265.E which allows triplexes and fourplexes in the R20 through R2.5 zones;
- C. 33.110.265.F which allows fourplexes and multi-dwelling structures with up to six dwelling units in the R20 through R2.5 zones;
- D. 33.110.265.G which allows cottage clusters in the R10 through R2.5 zones;
- E. 33.205.020.B.1.c which allows an accessory dwelling unit on a site with a duplex in the R20 through R.25 zones; and
- F. 33.205.020.B.2 which allows two accessory dwelling units on a site with a house, attached house, or manufactured home in the R20 through R2.5 zones.

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## Commentary

### 33.526 Gateway Plan District

#### Summary of changes to this chapter:

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

### 33.526.240 Open Area

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

## 33.526 Gateway Plan District

526

### 33.526.240 Open Area

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

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## Commentary

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

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## Commentary

### **33.526.240 E.C.1**

The location requirements for onsite open area in a land division are not clear—they refer broadly to the standards of “this section”, meaning all of the standards in 33.526.240. Several of the standards in the section are not relevant to a land division and cause confusion, including D.1.a, which describes a different calculation method for required open area based on proposed floor area—floor area is not identified at the time of a land division. This amendment clarifies the applicable standards.



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

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## Commentary

### 33.563 Northwest Hills Plan District

#### Summary of changes to this chapter:

- Update cross references

### 33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea

This amendment deletes reference to Chapter 33.611, Lots in the R2.5 Zone, because the chapter is being merged with Chapter 33.610. (see page 110)

## 33.563 Northwest Hills Plan District

# 563

### 33.563.220 When Primary Structures Are Allowed in the Linnton Hillside Subarea

The regulations of Section 33.110.202 do not apply to lots of record and lot remnants in the Linnton Hillside Subarea. In this subarea, primary structures are allowed on lots of record and lot remnants in single-dwelling residential zones as specified in this section. The regulations of 33.110.202 apply to lots and adjusted lots in the Linnton Hillside Subarea. Adjustments to the standards of this section are prohibited. Primary structures are only allowed if one of the requirements in A. through D. are met:

- A. [No change]
- B. The lot of record, lot remnant, or combination thereof:
  - 1. Is at least 36 feet wide;
  - 2. Meets the minimum area standard of Table 610-2 ~~or Chapter 33.611~~, but does not meet the minimum area standard of Table 563-1; and
  - 3. Did not abut any lot or lot of record owned by the same family or business on March 15, 2006, or any time since that date;
- C. The lot of record, lot remnant, or combination thereof:
  - 1. Does not meet the minimum area standard of Table 610-2 ~~or Chapter 33.611~~; and
  - 2. Did not abut any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;
- D-E. [No change]

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## Commentary

### Land Division Table of Contents

#### Summary of changes to this section:

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

**Title** - The planned development chapters were moved out of the land division series of chapters as part of a previously adopted project. This reference was inadvertently left in place and is being deleted now.

**33.610 and 33.611** - amendment to reflect consolidation of Chapter 33.610 and Chapter 33.611

**33.639** - this chapter is being deleted. (see page 162)

**33.633, 33.635, 33.640, 33.641** - These are minor technical amendments to the names of the chapters so that they match the actual chapter name

**33.655** - this chapter is being deleted. (see page 222)

## Land Divisions ~~and Planned Developments~~

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### **Lots**

33.605 Lots in the Open Space Zone

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

~~33.611 Lots in the R2.5 Zone~~

33.612 Lots in Multi-Dwelling and IR Zones

33.613 Lots in Commercial Lots in Commercial/Mixed Use and CI Zones

33.614 Lots in Employment Zones

33.615 Lots in Industrial Zones

### **Additional Regulations**

33.630 Tree Preservation

33.631 Sites in the Combined Flood Hazard Area

33.632 Sites in Potential Landslide Hazard Areas

33.633 Phased Land Divisions Plans and Staged Final Plats

33.634 Required Recreation Area

33.635 Clearing, ~~and~~ Grading and Land Suitability

33.636 Tracts and Easements

~~33.639 Solar Access~~

33.640 Streams, Springs, ~~and~~ Seeps, and Wetlands

33.641 Transportation Impacts

33.642 Land Divisions of Manufactured Dwelling Parks

33.644 Middle Housing Land Divisions

### **Services and Utilities**

33.651 Water Service

33.652 Sanitary Sewer Disposal Service

33.653 Stormwater Management

33.654 Rights-of-Way

~~33.655 School District Enrollment Capacity~~

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## **Commentary**

**33.660 and 33.664** - These are minor technical amendments to the names of chapters so that they match the actual chapter name.

**33.663 and 33.673** - Renumbering the final plat chapter.

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

## Reviews

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

33.662 Review of Land Divisions in CI, Commercial/Mixed Use, Employment, & Industrial Zones

~~33.663 Final Plats~~

33.664 Review of Land Divisions on Large Sites in Industrial Zones

33.668 Review of Changes to an Approved Planned Unit Development

33.669 Review of Changes to an Approved Industrial Park

33.670 Review of Land Divisions of Manufactured Dwelling Parks

33.671 Review of Middle Housing Land Divisions

33.673 Final Plats

33.675 Replat

33.676 Lot Confirmation

33.677 Property Line Adjustments

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## Commentary

### 33.610 Lots in the RF through R2.5 Zones

#### Summary of changes to this chapter:

- Combine the R2.5 lot regulations from 33.611 into this chapter
- Add a sentence to the lot dimension purpose statement to describe oversized, but dividable lots
- Add maximum lot area standard for cottage clusters
- Delete the criteria for reducing lot width
- Create alternative flag lot access standards to supplement existing access criteria
- Create standards for regular lot line requirements



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

610

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Sections:

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

### 33.610.010 Purpose

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

### 33.610.020 Where These Regulations Apply

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

### 33.610.100 Density Standards

- A. Purpose.** Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.
- B. Generally.**
  1. The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial width street, or dedicating right-of-way to widen an existing right-of-way.
  2. To be eligible for maximum density A, the site being divided must qualify for a primary structure in conformance with 33.110.202, When Primary Structures are Allowed.
  3. When lots will be created using more than one maximum density, maximum density is calculated separately for the area being divided under each maximum density. When streets are created, density is calculated separately after deducting for streets.

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## Commentary

### 33.610.100. C.2 and D.2.

The intent of the minimum density regulations is to ensure efficient urbanization of residential zones, while recognizing that certain constraints may make it challenging to achieve in some cases. Minimum density is calculated by subtracting area within environmental or river environmental overlays, as well as the flood hazard area. For landslide potential, BDS' practice has been to exclude a site entirely from the minimum density requirements when any portion of the site was identified with the landslide risk. The current landslide hazard map is at too low a resolution to accurately calculate the area inside or outside the affected landslide hazard. The new updated map is more accurate and at a resolution that allows specific site area to be calculated. BDS practice should change to reflect this so that minimum densities will now be calculated by subtracting the specific landslide potential hazard area shown in Map 631-1, similar to calculating area to subtract for the combined flood hazard or environmental overlay zone area.

Calculating minimum density in the R2.5 zone.

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

Currently, minimum density in the R2.5 zone is calculated based on one lot per 5,000 square feet (e.g., minimum density for a site where no street will be created is 80% of 1 lot per 5,000 square feet). This is different than how minimum density is calculated in the other single-dwelling zones, which relate minimum density to maximum allowed density—one lot per 5,000 square feet is not a maximum density in the R2.5 zone. The different calculation method was adopted in 2004 as a way to facilitate detached houses on small R2.5 zoned lots and reflects the early 2000s policy of lower density for detached houses.

Policy direction has changed since 2004, and with the consolidation of the R2.5 chapter into the RF through R5 chapter, minimum lot density for the R2.5 zone will now be calculated based on maximum density. The net effect of this change is that minimum densities for R2.5 zones will be doubled (e.g., minimum density for a site where no street will be created is 80% of 1 lot per 2,500 square feet). This change does not affect the maximum allowed density in this zone.

The amendments on this page also includes minor changes to make it clear that the Pleasant Valley Natural Resources overlay zone is a type of environmental overlay zone that is subtracted to calculate minimum density.

**C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited:

1. Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed ~~on the site:~~

Square footage of site;

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

2. Minimum density. Minimum density is based on the zone and size of the site, and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site;

– Square footage of site within an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental or River Environmental~~ overlay zone, potential landslide hazard area, or the combined flood hazard area;

x 0.80;

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

**D. Street created.** Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Pedestrian connections that are self-contained streets created solely for the use of pedestrians and bicyclists are not considered streets for the purposes of calculating density under this subsection. Adjustments to this subsection are prohibited:

1. Maximum density. Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

Square footage of site;

x 0.85;

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

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints, and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site

- Square footage of site within an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental or River Environmental~~ overlay zone, potential landslide hazard area, or the combined flood hazard area;

x 0.68

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

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## Commentary

### Table 610-1 Maximum Density Standards

A column for maximum lot density for the R2.5 zone is being added to Table 610-1.

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

**E. Exceptions to minimum density.** Exceptions to minimum density standards are allowed in the following situations. Adjustments to this subsection are prohibited:

1. If the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one;
2. If the minimum required density is larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum;
3. The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.

<b>Table 610-1 Maximum Density Standards</b>						
	<b>RF</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5</b>	<b><u>R2.5</u></b>
Maximum Density A: Maximum density for lots that <ul style="list-style-type: none"> <li>• Will be developed with attached houses;</li> <li>• Will be located entirely outside the Constrained Sites overlay zone; and</li> <li>• Will have frontage on a maintained street, a private street that connects to a maintained street, or a self-contained pedestrian connection created solely for pedestrians and bicycles.</li> </ul>	NA	1 lot per 5,000 sq. ft.	1 lot per 2,500 sq. ft.	1 lot per 1,750 sq. ft.	1 lot per 1,500 sq. ft.	<u>1 lot per 1,500 sq. ft.</u>
Maximum Density B: Maximum density for lots that will be developed with attached houses.	NA	1 lot per 10,000 sq ft	1 lot per 5,000 sq ft	1 lot per 3,500 sq ft	1 lot per 2,500 sq ft	<u>1 lot per 2,000 sq ft</u>
Maximum Density C: Maximum density for all other lots	1 lot per 87,120 sq. ft.	1 lot per 20,000 sq. ft.	1 lot per 10,000 sq. ft.	1 lot per 7,000 sq. ft.	1 lot per 5,000 sq. ft.	<u>1 lot per 2,500 sq. ft.</u>

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## Commentary

### 33.610.200 Lot Dimensions

The purpose statement is being amended to respond to several changes

**First**, the reference to garages is being deleted because on-site parking is no longer required and any adjustment to a lot size standard should no longer require consideration of size and location of a garage.

**Second**, because adjustments to maximum lot sizes may be requested, the purpose statements need to address two situations: One situation is already addressed by the statement "lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future". For example, a site with a maximum density of four lots has three small lots and one lot that appears large enough to divide but could not be without exceeding maximum density. The other situation is land divisions that result in fewer lots than allowed by maximum density, but still meets minimum density. For example, a site with a maximum density of four lots has two small lots and one large lot that could be divided in the future. Allowing this oversize lot should occur in a way that allows for the future division of the lot, considering access and services.

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

### **33.610.200 Lot Dimension Regulations**

Lots in the RF through R2.5 zones must meet the lot dimension regulations of this section.

**A. Purpose.** The lot dimension regulations ensure that:

- Each lot has enough room for a reasonably-sized house ~~and garage~~;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Lots that can be divided in the future without exceeding the maximum allowed density for the original land division site are of a size and shape to reasonably be divided;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with the planned intensity of the zone ~~existing lots~~;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services;
- Lots are not landlocked; and
- Lots are regularly shaped

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## Commentary

**Table 610-2**

The amendments to Table 610-2 address the following:

1. Adding lot dimension standards for land divisions that create lots for a cottage cluster. Cottage cluster is a housing type that was added with the Residential Infill Project, Part 2. That project inadvertently forgot to add lot dimension standards.
  
2. The lot dimension standards for the R2.5 zone are being added to the table to reflect the merger of the R2.5 zone into this chapter. The R2.5 zone standards shown as added in Table 610-2 are mostly unchanged from the standards that were in 33.611, except for the reduction in the minimum lot width and minimum front lot line standards for "all other lots". The reductions reflect the higher intensity anticipated for the R2.5 zone, and to further distinguish this zone from the R5 zone:

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



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

Notes:

[1] This dimensional standard is only allowed for lots that will be developed with attached houses.

[2] This dimensional standard is only allowed for lots that are located entirely outside the Constrained Sites overlay zone, have frontage on a maintained street or a private street that connects to a maintained street or a self-contained pedestrian connection created solely for pedestrians and bicycles, and will be developed with cottage clusters.

[32] See 33.930.100.A for how lot width is measured.

- B. Minimum lot area.** Each lot must meet the minimum lot area standard stated in Table 610-2. Lots that do not meet the minimum lot area standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. Other than as specified in this Subsection, adjustments are prohibited.
- C. Maximum lot area.** Lots larger than the maximum lot area standards stated in Table 610-2 are not allowed. Lots with a conditional use or Conditional Use Master Plan are exempt from ~~this~~the maximum lot area standard;

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## Commentary

### 33.610.200.D Minimum Lot Width

The minimum lot width standards are currently clear and objective. However, lot width can be reduced by meeting additional approval criteria. With the introduction of attached house lots, which allows lots as narrow as 15 feet wide in zones other than RF, there is no need to allow this added discretionary flexibility. Moreover, previous changes within the base zone development standards (33.110.260 Additional Development Standards for Narrow Lots) incorporated many of these additional requirements for narrow lots. Consequently, these criteria are being deleted. Instead, if further lot width reductions are proposed beyond the standards in Table 610-2, they can be requested through a planned development review, which can assess how the future development on that lot will function and fit.

- D. Minimum lot width.** Each lot must meet the minimum lot width standard stated in Table 610-2 ~~one of the following regulations~~. Lots that do not meet the standard ~~these regulations~~ may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. Other than as specified in this Subsection, adjustments ~~to the regulations~~ are prohibited.
- ~~1. Each lot must meet the minimum lot width standard stated in Table 610-2; or~~
  - ~~2. Minimum lot width may be reduced below the dimensions stated in Table 610-2, if all of the following are met:~~
    - ~~a. On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations;~~
    - ~~b. The minimum width for lots that will be developed with attached houses may not be reduced below 15 feet, and the minimum width for all other lots may not be reduced below 26 feet;~~
    - ~~c. If the lot abuts a public alley, then vehicle access must be from the alley;~~
    - ~~d. Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.250.C at the time of development;~~
    - ~~e. Lots that are less than 32 feet wide must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and~~
    - ~~f. Lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of Subparagraph D.2.d. As a condition of approval of the land division, the property owner must execute a covenant with the city. The covenant must:~~
      - ~~(1) State that the owner will develop the property without parking, and that a driveway for access to on-site parking may not be created in the future, unless it is in conformance with regulations in effect at the time;~~
      - ~~(2) Meet the requirements of Section 33.700.060, Covenants with the City; and~~
      - ~~(3) Be attached to, and recorded with the deed for the new lot.~~
- E. Minimum front lot line.** Each lot must have a front lot line that meets the minimum front lot line standard stated in Table 610-2. ~~Lots that are created under the provisions of Paragraph D.2 above, may reduce the front lot line to equal the width of the lot.~~ Lots that do not meet the minimum front lot line standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. Other than as specified in this Subsection, adjustments to this standard are prohibited.
- F. Minimum lot depth.** Each lot must meet the minimum lot depth standard stated in Table 610-2. Lots that do not meet the minimum lot depth standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. Other than as specified in this Subsection, adjustments to this standard are prohibited.

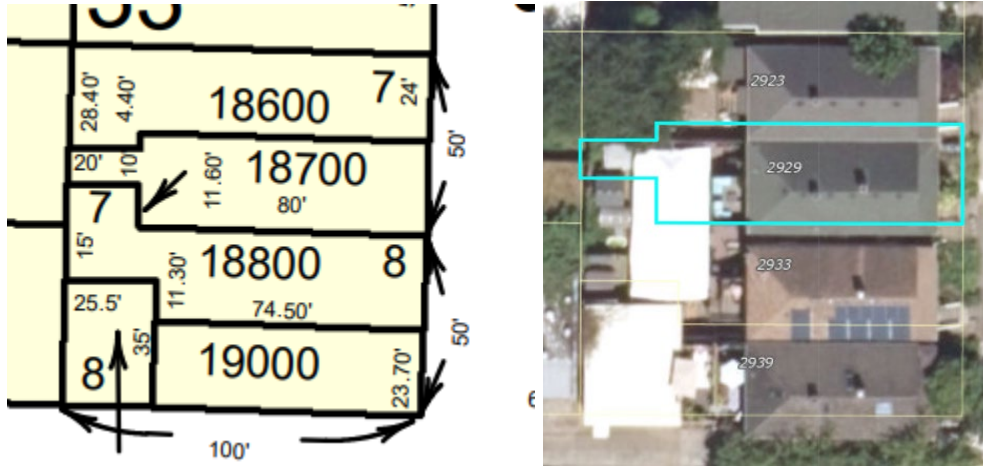
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## Commentary

### 33.610.200.G. Regular Lot Lines

Having regularly shaped lot lines is important when making minor improvements to a property without the benefit of a property survey or when permits are not required, like adding sheds or making landscape changes. Oddly configured lot lines creates confusion for future owners and residents.



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

It is unrealistic for all lot lines to be perfectly straight given the challenges of small infill land divisions, so criteria are available to consider issues like topography, site configuration, or existing development that may require some amount of reasonable line "jogging".

The regulation will not apply in the R20 or RF zones. These zones are likely to have much larger, irregular lot shapes making it difficult to establish straight lot lines. But also due to the larger lot sizes, inadvertent encroachments are less likely to occur.

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

**G. Regular lot lines.** Proposed lot lines in the R10 through R2.5 zones must meet one of the following regulations. Adjustments are prohibited.~~As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.~~

1. Standard. All lot lines must be straight and traverse in a single uniform direction except for lot lines that follow a zoning line, right of way, or boundary of a tract.
2. Approval criterion. As far as is practical, all lot lines must be straight and traverse in a uniform direction taking into consideration topography and other natural features, existing development, zoning, or other clearly identifiable boundary markers such as fences or hedgerows.

### **33.610.300 Through Lots**

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

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## Commentary

### 33.610.400 Flag Lots

The applicability statement is being deleted because it is redundant.

#### 33.610.400.D Minimum lot area

This amendment exempts the area of the pole portion of the flag lot from the maximum lot area standard—the pole is already excluded from minimum lot area. The amendment addresses situations that have in the past required an adjustment to the maximum lot area standard because the area of the pole made the lot too large. The pole doesn't count toward *minimum* lot area, to ensure that the flag portion of the lot is not unreasonably small. But the pole portion cannot be built on and shouldn't count toward maximum lot area either.

### 33.610.400 Flag Lots

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

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

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## Commentary

### **33.610.400.F. Vehicle Access**

The existing vehicle access requirement is discretionary. The words “where it is practical” are being deleted so that the requirement becomes a clear and objective standard. As amended, the standard requires that access between the flag lot and front lot share a common access point to the street.

To afford greater flexibility, the existing site-specific evaluation factors will be an approval criterion. Compliance with the criterion is determined as part of the land division review and will not require a separate adjustment.

### **33.610.500. Split zoned lots**

This amendment clarifies that the standard is referring to base zones as opposed to overlay zones.



**E. Minimum lot dimensions.**

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

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

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

**33.610.500 Split Zoned Lots**

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

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## Commentary

### 33.611 Lots in the R2.5 Zone

#### Summary of changes to this chapter:

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

## **33.611 Lots in R2.5**

**611**

### Sections:

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

### **33.611.010 Purpose**

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

### **33.611.020 Where These Regulations Apply**

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

### **33.611.100 Density Standards**

- A. Purpose.** ~~Density standards match housing density with the availability of public services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the return on public investments in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given applicable base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.~~
- B. Generally.**
  - 1. ~~The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial-width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial-width street, or dedicating right of way to widen an existing right of way.~~
  - 2. ~~To be eligible for maximum density A, the site being divided must qualify for a primary structure in conformance with 33.110.202, When Primary Structures are Allowed.~~
  - 3. ~~When lots will be created using both maximum density A and maximum density B, maximum density is calculated separately for the area being divided under each maximum density. When streets are created, density is calculated separately after deducting for streets.~~

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## Commentary

**C. ~~No street created.~~** Where ~~no street will be created as part of the land division,~~ the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited.

1. ~~Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed on the site:~~

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

2. ~~Minimum density. Minimum density is based on the zone and the size of the site and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:~~

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

**D. Street created.** Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Pedestrian connections that are self-contained streets created solely for the use of pedestrians and bicyclists are not considered streets for the purposes of calculating density under this subsection. Adjustments to this subsection are prohibited.

1. Maximum density. Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

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

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:

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

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## Commentary

<b>Table 611-1</b>	
<b>Maximum Density Standards</b>	
<b>R2.5</b>	
<p><b>Maximum Density A:</b>                      Maximum density for lots that:</p> <ul style="list-style-type: none"> <li>• <del>Will be developed with attached houses;</del></li> <li>• <del>Will be located outside the Constrained Sites overlay zone; and</del></li> <li>• <del>Will have frontage on a maintained street, a private street that connects to a maintained street, or a self-contained pedestrian connection created solely for pedestrians and bicycles.</del></li> </ul>	1 lot per 1,500 sq. ft.
<p><b>Maximum Density B:</b>                      Maximum density for all other lots</p>	1 lot per 2,500 sq. ft.

**E. ~~Exceptions to minimum density.~~** ~~Exceptions to minimum density standards are allowed in the following situations:~~

1. ~~If minimum density is equal to maximum density, then the minimum is automatically reduced by one;~~
2. ~~If minimum density is larger than maximum density then the minimum is reduced to one less than the maximum;~~
3. ~~The portion of the site that has a conditional use or Conditional Use Master Plan is not included in the site for calculations of minimum density.~~

**33.611.200 Lot Dimension Regulations**

~~Lots in the R2.5 zone must meet the lot dimension regulations of this section. Lots that do not meet these regulations may be requested through Planned Development Review Or, when the site is in an environmental overlay zone, as a modification through environmental review. Other than as specified in this Subsection, adjustments to the regulations are prohibited.~~

**A. ~~Purpose.~~** ~~The lot dimension regulations ensure that:~~

- ~~Each lot has enough room for a reasonably sized attached or detached house;~~
- ~~Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;~~
- ~~Each lot has room for at least a small, private outdoor area;~~
- ~~Lots are wide enough to allow development to orient toward the street;~~
- ~~Each lot has access for utilities and services;~~
- ~~Lots are not landlocked;~~
- ~~Lots don't narrow to an unworkable width close to the street;~~
- ~~Lots are compatible with existing lots while also considering the purpose of this chapter; and~~
- ~~Lots are regularly shaped.~~

**B. ~~Minimum lot area.~~** ~~Each lot must be at least 1,500 square feet in area.~~

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## Commentary



**C. ~~Minimum lot width.~~** Each lot must meet one of the following regulations:

1. ~~Each lot must be at least 36 feet wide; or~~
2. ~~Minimum lot width may be reduced to 26 feet if the following are met:~~
  - a. ~~An existing dwelling unit or attached garage is located on the site so that it precludes a land division that meets the minimum lot width standard of Paragraph C.1. The dwelling unit and attached garage must have been on the site for at least 5 years; or~~
  - b. ~~The side lot line of a lot that is less than 36 feet wide will not abut the side lot line of any other lot within the land division site.~~
3. ~~Minimum lot width may be reduced to 15 feet for a lot if the lot will be developed with an attached house.~~

**D. ~~Minimum front lot line.~~** Each lot must have a front lot line that is at least 30 feet long. Lots that are created under the provisions of Paragraph C.2. or C.3., may reduce the front lot line to equal the width of the lot.

**E. ~~Minimum lot depth.~~** Each lot must be at least 40 feet deep.

**F. ~~Regular lot lines.~~** As far as is practical, all lot lines must be straight and the side lot lines of a lot or parcel must be at right angles to the street on which it fronts, or be radial to the curve of a curved street.

### **33.611.300 Through Lots**

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

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

### **33.611.400 Flag Lots**

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

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

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

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

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## Commentary

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

### **33.611.500 Split Zoned Lots**

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

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## Commentary

### 33.612 Lots in multi-dwelling and IR zones

#### Summary of changes to this chapter:

- Add cottage clusters to the lot dimension standards in Table 612-1
- Consolidate lot dimension standards for houses, duplexes, triplexes, fourplexes and attached duplexes
- Revise lot dimension standards to be internally consistent
- Add minimum lot width standards to RM3 and RM4 to ensure more regularly shaped lots and to promote a better relationship between development and the street.

#### 33.612.100.A and B

These amendments add the housing type "attached duplex" to the of list of housing types that trigger the calculation of minimum density. Attached duplexes had been inadvertently left out of the list. Clarification is also added for the IR zone, since there are no applicable minimum density requirements in this zone.

#### 33.612.200.B Lot dimensions

The reference to Table 612-1 at the beginning of the subsection is being deleted because it is repeated in paragraph B.2.

##### 33.612.200.B.1

Table 612-1 is being amended to include lot dimensions for cottage clusters (see page 123). Cottage clusters include a maximum lot area standard, as a result, the word "minimum" is being deleted.

##### 33.612.200.B.2

The term "house" in the zoning code is defined as "a detached dwelling unit on its own lot". The word "detached" here is superfluous and is being deleted.

## 33.612 Lots in Multi-Dwelling and IR Zones

# 612

### Sections:

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

### 33.612.010 Purpose

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

### 33.612.020 Where These Standards Apply

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

### 33.612.100 Density

- A. **Single-dwelling development.** Except in the IR zone, ~~When~~ when a house, attached house, duplex, attached duplex, triplex, or fourplex is proposed for some or all of the site, the applicant must show how the proposed lots can meet the minimum density stated in Chapter 33.120. Site area devoted to streets is subtracted from the total site area in order to calculate minimum density.
- B. **All other development.** When development other than a house, attached houses, duplex, attached duplex, triplex, or fourplex is proposed, minimum density must be met at the time of development.

### 33.612.200 Lot Dimension Standards

- A. **Purpose.** These standards ensure that:
  - Each lot has enough room for development that meets all the requirements of the zoning code;
  - Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible.
  - The multi-dwelling zones can be developed to full potential; and
  - Housing goals for the City are met.
- B. **Lot dimensions.** ~~Minimum lot dimensions are stated in Table 612-1.~~
  - 1. ~~Minimum~~ Lot dimensions for lots that will be developed with residential structures are stated in Table 612-1.
  - 2. Nonconforming uses. Minimum lot dimensions for lots with nonconforming uses are the same as those for ~~detached~~ houses.

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## Commentary

### Table 612-1

There are several amendments to Table 612-1:

1. The minimum lot depth standards for lots in the RM3, RM4, RMP, and IR zones that will contain a multi-dwelling structure or multi-dwelling development are being reduced from 100 ft. to 70 ft.—the new minimum is consistent with the lot depth standard for lots in the RM2 zone that will contain the same type of development. This reduced depth provides greater flexibility.
2. Lot dimension standards for lots that will be developed with a cottage cluster are being added to the table because cottage clusters are an allowed housing type in the RM1 zones. The housing type was created with the Residential Infill Project, Part 2. However, lot dimension standards for land divisions in the RM1 zones were not created at the time. These amendments rectify that.
3. Attached duplexes are being moved to the lot dimensional requirements for houses and other middle housing types (duplex, triplex, fourplex). Attached house lots can be very narrow, and attempting to configure attached duplexes to be street-oriented on 10- to 15-foot-wide lots is impractical.
4. The minimum lot area requirement for attached house lots in the RM1 and RM2 zones is being established at 1,000 sq. ft. This provides greater flexibility for the RM1 zone (reduced from 1,500 sq ft), and applies a more consistent size standard between these zones for attached houses. In addition, a minimum lot width is being added for the RM3 and RM4 lots to promote rectangular lots with sufficient width to accommodate attached houses (10 ft., no side setbacks).
5. A minimum lot area requirement is being added for lots that will be developed with houses, duplexes, etc. And, a minimum lot width is being added for the RM3 and RM4 lots to promote rectangular lots with sufficient width to accommodate houses, etc. (20 ft., 5' side setbacks).
6. The requirements for triplexes and fourplexes are being merged with houses and duplexes to reduce complexity. The previous distinctions were very minor and did not ensure lots that could be reasonably developed with those housing types.

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

<b>Table 612-1</b>							
<b>Minimum Lot Dimensions Standards</b>							
	RM1	RM2	RM3	RM4	RX	RMP	IR (1)
<b>Lots to be developed with:</b>							
<b>Multi-Dwelling Structures or Development:</b>							
Minimum Lot Area	4,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	None	10,000 sq. ft.	10,000 sq. ft.
Minimum Lot Width	33 ft.	70 ft.	70 ft.	70 ft.	None	70 ft.	70 ft.
Minimum Lot Depth	70 ft.	70 ft.	<del>100</del> <u>70</u> ft.	<del>100</del> <u>70</u> ft.	None	<del>100</del> <u>70</u> ft.	<del>100</del> <u>70</u> ft.
Minimum Front Lot Line	30 ft.	70 ft.	70 ft.	70 ft.	10 ft.	70 ft.	70 ft.
<b><u>Cottage Clusters</u></b>							
<u>Minimum Lot Area</u>	<u>5,000 sq. ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Maximum Lot Area</u>	<u>40,000 sq. ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Lot Width</u>	<u>36 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Lot Depth</u>	<u>70 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>Minimum Front Lot Line</u>	<u>30 ft.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<b><u>Attached Houses and Attached Duplexes</u></b>							
Minimum Lot Area	<u>1,000 sq. ft.</u> <del>1,500 sq. ft.</del>	<u>1,000 sq. ft.</u> <del>None</del>	None	None	None	NA	None
Minimum Lot Width	15 ft.	15 ft.	<u>10 ft.</u> <del>None</del>	<u>10 ft.</u> <del>None</del>	None	NA	None
Minimum Lot Depth	None	None	None	None	None	NA	None
Minimum Front Lot Line	15 ft.	15 ft.	10 ft.	10 ft.	10 ft.	NA	10 ft.
<b><u>Detached Houses, Duplexes, and Attached Duplexes, Triplexes, and Fourplexes</u></b>							
Minimum Lot Area	1,500 sq. ft.	<u>1,500 sq. ft.</u> <del>None</del>	None	None	None	NA	None
Minimum Lot Width	25 ft.	25 ft.	<u>20 ft.</u> <del>None</del>	<u>20 ft.</u> <del>None</del>	None	NA	None
Minimum Lot Depth	None	None	None	None	None	NA	None
Minimum Front Lot Line	25 ft.	25 ft.	10 ft.	10 ft.	10 ft.	NA	10 ft.
<b><u>Triplexes and Fourplexes</u></b>							
Minimum Lot Area	<u>2,000 sq. ft.</u>	None	None	None	None	NA	<u>2,000 sq. ft.</u>
Minimum Lot Width	<u>33 ft.</u>	None	None	None	None	NA	None
Minimum Lot Depth	<u>50 ft.</u>	None	None	None	None	NA	None
Minimum Front Lot Line	<u>30 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>10 ft.</u>	NA	<u>30 ft.</u>

Notes:

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

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## Commentary

### 33.614 Lots in Employment Zones

#### Summary of changes to this chapter:

- Clarify an exception

#### 33.614.200 Exception

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



## 33.614 Lots in Employment Zones

**614**

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### 33.614.200 Exception

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

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## Commentary

### 33.615 Lots in Industrial Zones

#### Summary of changes to this chapter:

- Clarify an exception

#### 33.615.200 Exception

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

## 33.615 Lots in Industrial Zones

# 615

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### 33.615.200 Exception

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

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## Commentary

### 33.630 Tree Preservation

#### Summary of changes to this chapter:

- Create clear and objective tree preservation standards

The tree preservation regulations that apply as part of a land division review are important for supporting greater urban tree canopy. The land divisions requirements are very different from the tree preservation standards that apply as part of a building permit (when there is not an associated land use review for that lot). During a land division, decisions about lot configuration, size and location, along with decisions about where roads, services and open space tracts will be located can be made with the location of existing trees in mind. Designing the land division around the trees avoids impacting trees as much as possible. Consequently, the requirements for land divisions in Title 33 and the Title 11 tree preservation standards that apply at the time of development vary considerably.

This chapter is being amended to provide a clear and objective standards option while also recognizing the need for flexibility.

#### 33.630.020.C

This amendment adds the River Environmental overlay zone, which had been inadvertently omitted.

## 33.630 Tree Preservation

630

### Sections:

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

### 33.630.020 Where These Regulations Apply

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

### 33.630.030 Exempt From These Regulations

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

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

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## Commentary

### 33.630.100 Tree Preservation Standards

This section is being revised to be a stand-alone set of clear and objective tree preservation standards. If an applicant cannot or chooses not to meet the standards, then the approval criteria will apply.

These clear and objective standards provide certainty for applicants.

However, the tree preservation approval criteria offer more flexibility for balancing sometimes competing goals for tree preservation and development. When baseline preservation is not achievable, the criteria also offer guidance and flexibility for determining appropriate mitigation for the trees that are removed.

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

The option to utilize tree canopy area, in lieu of specific tree diameter, is being deleted from the standard options due to its lack of use over the years. It is also difficult to evaluate from an aerial image what canopy is associated with each particular tree.

Currently, the approval criteria apply in conjunction with the tree preservation standards. Together they work to ensure that tree preservation is maximized and that the healthiest trees on the site are preserved. Decoupling the standards from the criteria could result in retention of less healthy trees, or trees that provide fewer benefits. Therefore, the percentage of total tree diameter required to be preserved in standard options 1 through 4 have been increased by 10 percent. In reviewing land divisions approved over the past 5 years, staff has found that total tree diameter preserved nearly always exceed the current requirements, averaging between 48% and 85% tree diameter depending on the particular option that was selected. Out of 220 land divisions, 30 (13.6%) were unable to meet the current diameter thresholds, and only 10 (4.5%) would be unable to meet the higher standards. In applying the proposed higher rates to required mitigation, the increase would have resulted in an average of 1-2 additional inches of trees (planted or paid for) per lot.

The total tree diameter requirement for the tree grove option is not being increased in order to encourage use of this option, which has otherwise rarely been invoked.

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

### **33.630.100 Minimum Tree Preservation Standards**

- A. ~~The applicant must show how existing trees will be preserved.~~ The options listed below represent minimum tree preservation standards. At least one of the following tree preservation standards must be met. Adjustments to the standards are prohibited. For proposals that cannot meet at least one standard, the approval criteria stated in 33.630.200 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criteria stated in 33.630.200 instead of the standards. Additional tree preservation may be required to meet the approval criteria of Section 33.630.200. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Section 33.630.030, Trees exempt from these regulations. ~~The applicant must choose one of the following options:~~
  - 1. Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least ~~20~~ 30 percent of the total tree diameter on the site;
  - 2. Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least ~~25~~ 35 percent of the total tree diameter on the site;
  - 3. Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least ~~30~~ 40 percent of the total tree diameter on the site;
  - 4. Option 4: Where all trees are less than 20 inches in diameter, preserve at least ~~35~~ 45 percent of the total tree diameter on the site; or
  - 5. Option 5: If one or more tree groves are located ~~completely or partially~~ on the site, preserve all of the grove trees located on the site and at least 20 percent of the total tree diameter or canopy area on the site; ~~or~~
  - 6. ~~Option 6: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.~~

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## Commentary

### **33.630.100.B. Heritage Trees**

This amendment changes the reference from the Urban Forestry Commission to Portland Parks and Recreation more generally. The commission advises the urban forestry division of Portland Parks and Recreation. Title 11, administered by Portland Parks and Recreation, specifies the process for heritage tree removal.

### **33.630.100.C Calculations**

This subsection is being deleted for several reasons:

1. The tree inventory described in C.1.a. is the default method that is described in the land division application submittal requirements (33.730), therefore it does not need to be repeated here.
2. BDS recommended that the statistical sampling method allowed in C.1.b be deleted because it has been infrequently utilized.
3. The tree preservation option associated with tree canopy is being deleted, therefore C.2. is no longer necessary.

### **33.630.100.D. Location of preserved trees**

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



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

**~~C.~~ CD. Calculations.**

- ~~1.~~ 1. Tree diameter and number of trees. ~~When calculating the amount of tree diameter and the number of 20-inch diameter and larger trees on the site, the applicant may choose one of the following methods of measurement:~~
  - ~~a.~~ a. Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or
  - ~~b.~~ b. Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of trees at least 20 inches in diameter present. Sampling must be carried out by a professional forester based on standard methodologies.
- ~~2.~~ 2. Tree canopy. ~~When calculating the amount of tree canopy on the site, the total canopy area must be based on the most recent aerial photograph available. The aerial photograph used must be no more than 5 years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate.~~

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

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## Commentary

### **33.630.200 Tree Preservation Approval Criteria**

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

### **33.630.200.D. Mitigation**

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

### **33.630.200 Tree Preservation Approval Criteria**

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

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

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## Commentary

### **33.630.400.B.1.**

This amendment corrects an erroneous cross reference to a section in the multi-dwelling zones chapter that had been renumbered as part of the Better Housing by Design project.

### **33.630.500 Tree Preservation Credit**

These regulations allow applicants to count trees that are preserved in tree preservation tracts toward tree density requirements for development on individual lots (applied at time of building permit). The allowance requires that at least one tree be planted on each lot as a base minimum. With adoption of the Residential Infill Project, additional housing types are allowed on individual lots. This amendment ensures that each lot in the land division site will be required to plant or retain one tree per lot regardless of the type of development proposed.

Minor corrections are also being made to include the River Environmental overlay zone.

### **33.630.700 Relationship to other Tree Regulations**

This section is being deleted. The reference is superfluous and deleting it does not affect how other regulations of this or other titles relate to trees on land division sites.

### **33.630.400 Modifications That Will Better Meet Tree Preservation Requirements**

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

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

**B. Minimum Density.**

1. In multi-dwelling zones, minimum density may be reduced to preserve trees as stated in Paragraph 33.120.213-205.B.3. This provision may be used to reduce minimum density during the land division process. Sites that reduce minimum density at the time of the land division are not eligible to further reduce minimum density at the time of development on the lots.
2. A reduction in minimum density in single-dwelling zones may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.
  - a. Minimum density may be reduced by 20 percent or one lot, whichever is more, up to a maximum reduction of 4 lots. Reductions greater than those listed in this paragraph are prohibited.
  - b. The review body will approve the reduction in minimum density if the following are met:
    - (1) The reduction in minimum density will result in improved tree preservation, considering the tree preservation priorities for the site; and
    - (2) The lot or lots where trees are proposed to be preserved are not large enough to be further divided under the current zoning. Trees proposed for preservation may be placed in a tree preservation tract to reduce lot sizes and provide better protection for the trees to be preserved.

### **33.630.500 Tree Preservation Credit**

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

### **33.630.600 Recording Tree Preservation Plans and Related Conditions**

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

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

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

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## Commentary

### 33.631 Sites in the Combined Flood Hazard Area

#### Summary of changes to this chapter:

- Create a set of clear and objective standards for land divisions in all zones

#### 33.631.100 Flood Hazard Standards

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

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

Applicants for land divisions that are unable to meet these standards may opt to meet the approval criteria in 33.631.200 instead.

## 33.631 Sites in the Combined Flood Hazard Area

# 631

Sections:

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

### 33.631.010 Purpose

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

### 33.631.020 Where these ~~Approval Criteria~~ Regulations Apply

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

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

### 33.631.100 Flood Hazard Area Standards

All of the following standards must be met.

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

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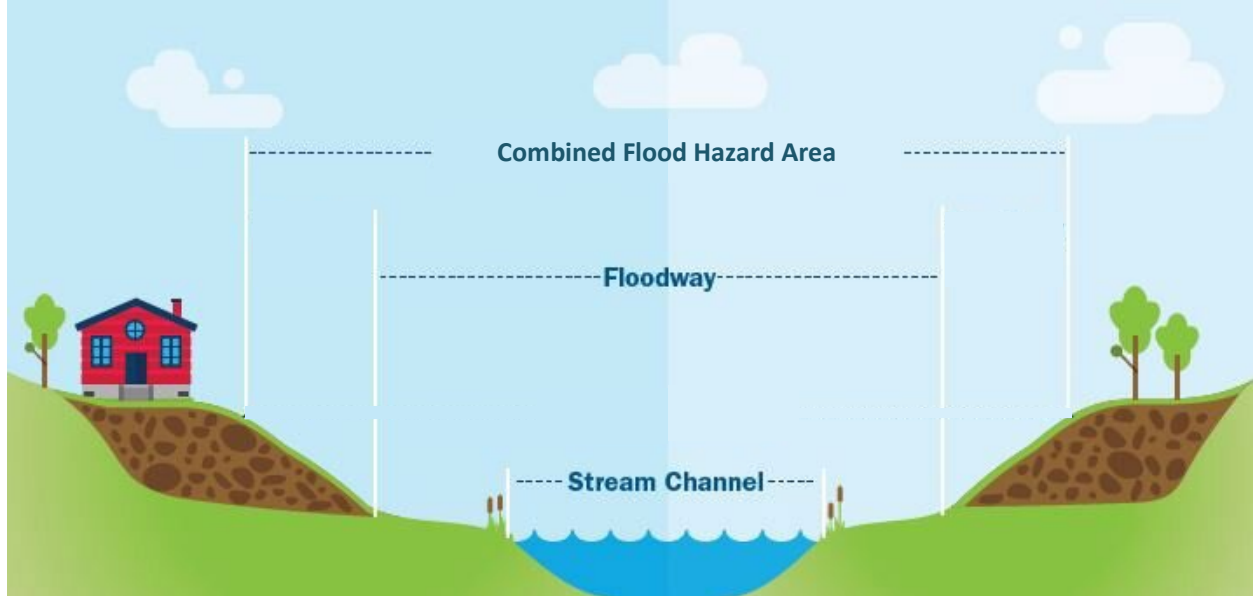
## Commentary

### 33.631.200 Flood Hazard Area Approval Criteria

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

These criteria are largely unchanged as they were recently amended through the Floodplain Resilience Plan project. However, paragraph A.2 includes a requirement that all *existing* and proposed building areas must be outside the combined flood hazard area. This was intended to restrict the ability to create a lot that was located entirely within the combined flood area when there was existing development on the lot. However, when applied, this would require either that the existing development be removed from the combined flood area, or that modifications to the site to alter the combined flood area be made. The criterion is being revised so that when there is existing development in the combined flood area, it may remain, but the lot in which it is located must have adequate area outside the combined flood area to enable redevelopment to occur outside the combined flood area.

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





### **33.631.1200 Flood Hazard Area Approval Criteria**

- A. RF through R2.5 zones.** The following criteria must be met in the RF through R2.5 zones:
1. Where possible, all lots must be outside of the combined flood hazard area; and
  2. Where it is not possible to have all lots outside of the combined flood hazard area, all ~~existing and~~ proposed lots must have adequate building areas ~~must be~~ outside of the combined flood hazard area.
- B. RM1 through RMP, C, E, I, IR, and CI zones.** The following criteria must be met in the RM1 through RMP, C, E, I, IR, and CI zones:
1. Each lot must have adequate area outside of the combined flood hazard area to accommodate allowed or proposed uses. This criterion does not apply to river-dependent uses; and
  2. Where the proposed uses and development are river-dependent, lots must be configured so that development on them will minimize obstruction of floodwaters.
- C. In all zones.** The following criteria must be met in all zones:
1. Services proposed in the combined flood hazard area must be located and built to minimize or eliminate flood damage to the services; and
  2. The floodway must be entirely within a flood hazard area tract unless river-dependent land-uses and development are proposed on the site.

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## Commentary

### 33.632 Sites in Potential Landslide Hazard Areas

#### Summary of changes to this chapter:

- Create clear and objective standards for land divisions in single-dwelling zones
- Update the potential landslide hazard area map and incorporated it into the zoning code

The purpose of the landslide hazard area regulations is to reduce the risk of private and public losses from landslides. The regulations achieve this by requiring a landslide hazard study and the application of approval criteria when a site is shown on the City's Potential Landslide Hazard Area map. The existing potential landslide hazard area map was created in 1997 following the 1996 storm events to ensure that land divisions in areas of potential landslides would be designed based on detailed knowledge of the site conditions. The 1997 map was based on the best available information at the time using a combination of sources to delineate potential landslide hazard areas. Since 1997, more accurate and detailed mapping, published by the State Department of Geology and Mineral Industries (DOGAMI), has become available. This project proposes to update the 1997 map with the more accurate information.

The existing potential landslide hazard map is both too broad—meaning it captures many sites that have no landslide hazard at all—and not broad enough—it excludes sites with actual landslides. These excluded areas include debris flow runout zones which, although not common, are a particularly high-risk type of landslide due to the speed of debris flows and their capacity for destruction. The landslide hazard area delineated on the updated potential landslide hazard map is significantly more accurate than the 1997 potential landslide hazard area map.

#### 33.632.020 Where these regulations apply

The clear and objective standards will apply to development in the single-dwelling zones. The scale and variety of development in other zones is too broad to be adequately addressed with a set of standards that largely defer to the Certified Engineering Geologist and Geotechnical Engineer's recommendations to address site suitability and slope stabilization. Sites in other zones will continue to be subject to the approval criterion.

## 33.632 Sites in Potential Landslide Hazard Areas

632

### Sections:

33.632.010 Purpose

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

33.632.100 Landslide Hazard Area Standards

~~33.632.100~~200 Landslide Hazard Approval Criterion

Map 632-1 Potential Landslide Hazard Area

### 33.632.010 Purpose

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

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

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

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## Commentary

### 33.632.100 Landslide Hazard Area Standards

A. The use of standards is limited to two lot partitions in single-dwelling zones. Two lot partitions don't require streets or significant service infrastructure, so there is less total development and public services at risk. There are 19,077 single-dwelling zoned, privately owned lots that have any amount of mapped landslide hazard area. Of those, nearly 80% are not considered dividable due to their lot size. Another 11% are dividable into only two lots. Only 8% of lots are potentially dividable into more than 2 lots. Minimum densities are also reduced by the amount of area that is constrained by potential landslide hazard area, which would allow these sites to still adhere to the standards, should choose not to seek meeting the approval criteria.

Amount of mapped landslide area	Total lots (single-dwelling)	Not dividable	%	Max 2 lots	%	Potentially dividable into 3 or more lots	%
>0%	19,077	15,146	79%	2,154	11%	1,539	8%
>25%	14,270	11,535	60%	1,553	8%	1,021	5%
>50%	12,981	10,609	56%	1,363	7%	876	5%
>75%	12,201	10,039	53%	1,249	7%	789	4%
100%	11,248	9,358	49%	1,120	6%	664	3%

B. The standards require that the applicant's Landslide Hazard Study, prepared by both a Certified Engineering Geologist and a Geotechnical Engineer, provides the rationale for concluding that the proposed development will not be impacted by or create slope instability and that the proposed development will not affect the existing slope stability for adjacent sites.

C. Onsite stormwater discharge (for example into drywells or sheet flow dispersion) can saturate the soil and cause or exacerbate landslide activity. These cases are better addressed through a detailed review per the approval criteria.

### 33.632.200 Approval Criterion

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

### **33.632.100 Landslide Hazard Area Standards**

- A.** The application is for a proposal of no more than two lots;
- B.** The applicant has submitted a Landslide Hazard Study that states:
  - 1. The location of proposed lots, buildings, services, and utilities has a very low likelihood of being negatively impacted by existing or potential slope instability; and
  - 2. The location of proposed lots, buildings, services, and utilities has a very low likelihood of creating slope instability or negatively impacting existing slope stability of adjacent sites, including sites directly across a street or alley from the site; and
- C.** No onsite stormwater disposal facility is proposed.

### **33.632.1200 Landslide Hazard Area Approval Criterion**

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

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

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## Commentary

### Map 632-1 Potential Landslide Hazard Area

The updated potential landslide hazard map will be added to zoning code. The current map was adopted by ordinance and does not currently live in the zoning code. This change will make it easier to reference the map and facilitates future updates to the map. Applicants, the public, and review staff will also be able to use Portland Maps to more easily identify whether a site is in the potential landslide hazard area and generally how much area is affected. **Review more detailed comparisons of the maps** on the project Map App: <https://www.portlandmaps.com/bps/land-division-code-update/#/map/>

The updated Potential Landslide Hazard Area map is a conglomeration of four DOGAMI datasets: Deep Landslide susceptibility (moderate and high from IMS-57, 2018); Landslide deposits (from SLIDO-4.4, 2021), Potentially Rapid Moving Landslides (IMS-22, 2002) and shallow landslide susceptibility (post processed using IMS-57 high susceptible areas.) To reduce the number of properties which would be unnecessarily included in the regulatory map, the high landslide susceptibility areas were reduced to include only areas where the overall neighborhood slope averaged 30 percent or greater. See Section III of this report for more information about the map methodology.

The difference in total area coverage between the existing and proposed regulatory maps is a net reduction of 5,465 acres.

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

<u>Affected SD zoned lots</u>	<u>Affected area SD zoned lots</u>	<u>No change</u>
Lots added=1,863	More area=1,261 lots	10,027 lots
Lots removed=12,141	Less area=6,095 lots	

Total existing regulated lots = 34,926  
lots (all zones)

Total updated regulated lots = 25,157  
lots (all zones)

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

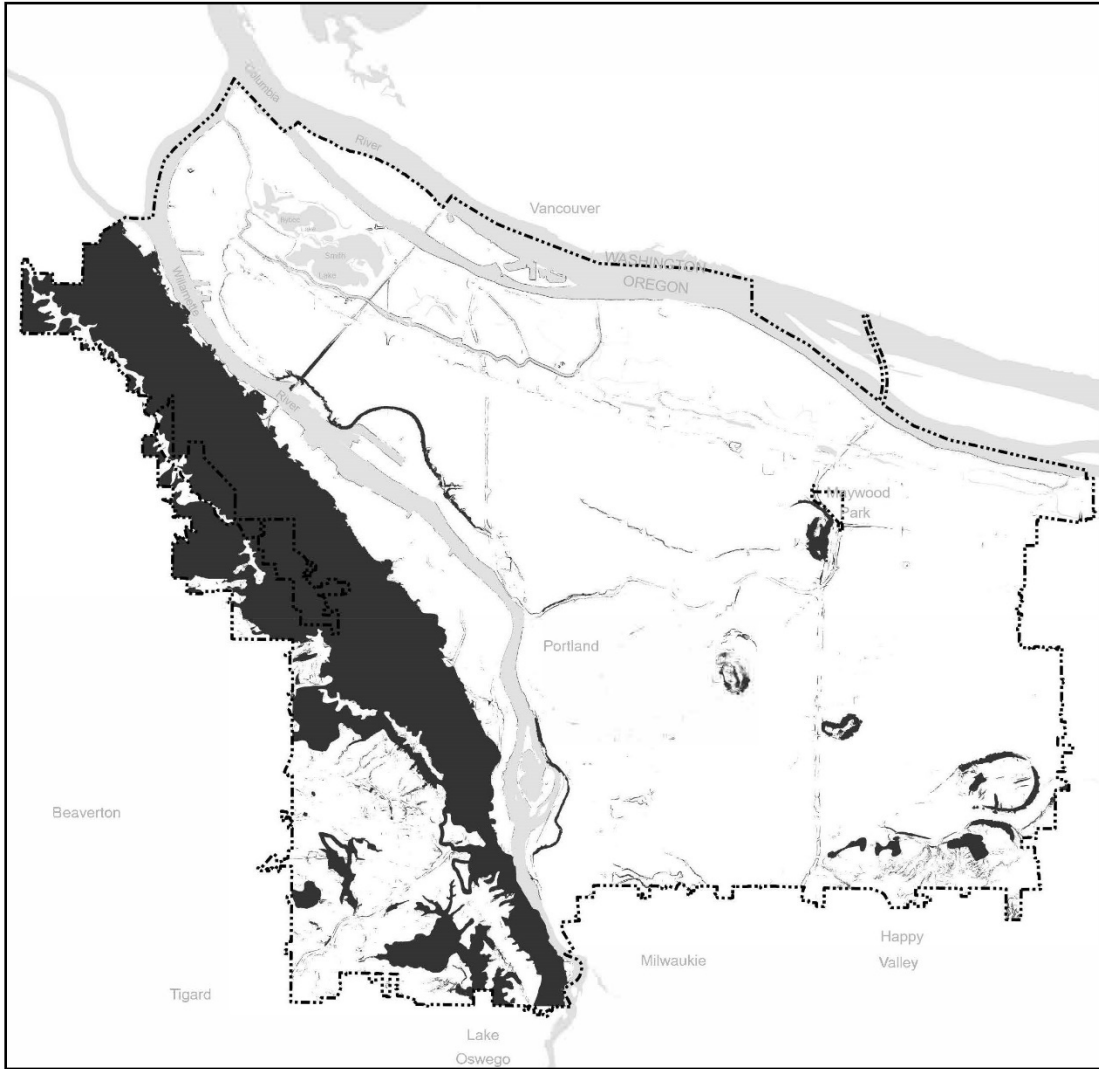


Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strikethrough~~

# Potential Landslide Hazard Area

# Map 632-1

Map revised Xxxxx X, 20XX



- - - - - Urban Service Boundary
- Potential Landslide Hazard Area



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## Commentary

### 33.633 Phased Land Divisions and Staged Final Plats

#### Summary of changes to this chapter:

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

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

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

A minor amendment clarifies that Pleasant Valley Natural Resource and River Environmental overlay zones are considered to be environmental overlay zones generally.



## 33.633 Phased Land Divisions and Staged Final Plats

633

### 33.633.100 Purpose

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

### 33.633.110 Where These Standards Apply

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

### 33.633.120 Phased Land Division Standards

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

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

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## Commentary

### 33.634 Required Recreation Area

#### Summary of changes to this chapter:

- Create standalone clear and objective standards
- Revise the threshold for applicability of the standards
- Revise minimum area dimensions

The regulations of this chapter are infrequently invoked primarily because large land division sites are less common within the city. Nevertheless, when a large site is divided, the required recreation area is an important component for building a new neighborhood.

Currently, the regulations require meeting both standards and approval criteria. The amendments to this chapter strengthen and clarify the clear and objective standards and delete the approval criteria. Exceptions to the standards may be requested through an adjustment.

#### 33.634.100 Where These Regulations Apply

The regulations of this chapter currently apply in the single-dwelling and multi-dwelling zones when at least 40 dwelling units are proposed, or when the minimum required density is 40 dwelling units in multi dwelling zones. With the relatively new allowance for up to 4 dwelling units (house, duplex, triplex, fourplex) on lots in the single-dwelling zones, application of this threshold is complicated because the total number of dwelling units that might be built on the site is generally not known at the land division stage. In other words, the choice to build one house or a fourplex is ultimately up to the property owner long after the land division has been approved. In addition, in the multi dwelling zones, 40 unit minimum density can apply to a very small site (e.g. 1 acre in RM3), which makes it impractical to meet other dimensional standards of the open area requirements. Also, the multi-dwelling base zones already include outdoor common area requirements for larger multi dwelling development projects.

This amendment changes the threshold for application of the regulations from 40 dwelling units to at least 40 lots.

## 33.634 Required Recreation Area

# 634

### Sections:

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

### 33.634.010 Purpose

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

### 33.634.100 Where These Regulations Apply

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

### 33.634.200 Required Recreation Area Standards

The following standards must be met:

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

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## Commentary

### **33.634.200.D.1**

The minimum required size of the recreation area tract is being reduced from 100x100 (10,000 sq ft) to 75x75 (5,625 sq ft) to provide more flexibility for siting the area. The total area required—10 percent of total site area—is not changing.

### **33.634.200.D.2.**

The location of required recreation area tracts is currently limited within environmental and flood hazard areas. This amendment clarifies that the Pleasant Valley Natural Resource and River Environmental overlay zones are also considered to be environmental overlay zones. Also, an additional limitation related to steeper slopes is being added to ensure that active recreation areas are appropriate for fields, sport courts, etc.

### **33.634.200.D.3.**

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

### **33.634.200.D.5.**

Currently, the approval criteria work with the standards to ensure the recreation areas are available and developed for recreation. The approval criteria will be deleted in favor of clear and objective standards. As such, the clear and objective portion of the improvement approval criterion has been incorporated here. The improvement standard now requires that both passive and active recreation uses be provided for within the recreation area, but do not require that need both to occur within each recreation area tract when there are multiple tracts.

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

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

**~~33.634.300 Required Recreation Area Approval Criteria.~~**

All of the following approval criteria must be met:

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

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## **Commentary**

### **33.635 Clearing, Grading, and Land Suitability**

#### **Summary of changes to this chapter:**

- Create a set of clear and objective grading standards for land divisions in residential zones
- Create a set of clear and objective land suitability standards for land divisions in residential zones

#### **33.635.020 Where These Requirements Apply**

This project is creating clear and objective standards for land divisions. In this case, the clearing and grading and land suitability clear and objective standards will apply only in residential zones. The existing approval criteria will continue to apply in commercial or industrial zones.

## 33.635 Clearing, Grading, and Land Suitability

635

### Sections:

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

### 33.635.010 Purpose

These regulations approval criteria:

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

### 33.635.020 Where These Regulations Approval Criteria Apply

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

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## Commentary

### **33.635.100 Clearing, Grading, and Land Suitability Standards**

Clear and objective standards have been added for land divisions in residential zones. Because the standards are clear and objective, and therefore less flexible in terms of considering various site characteristics and conditions, the standards for clearing and grading are more limited than the criteria by excluding sites that propose new vehicular streets, including more prescriptive limits on the amount of soil import or export, and limiting clearing and grading in areas of potential slope instability. If additional flexibility is required, the approval criteria may be followed.

#### **33.635.100.A.**

If the land division will create streets for vehicles, then the land division must meet the approval criteria. Clearing and grading for streets is more complicated and therefore difficult to effectively address through a set of inflexible standards. Parking for vehicles is no longer required, therefore building a street for vehicles is not strictly necessary. New lots that do not have frontage on a street for vehicles can be served by pedestrian connections or common greens.

#### **33.635.100.B.**

To limit the amount of soil that is removed from or imported to the site, a maximum of 10 cubic yards of soil may be removed from or deposited on the site (this is about 1 full dump truck). This helps limit the degree of total grading on the site, as well as capture sites that may need more extensive soil cleanup with criteria that can more effectively evaluate the extent of the required grading to ascertain what's "reasonably necessary".

#### **33.635.100.C.**

Limitations on grading:

- **Tree Preservation.** This standard requires that all clearing and grading activity be confined to areas outside the root protection zones. There are two ways to calculate root protection areas per Title 11: a prescriptive path (clear and objective) and a performance path (discretionary). To meet this standard, the RPZ is determined using the clear and objective prescriptive path method.
- **Areas with seeps, springs, streams, wetlands, and the floodway** require more specific detailed review of grading plans. Note that BES also regulates grading within their drainage reserve areas. When these drainage reserves do not have an accompanying seep, etc., grading in these drainage reserves would be allowed, so long as the remaining grading standards are also met.

#### **33.635.100.D.**

Sites that are located in a potential landslide hazard area pose potential elevated risks to public safety as a result of improperly designed or executed clearing and grading plans. This standard limits clearing and grading to areas of the site that are not hazardous or "no build" areas.



### **33.635.100 Clearing and Grading Standards**

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

- A.** No new alleys or streets are proposed unless the street is a pedestrian connection or common green.
- B.** No more than 10 cubic yards of soil will be removed from or deposited on the site;
- C.** No clearing or grading is proposed within:
  - 1. Root protection zones of trees to be preserved or offsite trees to be protected. For purposes of this standard, the root protection zones must meet the prescriptive path method described in Title 11, Trees;
  - 2. Streams, springs, seeps, or wetlands tracts or easements; or
  - 3. The floodway.
- D.** On sites where any portion of the site is within a Potential Landslide Hazard Area shown on Map 632-1, no clearing or grading is proposed in areas of the site identified in the applicant's Landslide Hazard Study as "Hazardous," "No Build," or as having a recommended building setbacks from a slope.

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## Commentary

### 33.635.150. Land Suitability Standards

The land suitability standards are intended to ensure that new lots can safely develop. The first standard addresses previous historic uses that are most associated with potential contamination. These land uses are more prone to have site contamination resulting from improperly contained disposal or in the case of firing ranges, lead from spent ammunition. These standards apply only in single-dwelling zoned sites, so it is unlikely that such uses ever existed but the standard is there in the case of non-conforming or long-abandoned uses.

Examples of uses in the industrial use category include:

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

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

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

**Railroad yards**

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

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

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

### **33.635.150 Land Suitability Standards**

The following standards must be met:

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

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

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

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

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

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

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## Commentary

### 33.636 Tracts and Easements

#### Summary of changes to this chapter:

- Clarify applicability of regulations to non-required easements

#### 33.636.100.B

In the past, applicants have proposed and shown easements on plats for items that are not required by the City. For example, a property owner may grant an easement to an adjoining neighbor for a fence encroachment. In cases such as this, the City does not want to require a maintenance agreement or be party to the easement because having the City involved can create issues later when the property owners vacate or change the terms of the easement. If the City is a party to these types of easement, then the City must review and approve the changes.

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

## 33.636 Tracts and Easements

# 636

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Sections:

33.636.100 Requirements for Tracts and Easements

### 33.636.100 Requirements for Tracts and Easements

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

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## Commentary

### 33.639 Solar Access

#### Summary of changes to this chapter:

- Delete this chapter.

The solar access approval criteria have been challenging to implement over time. Meeting the criteria often conflicts with other land division requirements such as street connectivity, tree preservation, minimum density, and lot dimensional requirements. In addition, many of the parts of town that routinely subdivide are forested or on north facing or steeply sloping sites where solar access is already impeded natural or topographical shading. It is also challenging for smaller land divisions (where there is not much variability in lot widths) and land divisions in high density areas (where proposed lots are very small) to meet the requirements.

As a result of these circumstances, the bulk of land division cases (60%) between July 2018 and December 2022 were exempt from meeting the solar approval criteria because they either did not propose single dwelling development or did not propose corner lots or lots across the street from each other. Another 31% were deemed impractical to meet the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's. Even in the few cases (9%) where the requirements have been applied, the outcome did not meaningfully improve solar access. In one case for example, it resulted in a corner lot that was 1 foot wider than the "narrowest" interior lot.

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

While the building code may be a more appropriate substitute for designing for solar access, to date, the state has not adopted these codes, possibly due to similar implementation challenges.

Solar-ready provisions for detached one- and two- family dwellings and townhouses was previously included as Appendix T in the 2018 International Residential Code. The state chose not to adopt this appendix in the 2021 Oregon Residential Specialty zone.

The 2021 Oregon Residential Reach Code includes some provisions regarding solar-residential construction, in Section N1107.4. However, these provisions are also not a requirement of the 2021 Oregon Residential Reach Code.

## **33.639 Solar Access**

**639**

### Sections

~~33.639.010 Purpose~~

~~33.639.020 Where These Approval Criteria Apply~~

~~33.639.100 Solar Access Approval Criteria~~

### **33.639.010 Purpose**

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

### **33.639.020 Where These Approval Criteria Apply**

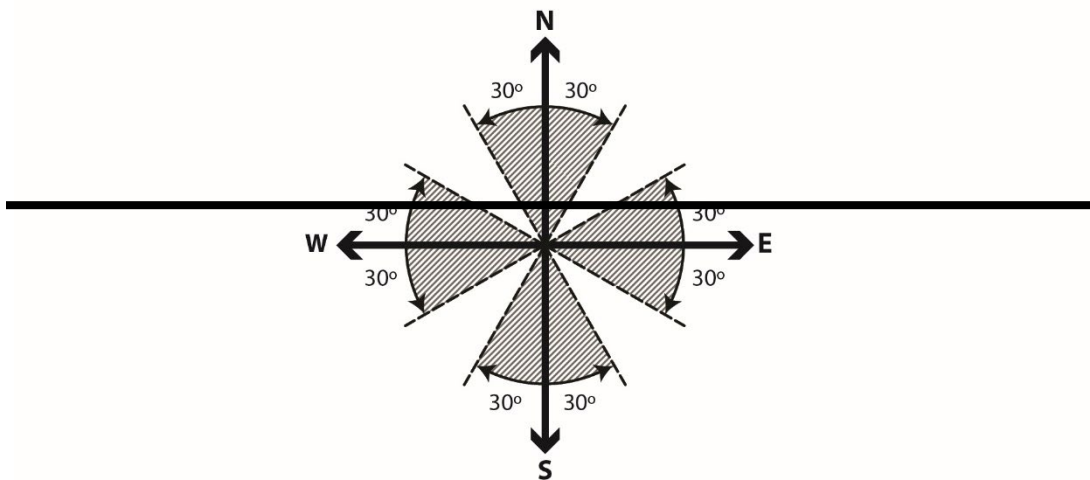
The approval criteria of this chapter apply to lots for single-dwelling detached development created as part of a land division proposal in all zones. Where it is not practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's,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

### **33.639.100 Solar Access Approval Criteria**

All of the following approval criteria must be met:

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

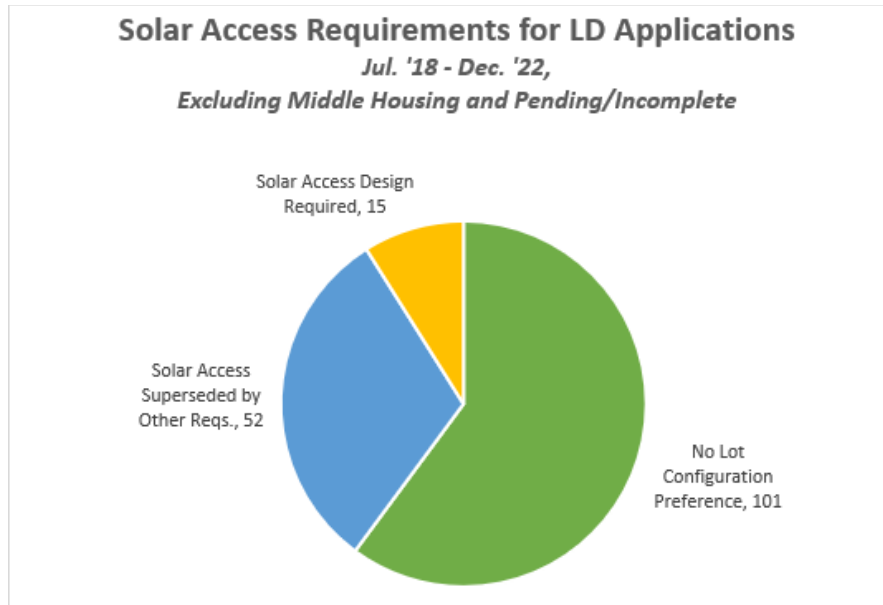
**Figure 639-1**  
**Axes within 30-Degrees of North-South and East-West**



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## Commentary



### **Solar Access Design Required**

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

### **Solar Access Requirements Superseded by Other Requirements**

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

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

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

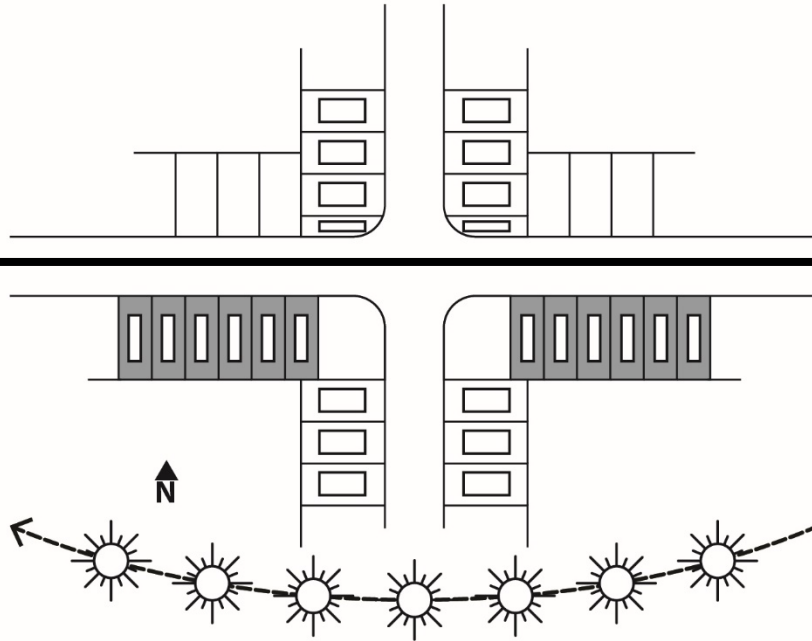
### **No lot configuration preference**

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

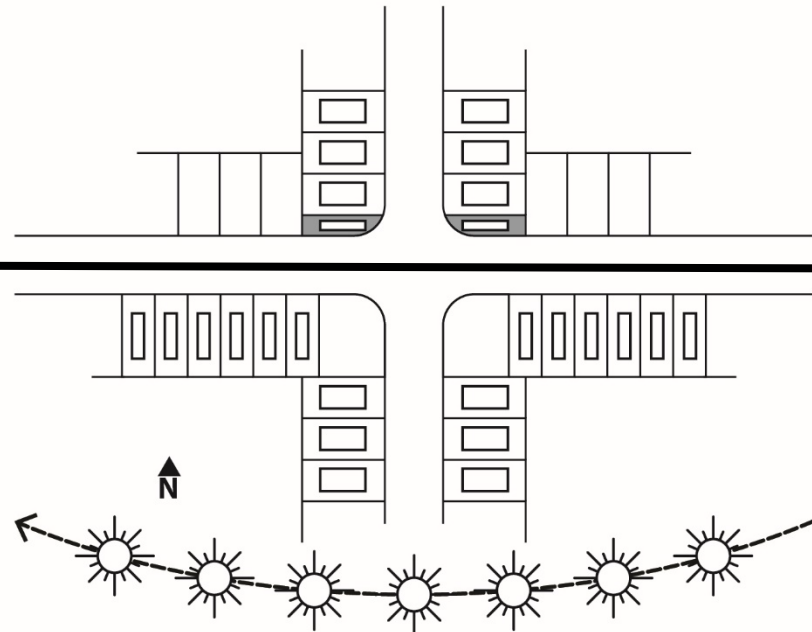


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Language to be **deleted** is shown in ~~strikethrough~~

**Figure 639-2**  
**Interior Lots on South Side of Street**



**Figure 639-3**  
**Corner Lots on North Side of Street**



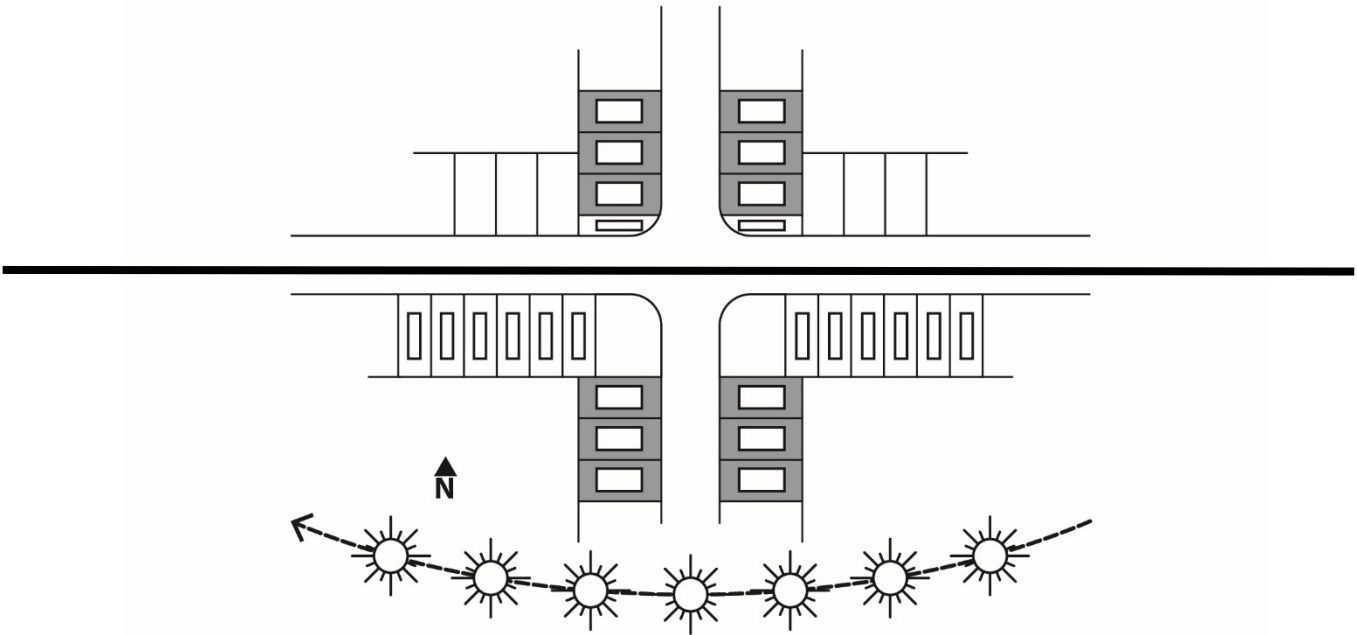
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## Commentary

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

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



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## Commentary

### 33.640 Streams, Springs, Seeps, and Wetlands

#### Summary of changes to this chapter:

- Minor amendments to reflect that minimum parking is no longer required
- Creating a clear and objective standard limiting right of way crossings

#### 33.640.100 Where these standards apply

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

#### 33.640.200.B.1

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

## 33.640 Streams, Springs, Seeps, and Wetlands

640

### Sections:

33.640.010 Purpose

33.640.100 Where These ~~Standards~~ Regulations Apply

33.640.200 Stream, Spring, Seep, and Wetland Regulations ~~Standards~~

### 33.640.010 Purpose

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

### 33.640.100 Where These ~~Standards~~ Regulations Apply

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

### 33.640.200 Stream, Spring, Seep, and Wetland Regulations ~~Standards~~

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

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## Commentary

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

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

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

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## Commentary

### 33.641 Transportation Impacts

#### Summary of changes to this chapter:

- Create clear and objective standards for land divisions in single-dwelling residential zones

#### 33.641.015 Where these regulations apply

The clear and objective transportation impacts standards have been tailored specifically for single-dwelling zones and multi dwelling zones where lots will only be developed with a house, duplex, triplex, or fourplex. Other zones or larger lots in multi dwelling zones allow for a broad range of development outcomes that cannot be adequately addressed by a limited set of standards. In single-dwelling zones and smaller multi dwelling zoned lots, lots can only be built with 1 and sometimes up to 4 units. In other situations, the number of units (and hence the potential for impacts to the transportation system) is limited only by floor area, and the specific number of units is not known until the development occurs. In commercial/mixed use zones, a wide variety of retail or professional service uses along with residential development can occur on any given site. And in employment and industrial zones, the types of vehicles going to and from a site can be altogether different from passenger vehicles. For these situations, and where a site cannot or chooses not to meet the standards, the approval criterion is available.

#### 33.641.100.A.

There are two options for meeting the number of lot standards. The first is prescriptive and sets the maximum number of lots at 10. Ten single-dwelling zoned lots can accommodate between 10 houses, 20 duplex units or up to 40 fourplex units. Per the Institute of Transportation Engineers (ITE), vehicle trip generation rates are lower for fourplexes (6.74 per unit) than they are for single-dwelling houses (9.43 per unit). The maximum trip generation rate (if built with all fourplexes) would total 269.6 trips. This option enables the greatest flexibility for future development on those lots. The second option is performance based. Larger land divisions with more lots can still meet the standards, when applicants propose other measures to effectively ensure trips remain at 250 trips or less. For example, proposing a 26 lot land division for single houses, or evaluating the site specific location of the subdivision to establish a local trip generation rate that may be different than the generalized ITE national rate. Based on the applicant's approach, this option could result in limitations on the type of development allowed on the lots.

#### 33.641.100.B.

This standard requires that access to the lots be from a local street or alley. This will ensure that turning conflicts are reduced and backing maneuvering is less of an issue. Driveways will still be need to meet Title 17 requirements at the time of development, but because parking is not required, there may be cases where driveway access would not be allowed due to sight or stopping distance requirements or unusual road geometry (e.g. blind curves).

If an applicant chooses to propose a specific development proposal (e.g. 26 house lots) or chooses to limit access, these outcomes may be recorded as conditions of approval for the lots and subsequent development.



## 33.641 Transportation Impacts

# 641

Sections:

33.641.010 Purpose

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

33.641.100 Transportation Impact Standards

~~33.641.020~~200 Transportation Impact Approval Criterion

### 33.641.010 Purpose

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

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

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

**A.** The standards stated in 33.641.100 apply to

1. Proposals for land divisions located entirely within a single-dwelling zone;
2. Proposals for land divisions located entirely within a multi-dwelling zone and where all the proposed lots only meet the lot dimension standards for houses, duplexes, attached houses, attached duplexes, triplexes or fourplexes; and
3. Adjustments to the standards are prohibited. For proposals that cannot meet the standards, the approval criteria stated in 33.641.200 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criteria stated in 33.641.200 instead of the standards.

**B.** The approval criteria stated in 33.641.200 apply to proposals for:

1. Land divisions located partly in a single-dwelling zone and partly in another zone;
2. Land divisions located entirely in multi-dwelling zones where at least one lot meets the lot dimension standards for multi-dwelling structures, multi-dwelling development, or cottage clusters;
3. Land divisions located partly in multi-dwelling zones and partly in another zone; and
4. Land divisions in the OS, C, E, I, CI and IR zones.

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## Commentary

### **33.641.200 Transportation Impacts Approval Criterion**

The term "on street parking impacts" is being deleted from consideration as part of this approval criterion. The relationship between off-street and on-street parking was more critical when the zoning code had off-street parking minimums. However, with the recent adoption of the Parking Compliance Amendments Package in compliance with state rulemaking, the City no longer requires minimum on-site parking. Because the zoning code no longer requires on-site parking, requiring an analysis of a proposed developments impact to on street parking can be problematic, because there is no policy or code mechanism to mitigate that impact with off-street parking.

### **33.641.100 Transportation Impact Standards**

- A.** Number of lots.
1. No more than 10 lots are proposed; or
  2. 11 or more lots are proposed and:
    - a. The application includes a specific development proposal for all the proposed lots that will generate no more than 250 net new vehicle trips per day as demonstrated in the applicant's transportation impact study; and
    - b. The applicant has agreed to construct any improvements and mitigation measures recommended by the transportation impact study in order to remain below the trip generation rate threshold.
- B.** Each lot must meet one of the following:
1. Vehicle access to the lot will be solely from a local service street or alley, and the proposed driveway meets Title 17.28.110; or
  2. The applicant has proposed that there will be no vehicle access to the lot.

### **33.641.020200 Transportation Impact Approval Criterion**

- A.** The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, ~~on-street parking impacts~~, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.~~020200~~.B.
- B.** Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

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## Commentary

### 33.651 Water Service

#### Summary of changes to this chapter:

- Make clarification to the water service standard
- Remove unnecessary cross reference

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

#### 33.651.020.A

This technical standard is being amended to clarify that the verification is based on existing and proposed water facilities.

#### 33.651.020.B

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

#### 33.651.030 Environmental Zones

This reference is unnecessary. The requirements of 33.430 already specify the applicable service regulations for services within environmental overlay zones.

## 33.651 Water Service

# 651

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### Sections:

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

### **33.651.010 Purpose**

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

### **33.651.020 Water Service Standard**

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

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

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

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

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## Commentary

### 33.652 Sanitary Sewer Service

#### Summary of changes to this chapter:

- Make clarifications to the sanitary sewer service standard
- Remove unnecessary cross reference

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

#### 33.652.020.A

This technical standard is being amended to clarify that the verification is based on existing as well as any proposed sanitary sewer facilities.

#### 33.652.020.B

Updating the reference to the new Sewer and Drainage Facilities Design Manual

#### 33.652.020.C

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

#### 33.652.020.D

The creation of lots can potentially lead to services for existing development crossing over new lot lines, or otherwise removing the availability of that service. In these cases, a new service line may be required, or when approvable, an easement must be created for the existing service. In the case of septic systems, a secondary drainfield location or the existing drainfield must not end up on an adjacent lot.

#### 33.652.030 Environmental Zones

This reference is unnecessary. The requirements of 33.430 already specify the applicable service regulations for services within environmental overlay zones.

## 33.652 Sanitary Sewer Disposal Service

652

### Sections:

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

### 33.652.010 Purpose

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

### 33.652.020 Sanitary Sewer Disposal Service Standards

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

#### A. Availability of sanitary sewer.

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

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

#### C. Private sanitary sewage disposal. Where private on-site sanitary sewage disposal is proposed, BDS ~~and Environmental Services have~~ has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system. The approval is based on Oregon Administrative Rules Chapter 340, Division 071.

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

### 33.652.030 Environmental Overlay Zones

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

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## Commentary

### **33.653 Stormwater Service**

#### **Summary of changes to this chapter:**

- Make clarifications to the sanitary sewer service standard
- Remove duplicative approval criteria
- Remove unnecessary cross references

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

#### **33.653.010 Purpose**

The purpose statement is being amended to delete references to approval criteria, which are being deleted.

#### **33.653.020 Stormwater Approval Criteria.**

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

#### **33.653.020.A.**

Updating the reference to the new Sewer and Drainage Facilities Design Manual

#### **33.653.020.B.**

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



## 33.653 Stormwater Management

653

### Sections:

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

### 33.653.010 Purpose

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

### 33.653.020 ~~Stormwater Management Approval Criteria~~

Stormwater management must meet the following approval criteria:

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

### 33.653.030 ~~Stormwater Management Standards~~

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

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

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## Commentary

### **33.653.020.B. Ownership and maintenance.**

PBOT does not allow stormwater facilities that serve lots to be located in the public right of way. They may, however, be located in private rights of way or integrated with private street stormwater systems. Because the term "right-of-way" encompasses both public and private streets, the standard is being amended to clarify that stormwater facilities can only be located in private street tracts.

In addition, the reference to maintenance requirements being addressed in CC&R's is being deleted as this provision is rarely invoked.

### **33.653.020.D. Availability of services**

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

### **33.653.040 Environmental Zones**

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

**BC.** Ownership and maintenance.

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

**CD.** Driveways may cross stormwater tracts and easements.

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

**~~33.653.040 Environmental Overlay Zones~~**

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

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## Commentary

### 33.654 Rights of Way

#### Summary of changes to this chapter:

- Add clear and objective standards for right of way connectivity
- Clarify that the design of public streets (width and configuration of elements) is a technical decision
- Add new and clarify existing private street standards
- Allow shared courts in single-dwelling zones

### 33.654.110 Connectivity and Location of Rights of Way

This section is being reorganized to create a set of clear and objective standards, applicable to all land divisions except land divisions in industrial zones. The new standards will be distinct from the approval criteria—applicants for land divisions in non-industrial zones may choose to meet the standards or opt to meet criteria in lieu of standards.

The existing connectivity requirements implement requirements in the State Transportation Planning Rule (OAR 660-012), the Metro Regional Transportation Functional Plan (3.08), and the 2035 Comprehensive Plan policies in Chapter 9. The existing criteria evaluate a number of considerations to make determinations of whether a through street or pedestrian connection is required and practicable.

The new clear and objective standards focus on creating street connections. When a full street connection is required per the standards, but is not possible due to any number of site-specific circumstances, an applicant may seek to meet the criteria, including proposals for pedestrian connections where full street connections are prevented. The criteria may also look more holistically at the site and surrounding area to identify other solutions for connections that may differ from how the clear and objective standards would apply.

#### 33.654.110.A. Purpose

The purpose statement is being broadened to include benefits of a well-connected street system for reducing vehicle miles travelled and congestion, which in turn helps reduce carbon emissions and pollutants that can enter a waterway through runoff. In addition, connected streets enable efficient provision of emergency services and help to disperse traffic more evenly by offering multiple route choices.

#### 33.654.110.B. Where these regulations apply

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

## 33.654 Rights-of-Way

654

### Sections:

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

### 33.654.010 Purpose

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

### 33.654.020 Where These Regulations Apply

The regulations of this chapter apply to all land divisions.

### 33.654.110 Connectivity and Location of Rights-of-Way

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

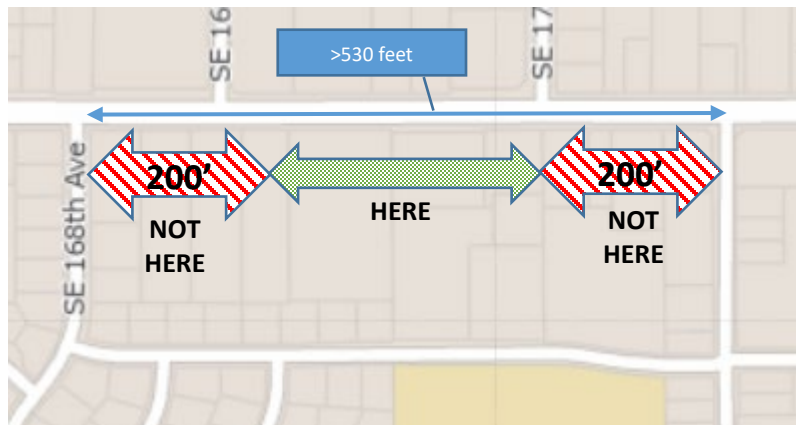
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## Commentary

### 33.654.110.C.1.a

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



There are many other reasons why a through street may not be appropriate or practicable, or a pedestrian connection may better suffice. These can all be weighed and evaluated through the approval criteria in Subsection D.

### 33.654.110.C.1.b.

In order to apply the clear and objective street spacing standard, more guidance is being added to determine how that spacing is measured.

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



**C. Standards.**

1. Through streets.

a. Through streets must be provided where there is more than 530 feet between through streets unless the entire site frontage is within 200 feet of the closest intersecting edge of a through street.

b. Measuring the distance between through streets.

(1) For the purposes of this standard, the distance between through streets is measured from the closest intersecting edge of the through street, partial through street, or self-contained pedestrian connection right of way in one direction along the shared block frontage, to the closest intersecting edge of the through street partial through street, or self-contained pedestrian connection right of way in the opposite direction along the shared block frontage.

(2) Dead end streets are not included in measurements between through streets or pedestrian connections.

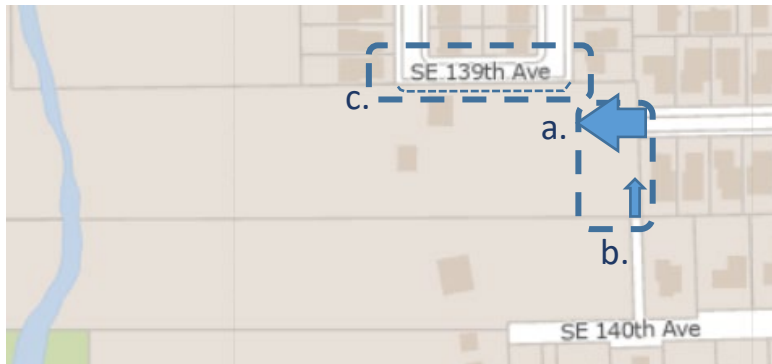
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## Commentary

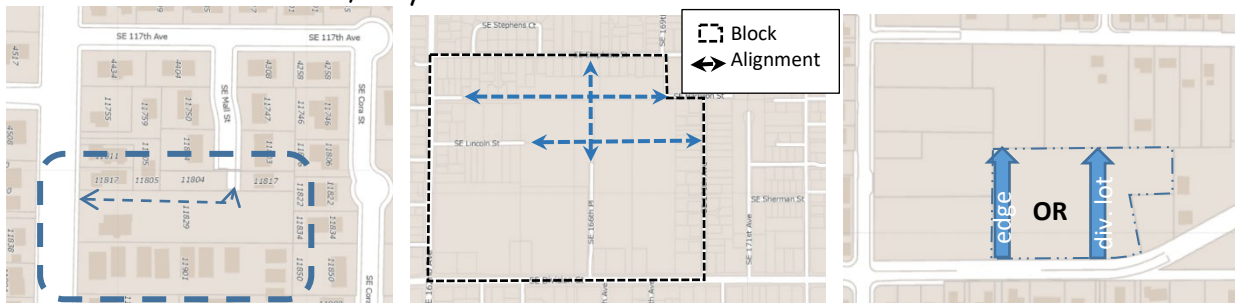
### 33.654.110.C.2. Partial through streets and ped connections

Whether or not a through street is required per C.1, improving connectivity includes completing through street and pedestrian connections that were started on adjacent sites. Partial streets are created when streets will be completed in stages on more than one site. When a partial street or pedestrian connection is expected to extend across or onto a site, this standard requires that the portion of that connection be provided (for example extending streets or pedestrian connections like in a. or b., or widening the half street in c. below)



### 33.654.110.C.3. Location

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



a. Connect two ROW's

b. Align with streets in the block

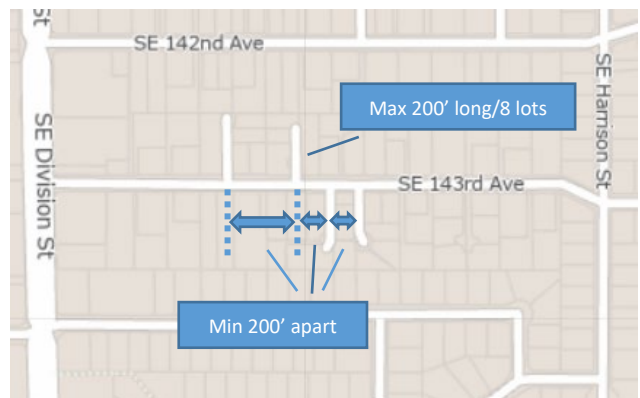
c. Extend to serve adjacent lots

### 33.654.110.C.4. Dead-end street

When a through street is not required a dead-end street may be provided. These dead-end streets are limited in length, and number of lots. Temporary turnarounds may be required as part of the design approval.

### 33.654.110.C.5. Alleys

Alleys do not replace through streets, but they can be proposed to provide alternative vehicular access.





2. Partial streets and partial pedestrian connections.

- a. Where the block includes a partial through street and where a straight-line extension of the partial through street would bring the street onto the site, a partial through street is required;
- b. Where the block includes a partial pedestrian connection and where a straight-line extension of the partial pedestrian connection would bring the connection onto the site, a partial pedestrian connection is required; and
- c. Widening a partial street is required where a street that is not improved to its full design width borders the edge of the land division site.

3. Location.

- a. Through streets. When a new through streets or an extension of a partial through street is required, the street must:
  - (1) Connect two or more streets when the site is abutting more than one through street or partial through street;
  - (2) Be in alignment with partial through streets within the same block as the land division site; and
  - (3) Extend to the boundary of the site to provide future access to adjacent sites, either by terminating at a dividable lot or locating along the edge of the land division site.
- b. Pedestrian Connections. When a partial pedestrian connection is required by 2.b, the pedestrian connection must:
  - (1) Complete the connection between two or more streets when the existing pedestrian connection abuts the site; and
  - (2) Be in alignment with partial pedestrian connections within the same block as the land division site.

4. Dead-end streets.

- a. Dead-end streets may be provided where through streets are not required. Public dead-end streets may not exceed 200 feet in length or abut more than 8 lots within the land division site and must be at least 200 feet from any other public dead-end street.
- b. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site to provide future access to the adjacent sites. For the purposes of this standard, “may be divided” does not include middle housing land divisions.

5. Alleys. Alleys may be provided in addition to required streets to accommodate alternative vehicular access to proposed lots.

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## Commentary

### **33.654.110.D.1. Through streets and pedestrian connections.**

When a proposal cannot meet or chooses not to meet the clear and objective standards, the approval criteria will apply.

Several site-specific factors may make compliance with the through street standard infeasible (e.g., topography, existing development, lot patterns, sensitive environmental areas, freeways or rivers). However, it is not possible to create clear and objective standards that will meaningfully address all these site-specific considerations. For example, a through street may not be practicable due to the nature of the slope on the site, or whether there is development on adjacent parcels that would preclude continuation and completion of the through street. These are circumstances that can only be evaluated on a site-by-site basis and with discretion to determine if a through street or pedestrian connection will work. The criteria are designed to weigh those considerations and allow for more flexible solutions.

This criterion is largely unchanged with two minor technical amendments:

- Adding missing reference to the River Environmental overlay zone
- Updating the reference to the Transportation Element of the comprehensive plan.

**D.B. Approval criteria.**

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

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## Commentary

### 33.654.110.D.2. Dead end streets

The amendments to this Paragraph include:

- Increasing the number of dwelling units that can generally be accessed from a dead-end street from 18 to 25 in conformance with Metro's Regional Transportation Framework (Metro Chapter 3.08, Title 1 specifies a 200 foot limit on length and 25 unit maximum for dead end streets). Since this is an approval criterion, additional lots/units may be allowed. Likewise, the length of new dead-end streets should generally not be more than 200 feet, but for some sites or sites at the end of existing dead-end streets, longer dead-end streets may be the only practical alternative for access.
- Moving the approval criterion related to future extensions of dead-end streets and pedestrian connections from 33.654.130.D to this subsection. The criterion has not been amended, just moved, and is the counterpart to the standard in 33.654.110.C.4.b.

2. Dead-end streets in OS, R, C, E, CI, and IR zones.
  - a. In OS, R, C, E, CI, and IR zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than ~~1825~~ dwelling units. Public dead-end streets should generally be at least 200 feet apart.
  - b. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. Options for access and street locations must consider the characteristics of adjacent sites, including terrain, the location of existing dwellings, environmental or Pleasant Valley Natural Resource overlay zoning, streams, wetlands, special flood hazard areas, and tree groves. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:
    - (1) The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan;  
or
    - (2) The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.
3. Pedestrian connections in I Zones. In I zones, pedestrian connections to all Regional Transitways, Major Transit Priority Streets, Transit Access Streets, Community Transit Streets, Off-Street Paths, and recreational trails within 1,300 feet of the site are required where appropriate and practicable. The connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible. Only the portion of the pedestrian connection that is on the land division site is required.
4. Alleys in all zones. Alleys may be required where the provision of an alley is appropriate-to mitigate transportation or development impacts. Alleys may be appropriate to move garage access away from busy streets, reduce the number of driveways crossing sidewalks, provide alternative locations on the site for parking, limit the number of garage doors facing the street, and maintain on-street parking. Where alleys are not required, applicants may choose to provide them.

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## Commentary

### **33.654.120.B. Public streets**

Since the Land Division Code Rewrite project was adopted and implemented in 2002, PBOT has developed specific technical design requirements for streets in land division and other development situations. These newer requirements establish standard street widths and identify which elements (e.g. roadway, parking, sidewalks, street trees, stormwater, bike lanes) are to be incorporated into each specific type of right-of-way. PBOT also has a separate alternative review process to review variances to street widths and designs that provide flexibility for unique circumstances and characteristics of a particular site, such as topography, existing development and/or environmental features. PBOT bases these determinations on the Transportation System Plan, Title 17, and several administrative rules developed to support its decision making.

Rather than attempt to replicate all of the technical standards and processes into the zoning code, this amendment makes decisions about the design of the public right-of-way a technical decision, in the same way decisions about sanitary sewer, water, and stormwater service requirements are technical decisions. Technical decisions are those made by reviewers with the technical training and expertise to evaluate and approve the design of infrastructure services.

This amendment also clarifies that land division frontage improvements are also evaluated with the land division proposal.

### **33.654.120.C. Private streets**

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

### 33.654.120 Design of Rights-of-Way

- A. Purpose.** The purpose of these standards and approval criteria is to ensure that the vehicle, bicycle, and pedestrian circulation system is designed to be safe, efficient, and convenient.
- B. ~~Non-local~~Public streets standards.** For public streets and public alleys, ~~streets other than local service streets~~, the ~~Office~~Bureau of Transportation has preliminarily approved the right-of-way width and ~~all~~the design and configuration of elements within the street-right-of-way including frontage improvements.
- C. Private streets.** The following regulations apply to the design of private streets and private alleys. The Bureau of Development Services is authorized to develop and maintain administrative rules for the width and the design and configuration of elements within a private street:
1. Width of the right-of-way. Private rights-of-way must meet the width standard stated in Subparagraph C.1.a. If the proposal cannot meet the standard, the applicant can choose to meet the approval criterion in Subparagraph C.1.b. Adjustments are prohibited:
    - a. Standard. The proposed private right-of-way must meet the applicable minimum width standards stated in the Permanent Administrative Rules for Private Rights of Way. Wider private rights of way may be proposed.
    - b. Approval criterion. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, the length of the street, and the number of housing units served by the street.
  2. Configuration of elements. For all private rights-of-way, the Bureau of Development Services has preliminarily approved the design and configuration of elements within the right-of-way in conformance with relevant administrative rules and the standards in Paragraph C.3.

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## Commentary

### **33.654.120.C.3. Additional design standards for private right-of-way**

These standards are largely adapted from the existing standards in 33.654.120.C.

#### **33.654.120.C.3.a. Turnarounds.**

This standard is largely adapted from section 33.654.120.C.3.a. The discretionary approval criteria related to permanent turnarounds are being deleted in favor of clear and objective standards. In addition, the standards and approval criteria related to temporary turnarounds are being deleted because temporary turnarounds only occur on public streets and are determined through the public street design manual and admin rules.

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

#### **33.654.120.C.3.b. streets (other than shared courts, common greens, or pedestrian connections)**

The additional standards for private streets were consolidated from several sources:

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

On street parking exceptions are currently enumerated in the admin rule III.G.1.a(2) and (5), but are being incorporated here for improved transparency.



3. Additional design standards for private rights-of-way:

a. Turnarounds.

- (1) Purpose. A turnaround is a type of junction that allows traffic traveling in one direction on a road to safely and efficiently reverse course and travel the opposite direction without the need to back up long distances.
- (2) Standard. A turnaround is required on a dead-end street in the following situations. Turnarounds are not required on a common green:
  - The street will serve 4 or more lots;
  - When required by the City Engineer to ensure forward egress onto a non-local street;
  - When the street is at least 300 feet long;
  - When the street is longer than 150 feet and the street is needed to meet the Fire Bureau requirements for fire emergency access; or
  - When the street is longer than 100 feet and the lots will each have curbside garbage and recycling service.

b. Streets.

- (1) Purpose. A private street provides access to new lots in a land division site, where public street access is not possible or practical. A private street provides access for a limited number of motor vehicles, bicycles, and pedestrians, and often provides a route for private and public utility connections. In some circumstances a private street must also accommodate larger vehicles, such as fire trucks, delivery trucks, or garbage/recycling trucks. By preventing through traffic and limiting the number of lots that are served, private streets have fewer users, reducing the impacts on maintenance and allowing for reduced right of way widths.
- (2) Standards for streets other than shared courts, common greens, or pedestrian connections:
  - A private street must be a dead-end street;
  - Up to 8 lots within the land division site may abut a private street;
  - The Fire Bureau has approved the land division for emergency access;
  - Except as allowed by C.3.b(3), in residential zones, one on-street parking space is required for every two lots proposed.

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## Commentary

### **33.654.120.C.3.c. Shared courts**

Shared courts are low-traffic, reduced-speed streets that combine vehicular and pedestrian areas. The design of shared courts incorporates multiple features (parking, roadway, pedestrian circulation, traffic calming, and amenities) within a combined space. These shared court standards are being moved here from several locations in the code:

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

Note that 33.654.120.G.2.a, which limits shared courts to non-single-dwelling zones, is being deleted in order to allow them in single-dwelling zones. Also, provisions that limit lots on shared courts to development of a house with ADU or a duplex are being moved from this chapter to the residential base zones (see 33.110.263 and 33.120.282).

(3) On street parking exceptions. There are two exceptions to the requirement for on-street parking in C.3.b(2). One is a standard and one is an approval criterion:

- Standard exception. On-street parking is not required when
  - The street is less than 300 feet in length;
  - No more than 3 lots within the land division site have a front lot line on the street; and
  - The lots with a front lot line on the street are developed with no more than two dwelling units each.
- Approval criterion. On-street parking may be reduced or waived when a site-specific parking analysis is provided demonstrating that adequate parking will be available. The analysis must include information regarding expected on-street parking demand on the private street based on allowed densities, access to alternative modes of travel, availability of parking in the area, feasibility of providing parking on the lots, and how visitors and deliveries will be accommodated.

c. Shared courts.

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

(2) Standards:

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

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## Commentary

### 33.654.120.C.3.d. Common greens

The common green standards are being moved from several locations in the code and incorporating some existing administrative rule requirements:

- Length: The existing BDS administrative rules state that the number of lots is not limited. Because there is no vehicular traffic on a common green, there is not impact on traffic safety in relation to the length of this type of street.
- Dead end: Moved from 33.654.120.D.1. The existing approval criteria for common greens is being deleted in favor of clear and objective standards. A common green can be paired with a pedestrian connection to allow a through connection if that is the applicant's preferred design.
- Fire access: Generally, common greens are not able to accommodate fire trucks. So, when a common green is proposed, fire access must either be available through alternate means such as an alley or other street, or the dwelling units will need to meet other specific fire bureau requirements like adding fire sprinklers.
- Open area: From 33.654.120.D.1.b.(3)
- Vehicle area. From admin rule III.L.1.b. In some cases common greens may be designed to allow emergency vehicle access, but other regular vehicle use is prohibited.

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

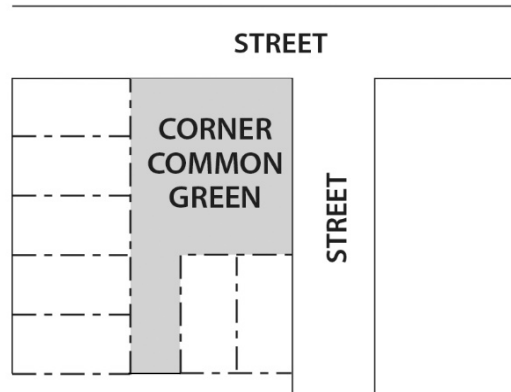
d. Common greens.

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

(2) Standards:

- The length of a common green and number of lots is not limited;
- Common greens must be dead end streets. Through common greens are not allowed but common greens may be located on a corner of two intersecting streets. See Figure 654-1;
- The Fire Bureau has approved the land division for emergency access;
- Common Greens must include at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension; and
- Vehicle area, except for emergency vehicle access approved by the Fire Bureau, is prohibited in common greens;

**Figure 654-1**  
**Corner Common Green**



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## Commentary

### **33.654.120.C.3.e. Pedestrian connections**

The private pedestrian connection standards are being moved here from several locations in the code and include additional standards currently in the private street administrative rule.:

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

### **33.654.120.C.3.f. Alleys**

Alleys generally provide secondary vehicular access to a lot. However, where street conditions warrant, an alley can provide primary vehicular access. These private alley standards are being moved here from several locations in the code:

- Dead end alley length: Not specified, however to avoid the need for possible turnaround requirements, dead-end alleys are limited to 150 feet.
- Fire access: Generally alleys, especially private alleys, are not able to accommodate fire trucks. So, when an alley is proposed, fire access must either be available through alternate means (e.g. the primary street), or the dwelling units will need to meet other specific fire bureau requirements like adding fire sprinklers.
- The number of lots on through alleys are not currently limited
- The eight lot limitation for dead end alleys is a new standard intended to reduce vehicle movement conflict within a narrow right of way, since there is only one way out. It is also consistent with the number of lots allowed to be served by a standard private (dead- end) street. Additional flexibility may be requested through an adjustment if needed.

e. Pedestrian connections.

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

(2) Standards:

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

f. Alleys.

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

(2) Standards:

- Dead end private alleys may be up to 150 feet in length;
- The Fire Bureau has approved the land division for emergency access; and
- Up to 8 lots can have a lot line abutting a dead end alley. There is no limitation on the number of lots with a lot line on a through alley;

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## **Commentary**

### **33.654.120.C. Local street approval criteria and standards**

This subsection has been replaced by the amendments above.

### **33.654.120.D. Common green approval criteria and standards**

This subsection has been replaced by the amendments above.



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

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

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

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## Commentary

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

1. ~~Right of way.~~

a. ~~Approval criteria.~~

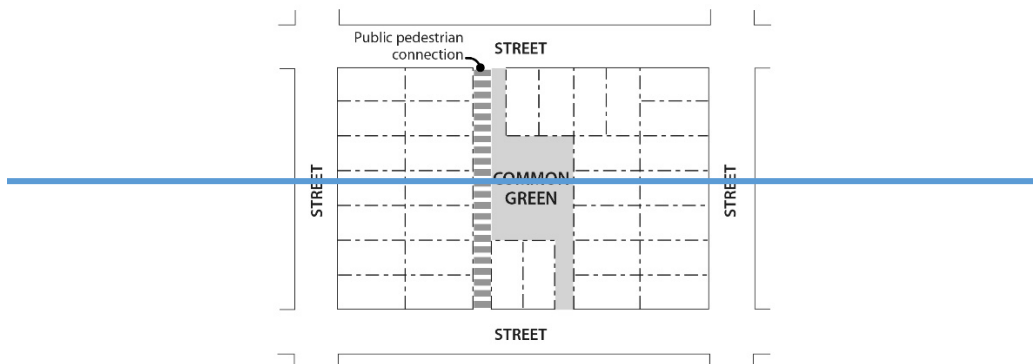
- ~~(1) The size of the common green right-of-way must be sufficient to accommodate expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian system, structures, natural features, and the community activities that may occur within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

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

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

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

**Figure 654-1**  
**Blocks with Through Common Green**



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## **Commentary**

**Figure 654-2** has been renumbered and moved to the new proposed common green standards.

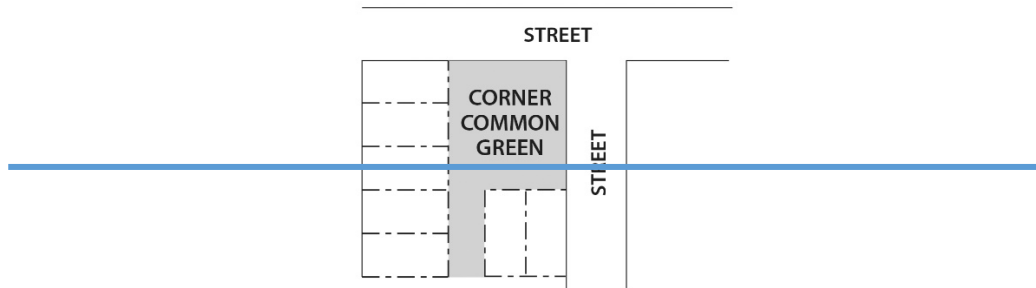
### **33.654.120.E. Pedestrian Connections**

This subsection has been replaced by the amendments above.

### **33.654.120.F. Alleys**

This subsection has been replaced by the amendments above.

**Figure 654-2**  
**Corner Common Green**



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

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

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

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

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## Commentary

### **33.654.120.H. Standard for Street Trees**

These standards have been incorporated into the additional requirements for rights of way (see page 213).

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

~~1. Right of way.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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## Commentary

### **33.654.130.A. Street trees.**

This amendment moves and expands the existing street tree standards that are located in the right-of-way design section.

For public streets, the standard has not been amended. The City Forester consults with the City Engineer to determine which street trees may be retained, which may be removed, and where and what type of street trees will be planted.

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

### **33.654.130.B. Utilities**

Removed discretionary language to make this an objective standard.

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

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

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

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



### 33.654.130 Additional ~~Approval Criteria~~ Standards for Rights-of-Way

#### A. Street trees.

1. For existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the street tree preservation, protection, and planting plan.
2. Private street trees. Private street tree plans must meet the standard stated in Subparagraph B.2.a. If the proposal cannot meet the standard, the applicant can choose to meet the approval criterion in Subparagraph B.2.b. Adjustments are prohibited:
  - a. Private street tree standard. The street tree planting plan meets the Trees and Landscaping standards stated in the Permanent Administrative Rules for Private Rights of Way;
  - b. Private street tree approval criteria. The number of private street trees may be reduced or are not required when:
    - (1) It is not feasible to provide street trees while meeting 33.654.120 Design of Rights Of Way, and the minimum lot size and dimension standards of the zone;
    - (2) Trees will be planted in the front yard of each lot, near the street tract, generally one tree every 25 feet of frontage;
    - (3) The proposed tree locations will not conflict with public utility easements on the lots; and
    - (4). Tree planting may be deferred until development of the lots, however, such planting must occur prior to final building inspection.

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

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

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

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## Commentary

### **33.654.130.D. Partial rights of way**

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

### **33.654.130.E. Ownership of alleys**

This subsection has been moved to the Ownership, Maintenance, and Public Use of Rights of Way section.

### **33.654.150.B.2. Pedestrian connections.**

B.2.a., c. and e. are not new; they have been moved up within the section to follow through streets.

B.2.b addresses a partial pedestrian connection that is intended to be extended onto an adjacent site must be publicly owned.

B.2.d. Pedestrian connections that are essentially extensions of a private street network (e.g. connecting two private streets, a shared court to a private street, etc) or that extend from the end of a private street to a public street may be privately owned, unless the connection is part of a link to a public facility like a school, park, or library.

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

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

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

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

- A. Purpose.** To protect long-term access and both public and private investment in the street system, the rights and responsibilities for the street system must be clear. Public ownership of streets is preferred to provide long-term access to sites and meet connectivity goals. However, where a dead-end street serves a limited number of units, the public benefit may be very limited and the maintenance costs may be relatively high. In that limited situation, private streets may be appropriate. Where public ownership is not feasible, property owners must know their maintenance responsibilities and what public use to expect on rights-of-way.
- B. Ownership.** Ownership of rights-of-way is determined through the following standards:
1. Through streets. Through streets must be dedicated to the public.
  2. Pedestrian connections.
    - a. Pedestrian connections that connect or are intended to eventually connect two public streets must be dedicated to the public.
    - b. Partial pedestrian connections that begin at a public right of way and terminate at the boundary of the land division site must be dedicated to the public.
    - c. Pedestrian connections that connect or are intended to eventually connect to a public school, park or library must be dedicated to the public.
    - d. Pedestrian connections that connect two private streets, or that connect a private street to a public street, may be privately owned unless B.2.c applies.
    - e. Pedestrian connections that are not dedicated to the public must be privately owned in common by the owners of the property within the land division site that abut the pedestrian connection, or by the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.
  - ~~3. Partial streets. Partial streets must be dedicated to the public.~~

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## Commentary

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

#### **B.4. Dead end streets.**

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

#### **B.4. Exception for Temporary Turnarounds.**

This has been incorporated into the public dead end street regulations

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

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

#### **B.6. Pedestrian Connections**

This was renumbered to B.2.

#### **B.5. Alleys**

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

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

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

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

- ~~43.~~ 43. Dead-end streets. ~~In general, d~~
- a. Dead-end streets and turnarounds must be dedicated to the public. Temporary turnarounds may be in an easement.
  - b. Exception. A dead-end street and turnaround may be privately owned if the street is not a temporary dead-end street and meets the private street design requirements in 33.654.120.C. ~~will abut no more than eight lots within the land division site, and the street is not proposed as, or required to be a partial street. If the street is not dedicated to the public, it~~ The private street and turnaround must be in a tract, and owned in common by the owners of property served by the street or by the Homeowners' Association.
- ~~4.~~ 4. ~~Exception for temporary turnarounds. Temporary turnarounds may be in an easement.~~
- ~~5.~~ 5. ~~Exceptions for common greens and shared courts. Common greens and shared courts must be privately owned. They must be in a tract and owned by the Homeowners' Association or owned in common by the owners of property served by the common green or shared court.~~
- ~~6.~~ 6. ~~Pedestrian connections:~~
- a. ~~Pedestrian connections that connect or are intended to eventually connect two through streets, must be dedicated to the public.~~
  - b. ~~Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.~~
  - c. ~~Pedestrian connections that are not dedicated to the public may be privately owned in common by the owners of the property within the land division site or the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.~~
- ~~57.~~ 57. Alleys.
- a. ~~Determination of whether an alley must be dedicated to the public or may be privately owned is made under 33.654.130.E.~~
  - a. Alleys that provide access to more than 5 lots within the land division site and abut sites that may be divided under current zoning must be dedicated to the public unless the Bureau of Transportation does not agree to accept the dedication.
  - b. If an alley is not dedicated to the public and serves more than 5 lots within the land division site, it must be placed in a tract owned in common by the owners of property ~~within the land division site~~that abut the alley or the Homeowners' Association.
  - c. If an alley is not dedicated to the public and serves 5 or fewer lots within the land division site, it must either be placed in an easement, or placed in a tract owned in common by the owners of the property within the land division site or the Homeowners' Association.

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## **Commentary**

### **33.654.150.D. Public use of rights-of-way.**

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

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

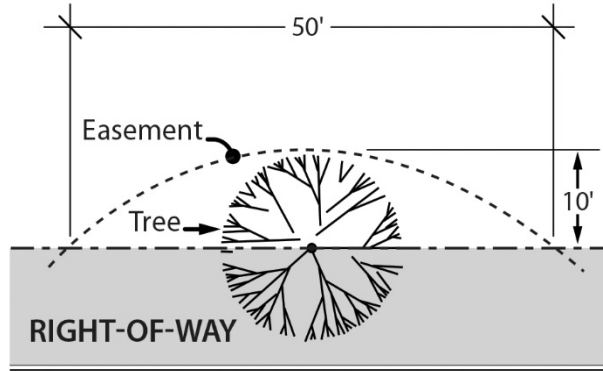
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## Commentary



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



### 33.654.160 Street Classification

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

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## Commentary

### 33.655 School District Capacity

#### Summary of changes to this chapter:

- This chapter is being deleted

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

The commentary for that project noted:

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

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

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

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

## **~~33.655 School District Enrollment Capacity~~**

**655**

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### Sections:

~~33.655.010 Purpose~~

~~33.655.020 Where These Regulations Apply~~

~~33.655.100 School District Enrollment Capacity Standard~~

### **~~33.655.010 Purpose~~**

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

### **~~33.655.020 Where These Regulations Apply~~**

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

### **~~33.655.100 School District Enrollment Capacity Standard~~**

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

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## Commentary

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

#### Summary of changes to this chapter:

- Reduce the procedure level for land divisions with a concurrent environmental review
- Update reference to environmental review
- Reduce the procedure level for land divisions located in an OS zone
- Updated reference to the final plat chapter

#### 33.660.110 Review Procedure

Currently, if the land division also requires an environmental review, the procedure type for the land division automatically elevates to a Type III review. A Type III review requires a public hearing before the hearings officer, and appeals go to City Council. A Type III review is also more costly and requires a pre-application conference, which is an additional cost on top of the review fee. These additional costs can add up to approximately \$17,000 for 2 and 3 lot partitions.

Procedure Type	Application
Type Ix	2-3 lots
Type IIx	4-10 lots 2-3 lots with development in landslide hazard or 2+ lots in flood plains PROPOSED CHANGE: 2-3 lots with environmental review
Type III	11+ lots 4+ lots with landslide hazard CURRENT: Any land division with environmental review PROPOSED CHANGE: 4+ lots with environmental review CURRENT: Any land division site in the OS zone PROPOSED CHANGE: Address OS the same as other R zones

The amendments to this section put land divisions that require an environmental resource review on par with land divisions that have other constraints such as landslide and flood hazards.

The amendments also include a clarification that River Environmental and Pleasant Valley natural resource reviews are considered to be environmental reviews.

Additionally, the requirement for a Type III review for land divisions in the OS zone deleted. Going forward, the number of lots proposed and whether the site has constraints will determine the procedure level for a land division in the OS zone. OS zoned land isn't often subdivided or partitioned and there is no compelling reason to treat these land division requests any differently from other land divisions in terms of procedure type.

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

660

### Sections:

#### General

33.660.010 Purpose

33.660.020 Where These Regulations Apply

#### Review of Preliminary Plan

33.660.110 Review Procedures

33.660.120 Requirements for Approval Criteria

#### Review of Changes to an Approved Preliminary Plan

33.660.300 When Review is Required

33.660.310 Review Procedures

33.660.320 Requirements for Approval Criteria

### 33.660.110 Review Procedures

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed.

- A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:
1. Eleven or more lots;
  2. Four or more lots, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
  3. Four or more lots, when the proposal includes an ~~E~~environmental review, river review or Pleasant Valley resource review ;
  4. A phased land division, as described in Chapter 33.633, Phased and Staged Plans;
  5. ~~Any portion of the site is in an Open Space zone.~~
- B. Type IIx.** Except as provided in Subsection A, above, land division proposals that include any of the following elements are processed through a Type IIx procedure:
1. Four to ten lots;
  2. Two or three lots, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
  3. Two or three lots, when the proposal includes an environmental review, river review or Pleasant Valley resource review;
  4. ~~Lots, utilities, or services are proposed within the combined flood hazard area; or~~
  5. ~~The proposal includes a concurrent land use review assigned to a Type I, Type Ix, Type II, or Type IIx procedure except environmental review. If environmental review is required, then the application is processed through a Type III procedure.~~
- C. Type Ix.** All land divisions not assigned to a Type IIx or Type III, are processed through a Type Ix procedure.

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## Commentary

### **33.660.120 Requirements for Approval**

With the introduction of standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations," which covers both approval criteria and standards.

### **33.660.120.F.**

This amendment deletes the reference to lot or dwelling unit threshold related to required recreation area because the reference is unnecessary in this location.

### **33.660.120.I.**

This amendment reflects that the solar access chapter is being deleted.

### **33.660.120.L.**

With the deletion of Chapter 33.655, the reference to the services and utilities regulations is being corrected.

### **33.660.300 When Review is Required**

This amendment updates the reference to the final plat chapter, which has been renumbered.

### **33.660.120 Requirements for Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria regulations~~ have been met. ~~The approval criteria are:~~

- A. Lots.** ~~The standards and approval criteria regulations~~ of Chapters 33.605 through 33.612 must be met;
- B. Trees.** ~~The standards and approval criteria regulations~~ of Chapter 33.630, Tree Preservation, must be met;
- C. Combined flood hazard area.** If any portion of the site contains combined flood hazard area, ~~the approval criteria regulations~~ of Chapter 33.631, Sites in the Combined Flood Hazard Areas, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, ~~the approval criteria regulations~~ of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;
- F. Required recreation area.** ~~If 40 or more lots or dwelling units are proposed, the standards and approval criteria~~ The regulations of Chapter 33.634, Required Recreation Areas, must be met;
- G. Clearing, grading, and land suitability.** ~~The approval criteria regulations~~ of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- H. Tracts and easements.** The standards of Chapter 33.636, Tracts and Easements must be met;
- ~~**I. Solar access.** If single dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met;~~
- J. Streams, springs, seeps, and wetlands.** ~~The approval criteria regulations~~ of Chapter 33.640, Streams, Springs, Seeps, and Wetlands must be met;
- JK. Transportation impacts.** ~~The approval criteria regulations~~ of Chapter 33.641, Transportation Impacts, must be met; and,
- KL. Services and utilities.** ~~The regulations and criteria~~ of Chapters 33.651 through ~~33.655~~33.654, which address services and utilities, must be met.

### **33.660.300 When Review is Required**

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.660.300 through 33.660.320. Some changes, listed in Section 33.~~663~~673.200, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.~~663~~673.200, and is not specifically allowed by the Preliminary Plan approval, review is required.

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## **Commentary**

### **33.660.320 Requirements for Approval**

With the introduction of standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations," which covers both approval criteria and standards.



### **33.660.320 Requirements for Approval Criteria**

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following standards or approval criteria have been met:

- A. Approval ~~requirements criteria~~ for changes listed in Subsection 33.660.310.B.** Changes to the Preliminary Plan that are listed in Subsection 33.660.310.B must meet the approval requirements ~~criteria~~ of Section 33.660.120, ~~Approval Criteria~~.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
  - 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
  - 2. The ~~approval criteria~~ regulations addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

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## Commentary

### 33.662 Review of Land Divisions in CI, Commercial/Mixed Use, Employment, and Industrial Zones

#### Summary of changes to this chapter:

- Reduce the procedure level for land divisions with a concurrent environmental review
- Update reference to environmental review to include river review and Pleasant Valley resource review

#### 33.662.110 Review Procedures

The amendments to this section put land divisions that require an environmental resource review on par with land divisions that have other constraints such as landslide and flood hazards. See commentary on page 224 for additional explanation.

In addition, the amendments include a clarification that River Environmental and Pleasant Valley natural resource reviews are considered to be environmental reviews.

## 33.662 Review of Land Divisions in CI, Commercial/Mixed Use, Employment, and Industrial Zones

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662

### Sections:

#### General

33.662.010 Purpose

33.662.020 Where These Regulations Apply

#### Review of Preliminary Plan

33.662.110 Review Procedures

33.662.120 Requirements for Approval Criteria

#### Review of Changes to an Approved Preliminary Plan

33.662.300 When Review is Required

33.662.310 Review Procedures

33.662.320 Requirements for Approval Criteria

### 33.662.110 Review Procedures

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed.

- A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:
1. Eleven or more lots, regardless of zone;
  2. Four or more lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area; or
  3. Four or more lots, when the proposal includes an environmental review, river review or Pleasant Valley resource review.
- B. Type Ix.** Except as provided in Subsection A above, land divisions that include any of the following elements are processed through a Type Ix procedure:
1. Four to ten lots;
  2. Two or three lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
  3. Two or three lots, when the proposal includes an environmental review, river review or Pleasant Valley resource review;
  - ~~4.3.~~ Lots, utilities or services are proposed within the combined flood hazard area; or
  - ~~5.4.~~ The proposal includes a concurrent land use review assigned to a Type I, Type Ix, Type II, or Type Ix procedure ~~except environmental review. If environmental review is required, then the application is processed through a Type III procedure.~~
- C. Type Ix.** All land divisions not assigned to a Type Ix or Type III in Sections A and B above, are processed through a Type Ix procedure.

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## Commentary

### **33.662.120 Requirements for Approval**

With the introduction of standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations" which can mean criteria or standards, as appropriate.

E. Staged Plans and Phased Final Plats. This chapter is only applicable to RF through R2.5 zones, so reference to these regulations is being deleted.

H. The solar access chapter has been deleted.

K. With the deletion of Chapter 33.655, the reference to the services and utilities regulations is being corrected.

### **33.662.300 When Review is Required**

This amendment updates reference to the final plat chapter, which has been renumbered

### **33.662.120 Requirements for Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria~~ regulations have been met. ~~The approval criteria are:~~

- A. Lots.** ~~The standards and approval criteria~~ regulations of Chapters 33.613 through 33.615 must be met;
- B. Trees.** ~~The standards and approval criteria~~ regulations of Chapter 33.630, Tree Preservation, must be met;
- C. Combined flood hazard area.** If any portion of the site contains combined flood hazard area, ~~the approval criteria~~ regulations of Chapter 33.631, Sites in the Combined Flood Hazard Area, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, ~~the regulations approval criteria~~ of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- ~~**E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;~~
- EF. Clearing, grading, and land suitability.** ~~The regulations approval criteria~~ of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- FG. Tracts and easements.** ~~The regulations standards~~ of Chapter 33.636, Tracts and Easements must be met;
- ~~**H. Solar access.** If single dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met; and~~
- GI. Streams, springs, seeps, and wetlands.** ~~The approval criteria regulations~~ of Chapter 33.640, Streams, Springs, Seeps, and Wetlands must be met.
- HJ. Transportation Impacts.** ~~The regulations approval criteria~~ of Chapter 33.641, Transportation Impacts, must be met; and
- IK. Services and utilities.** ~~The regulations and criteria~~ of Chapters 33.651 through 33.655654, which address services and utilities, must be met.

### **33.662.300 When Review is Required**

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.662.300 through 33.662.320. Some changes, listed in Section 33.663673.200, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.663673.200, and is not specifically allowed by the Preliminary Plan approval, review is required.

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## Commentary

### **33.662.320 Requirements for Approval**

With the introduction of standards in lieu of approval criteria in many chapters, this section is being renamed and the language referring to "criteria" is being replaced with a more general reference to "regulations," which covers both approval criteria and standards.

### **33.662.320 Requirements for Approval Criteria**

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:

- A. Approval ~~requirements criteria~~ for changes listed in Subsection 33.662.310.B.** Changes to the Preliminary Plan that are listed under Section 33.662.310.B must meet the approval requirements ~~criteria~~ of Section 33.662.120.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
  - 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
  - 2. The proposed changes continue to comply with the findings made for the approval of the Preliminary Plan; and
  - 3. The ~~approval criteria~~ regulations addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

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## Commentary

### 33.663 Final Plats

#### Summary of changes to this chapter:

- Moving and renumbering the chapter
- Restructure the list of allowed variations
- Remove the 5 percent maximum increase limit threshold for lot width and depth



## **33.~~663~~673 Final Plats**

**~~663~~673**

### Sections:

#### General

33.~~663~~673.010 Purpose

33.~~663~~673.020 Where These Regulations Apply

#### Review of Final Plats

33.~~663~~673.100 Review Procedures

33.~~663~~673.110 Voiding of Final Plat Application

#### Standards for Approval

33.~~663~~673.200 ~~Approval~~ Standards

33.~~663~~673.210 Staged Final Plat

#### Changes to Final Plat

33.~~663~~673.310 Changes to Final Plat Before Recording

33.~~663~~673.320 Changes to Final Plat Survey After Recording

### **General**

#### **33.~~663~~673.010 Purpose**

These regulations ensure that Final Plats are processed with the appropriate level of city review. This chapter contains clear procedures and ~~approval~~ standards for Final Plats.

#### **33.~~663~~673.020 Where These Regulations Apply**

- A. Generally.** The regulations of this chapter apply to proposals for Final Plats in all zones, except those listed in Subsection B and C.
- B. Final Plats of Manufactured Dwelling Parks.** The regulations for the review of Final Plats of Manufactured Dwelling Parks are in Chapter 33.670, Review of Land Divisions of Manufactured Dwelling Parks.
- C. Final Plats for Large Sites in Industrial Zones.** The regulations for the review of Final Plats for Large Sites in Industrial Zones are in Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones.

### **Review of Final Plats**

#### **33.~~663~~673.100 Review Procedure**

Final Plats are reviewed through a non-discretionary, administrative procedure. The decision of the Director of BDS is final and is indicated through a signature on the Final Plat.

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## Commentary

### 33.673.200.A. Conformance with Preliminary Plan

This list has been restructured to group allowed increases in one paragraph and allowed decreases into another.

In addition, there are two amendments to the current allowances:

- Increases to the width or depth of any lot - this change removes the 5 percent threshold, allowing lot widths or depth to be increased without limit, provided that other tolerances are not exceeded (e.g. reducing the number of lots by more than one, or decreasing the width of other lots by more than 5 percent). Additionally, the regulations for the Title must also continue to be met, including lot dimension requirements.
- The previous list interchangeably used thresholds of "up to 5 percent" and "less than 5 percent". 33.700.070.D.2.f. states: When used with numbers, "Up to x," "Not more than x" and "a maximum of x" all include x. This is different than "less than x". These changes make the thresholds consistently "up to 5 percent" which includes 5 percent.

### **33.663673.110 Voiding of Final Plat Application**

**A. Generally.** An application for Final Plat review will be voided when:

1. The Director of BDS has sent written comments to the applicant, requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval and the applicant has not provided any of the requested information or completed any steps toward meeting the outstanding requirements within 180 days. If the applicant provides some information or completes some steps toward meeting the outstanding requirements within 180 days the application of final plat review will not be voided; or
2. It has been more than 3 years since the Director of BDS has sent the initial set of written comments requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval and the applicant has not provided all of the requested information and completed all of the steps necessary to meet the outstanding requirements. This paragraph does not apply to applications for final plat review submitted on or before May 16, 2012.

**B. Exceptions.**

1. For final plat applications that were submitted before January 1, 2021, the 180-day period identified in A.1, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of August 10, 2020.
2. For middle housing land divisions, the Final Plat application is voided if within 3 years of the date of final decision on the preliminary plan the Final Plat has not been approved.

### **Standards for Approval**

#### **33.663673.200 Approval Standards**

These ~~approval~~ standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of Chapter 33.660, Chapter 33.662, or Chapter 33.671. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the applicable approval standards have been met. The ~~approval~~ standards are:

**A. Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:

1. Any of the following decreases:
  - a. The number of lots by one, if minimum density requirements continue to be met;
  - b. The area of any lot up to 5 percent;
  - c. The width or depth of any lot up to 5 percent;
  - d. The area of a stormwater tract up to 5 percent; or
  - e. The area approved for clearing and grading.

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## Commentary

2. Any of the following increases:
  - a. The area of any lot;
  - b. The width or depth of any lot;
  - c. The area of a stormwater tract up to 5 percent;
  - d. The area of a shared parking tract up to 5 percent;
  - e. The area approved for clearing and grading up to 5 percent;
  - f. The area of environmental resource tracts;
  - g. The area of tree preservation tracts;
  - h. The area of flood hazard easements or tracts;
  - i. The area of landslide hazard easements or tracts;
  - j. The area of recreation area tracts;
  - k. The area of an easement or tract, other than a stormwater or parking tract, in a middle housing land division; or
  - l. The width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 673-1.
1. ~~A decrease in the number of lots by one, if minimum density requirements continue to be met;~~
2. ~~An increase or decrease in the width or depth of any lot by less than 5 percent;~~
3. ~~A decrease in the area of any lot by less than 5 percent;~~
4. ~~An increase in the area of any lot;~~
5. ~~An increase or decrease of up to 5 percent in the area of a stormwater tract;~~
6. ~~An increase of up to 5 percent in the area of a shared parking tract;~~
7. ~~An increase in the area of the following tracts or easements:~~
  - a. ~~Environmental resource tracts;~~
  - b. ~~Tree preservation tracts;~~
  - c. ~~Flood hazard easements or tracts;~~
  - d. ~~Landslide hazard easements or tracts; and~~
  - e. ~~Recreation area tracts.~~
  - f. ~~An easement or tract, other than a stormwater or parking tract, in a middle housing land division.~~
- 3.8. ~~Moving a public or private right-of-way if approved by the appropriate service bureau;~~
- 4.9. ~~Changes to a stormwater facility if approved by the appropriate service bureau;~~

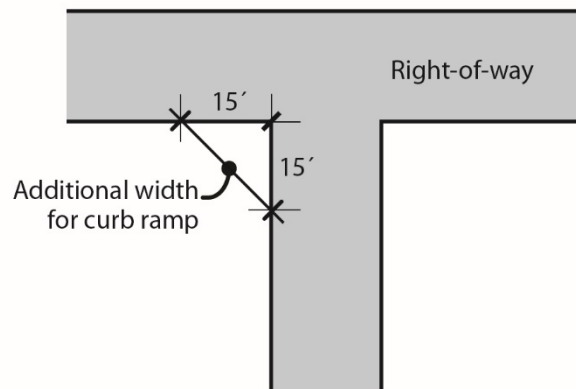
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## Commentary

- ~~10. An increase of up to 5 percent in the area approved for clearing and grading.~~
- ~~11. A decrease in the area approved for clearing and grading.~~
- ~~12. Increasing the width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 663-1.~~
- 5.13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and
- 6.14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

**Figure ~~663~~673-1**  
**Allowed Increase to Right-of-Way Width**



- B. Conditions of approval.** The Final Plat must comply with all conditions of approval that apply to the Final Plat. All other conditions of approval remain in effect;
- C. Services.** All services must meet the requirements of the City Code;
- D. Dedications, tracts, and easements.**
  - 1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and
  - 2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;
- E. Middle housing land division as-built survey.** For a middle housing land division, the as-built survey shows that structures and services are constructed in conformance with the preliminary plan and meet requirements in relation to property lines and any easements or tracts.
- F. Sureties.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval;

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## Commentary



- G. Legal documents.** Required legal documents, such as maintenance agreements, Conditions, Covenants and Restrictions (CC&Rs), and acknowledgements of tree preservation requirements or other conditions of approval, must be reviewed and approved by the Bureau of Development Services prior to Final Plat approval. These documents must also be reviewed and approved by the City Attorney prior to final plat approval or submitted on forms approved by the City Attorney. The required legal documents must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval; and
- H. Variations beyond the limits allowed in this Section.**
1. Generally. If the Final Plat contains variations that exceed the limits listed in this section and that were not specifically allowed under the Preliminary Plan approval, the land division is subject to a review of changes to an approved preliminary plan stated in Section 33.660.300 for land divisions in Open Space and Residential zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones, or Section 33.671.300 for middle housing land divisions. If a Land Use Review is required for the changes to the approved preliminary plan, the revised Final Plat must also undergo a Final Plat Review.
  2. Changes to tree preservation requirements. If the only changes proposed are to tree preservation requirements, the changes are processed as described in Chapter 33.853, Tree Review.

### **~~33.663~~33.673.210 Staged Final Plat**

If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Staged Final Plats are defined in Chapter 33.633, Phased Land Divisions and Staged Final Plats. Each stage must meet the all of the Final Plat approval standards of Section 33.~~673~~663.200.

## **Changes to Final Plat**

### **~~33.663~~33.673.310 Changes to Final Plat Before Recording**

Before the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to an approved Preliminary Plan. Where a land use review of the changes is required by Section 33.660.300 for land divisions in Open Space and Residential Zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones, the revised Final Plat must undergo Final Plat review again.

### **~~33.663~~33.673.320 Changes to Final Plat Survey After Recording**

After the Final Plat Survey has been recorded with the County Recorder and Surveyor, changes are processed as a new land division or alternative process, such as a Replat under 33.675, or Property Line Adjustment under Chapter 33.677, if allowed.

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## Commentary

### 33.670 Review of Land Divisions of Manufactured Dwelling Parks

#### Summary of changes to this chapter:

- Revise application submittal requirements to acknowledge electronic submittals
- Update reference to proof of property ownership

#### 33.670.030 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. When access to scanning equipment or computers is not available, applicants retain the ability to submit a paper copy. Because this application will be uploaded into the permit system for distribution to reviewers, only one copy of the paper application is required.

To provide more clarity for scaled drawings, a range of allowable scale is specified, consistent with the scale requirements that currently apply to property line adjustments (33.677.200.B.1)

## 33.670 Review of Land Divisions of Manufactured Dwelling Parks

670

### 33.670.030 Application Requirements

A complete application for a land division of a manufactured dwelling park under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, each plan/map submitted with the application must also include an 8 ½ by 11 inches in size copy and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. ~~At least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size, and be suitable for reproduction.~~

**A. Preliminary Plan.** An application for Preliminary Plan must include all of the following:

1. Application form. ~~Three copies of t~~The completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;
2. Written statement. ~~Two copies of a~~ A written statement that includes the following:
  - A complete list of all land use reviews requested;
  - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
  - A description of how all ~~applicable approval~~ standards are met;
  - Additional information needed to understand the proposal;
  - Names and addresses of land division designer or engineer and surveyor;
  - Proposed maintenance agreements or Conditions, Covenants and Restrictions; and
  - If more than 3 lots are proposed, the proposed name of the land division;
  - Proposed names of all streets
3. Vicinity map. ~~Three copies of A~~ a vicinity map. ~~The map must cover an area~~ extending at least 200 feet in each direction from the land division site, and shows the following existing conditions for both the site and the vicinity:
  - Streets;
  - Pedestrian and bicycle facilities and connections; and
  - Location of utilities and services;
4. ~~Copies of t~~The proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
  - a-b. [No change]
5. [No change]

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## **Commentary**

### **33.670.030.B.5. Verification of Ownership.**

The documentation that demonstrates property ownership is not limited to Title Insurance companies, nor is it always specifically called a "title report". This amendment refers more generally to documentation of ownership from a title insurance company or other entity authorized to provide such information in the state.

### **33.670.130 Requirements for Approval**

With the introduction of standards in lieu of approval criteria, this section is being renamed and the language referring to "approval criteria" is being replaced with a more general reference to "regulations", which includes approval criteria and standards.

**B. Final Plat.** An application for a Final Plat must include all of the following:

1. Final Plat survey. A copy ~~Copies~~ of a Final Plat survey drawn to scale ~~and of a format, material, and number acceptable to the Director of BDS.~~ The following information must be on the Final Plat survey:
  - a-b. [No change]
2. Supplemental plan. A supplemental plan, ~~the number determined by the Director of BDS,~~ that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. This includes the information from the Preliminary Plan that shows the proposal does not move the site out of conformance, or further out of conformance, with the standards of Chapter 33.251, Manufactured Homes and Manufactured Dwelling Parks;
3. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval;
4. Maintenance agreements and CC&Rs. ~~Three copies~~ A copy of each required maintenance agreement or Conditions, Covenants and Restrictions;
5. Verification of ownership. A report issued by a title insurance company, or authorized agent to perform such services in the state, verifying ownership and detailing any deed restrictions ~~Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;~~ and
6. [No change]

**33.670.130 Requirements for Approval Criteria**

The Preliminary Plan for a land division of a manufactured dwelling park will be approved if the review body finds that the applicant has shown that all of the following ~~approval criteria~~ regulations have been met. ~~The approval criteria are:~~

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

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## Commentary

### 33.671 Review of Middle Housing Land Divisions

#### Summary of changes to this chapter:

- Revise application submittal requirements

#### 33.671.030 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. The option to submit a paper copy is still available if an applicant does not have access to scanning equipment or computers. Because BDS will scan and upload the application into the permit system for distribution to reviewers, only one copy of a paper application is required.

#### 33.671.030.D

A scale range is being added to ensure that drawings are legible. The range being added here is the same scale range specified for property line adjustments (see 33.677.200.B.1)

## 33.671 Review of Middle Housing Land Divisions

# 671

### 33.671.030 Application Requirements

A complete application for a middle housing land division under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable.

Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. ~~At least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction.~~ An application for Preliminary Plan must include all of the following:

- A. **Application form.** ~~Three copies of t~~The completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;
- B. **Written statement.** ~~Two copies of a~~ A written statement that includes the following:
  - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
  - A description of how all applicable approval standards are met;
  - Additional information needed to understand the proposal;
  - Names and addresses of land division designer or engineer and surveyor;
  - Proposed maintenance agreements or Conditions, Covenants and Restrictions; and
  - If more than 3 lots are proposed, the proposed name of the land division;
  - Proposed names of all streets;
- C. **Vicinity map.** ~~Three copies of A~~ a vicinity map. ~~The map must cover an area~~ extending at least 200 feet in each direction from the land division site, and shows the following existing conditions for both the site and the vicinity:
  - Streets;
  - Pedestrian and bicycle facilities and connections; and
  - Location of utilities and services;
- D. ~~A~~ Copyies of the proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
  - 1-2. [No change]
- E. [No change]

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## Commentary

### 33.675 Replat

#### Summary of changes to this chapter:

- Revise application submittal requirements
- Update reference to proof of property ownership

### 33.675.200 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. The option to submit a paper copy is still available if an applicant does not have access to scanning equipment or computers. Because BDS will scan and upload the application into the permit system for distribution to reviewers, only one copy of a paper application is required.

#### 33.675.200.B.3

A scale range is being added to ensure that drawings are legible. The range being added here is the same scale range specified for property line adjustments (see 33.677.200.B.1)

#### 33.675.200.C.1 Verification of Ownership.

The documentation that demonstrates property ownership is not limited to Title Insurance companies, nor is it always specifically called a "title report". This amendment refers more generally to documentation of ownership from a title insurance company or other entity authorized to provide such information in the state.



## 33.675 Replat

# 675

### 33.675.200 Application Requirements.

A complete application for a replat under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. An application for a replat must contain the following:

- A. Application form.** ~~One copy of t~~The completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.
- B. Surveys.**
- ~~Three copies of a~~A survey of the site ~~prepared~~, stamped and signed by a registered land surveyor showing all existing ~~property~~lot lines and the location, dimensions and setbacks from ~~property~~lot lines for all structures and other improvements, ~~and utilities, and~~ services on the site. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet;
  - If the site is part of an existing plat, a copy of the recorded plat; and
  - ~~Three copies of a~~A Final Partition Plat showing the reconfigured lot or lots. Copies of the Final Plat must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet and of a format, material, and number acceptable to the Director of BDS. The following statement must be on the Final Plat: "This plat is subject to the conditions of the City of Portland Case File No. LUR..."
- C. Other.**
- Verification of ownership. A report issued by a title insurance company, or authorized agent to perform such services in the state, verifying ownership and detailing any deed restrictions ~~Title reports. A current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;~~ and
  - 2-3. [No change]

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## Commentary

### **33.675.300.A**

The lot dimension requirements in 33.605 through 615 are not exclusively standards and include some alternative criteria. This amendment refers to “regulations”, which is inclusive of both standards and approval criteria.

### **33.675.300.A.1.a(1) and 1.c(1)**

Pleasant Valley Natural Resource overlay zone has been added to clarify that it is considered to be an environmental overlay zone generally.

### 33.675.300 Approval Criteria

A replat will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met:

- A. Lots.** The replatted lots must meet the ~~standards~~regulations of Chapters 33.605 through 33.615, with the following exceptions:

1. Lot dimension standards.

- a. Lots and adjusted lots that do not meet the minimum lot area required for new lots are exempt from the minimum lot area requirement if they do not move further out of conformance with the minimum lot area required for new lots, and they meet the following:
- (1) No portion of the lot or adjusted lot is in an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental protection, environmental conservation, or river environmental~~ overlay zone;
  - (2) No portion of the lot or adjusted lot is in the combined flood hazard area; and
  - (3) The lot or adjusted lot has an average slope of less than 25 percent;
- b. Maximum lot area. If any of the lots within the replat site are larger than the maximum lot area allowed, the same number of lots in the replat site are exempt from maximum lot area requirements;
- c. Minimum lot width. Lots and adjusted lots that do not meet the minimum lot width required for new lots are exempt from the minimum lot width requirement if they do not move further out of conformance with the minimum lot width required for new lots, and they meet the following:
- (1) No portion of the lot or adjusted lot is in an Environmental, River Environmental, or Pleasant Valley Natural Resources ~~environmental protection, environmental conservation, or river environmental~~ overlay zone;
  - (2) No portion of the lot or adjusted lot is in the combined flood hazard area; and
  - (3) The lot or adjusted lot has an average slope of less than 25 percent;

2-5. [No change]

- B-E.** [No change]

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## Commentary

### 33.676 Lot Confirmation

#### Summary of changes to this chapter:

- Revise application submittal requirements
- Exclude lot confirmations from minimum density regulations.

### 33.676.200 Application Requirements

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. The option to submit a paper copy is still available if an applicant does not have access to scanning equipment or computers. Because BDS will scan and upload the application into the permit system for distribution to reviewers, only one copy of a paper application is required.

## 33.676 Lot Confirmation

676

### 33.676.200 Application Requirements

A complete application for a Lot Confirmation under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. ~~The application for a Lot Confirmation must contain the following:~~

- A. Application Form.** ~~One copy of t~~The completed application form bearing an accurate legal description, tax account number and location of the property. The completed form must also include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.
- B. Verification of lot creationSupporting documentation.** Documentation that establishes when and how the lot was created is required. For Lot Confirmations where the base zone requires that the lot was under separate ownership from abutting lots, ownership information for the lot and abutting lots is also required. This may include copies of recorded plats, historic deeds, or other documentation that provides evidence of the creation and chain of ownership of the property.
- C. Site plan and supplemental survey.**
  1. A site plan ~~no larger than 18 inches by 24 inches in size~~ is required for all applications. The site plan must be drawn to scale and show:
    - The location of existing lot or property lines;
    - The boundaries of the re-established lot, lot of record, or combinations thereof;
    - All development on the site including driveways and parking areas;
    - The location of utilities and services; and
    - The location and dimensions of existing curb cuts abutting the site.
  2. If existing buildings on the site will remain after the lot confirmation, a supplemental survey signed and stamped by a registered land surveyor is also required. The survey must show utilities and services, the distances between the buildings on the lot, and the ~~property~~lot line that is being confirmed.

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## Commentary

### 33.676.200.C Other

This amendment adds application requirements that are routinely required as part of other types of land use applications.

### 33.676.300.B.2

This amendment exempts lot confirmations from proving compliance with minimum density regulations. This will provide greater flexibility to separate ownerships into lots that can be individually developed with housing. When minimum density requirements are applied to individual lots, as opposed to the combined site, the outcome can be different mathematically, making it difficult to meet even when there is no material reduction in dwelling density. For example in the RM2 zone, where the minimum density is one unit per 1,450 sq ft of site area, for a site with two 2,500 sq ft lots, the minimum density would be 3 ( $5,000 \div 1,450 = 3.44$ ). But each lot individually has a minimum density of 2 ( $2,500 \div 1,450 = 1.72$ ) for a total of 4. Future development on the separated lots will be required to meet minimum density requirements at the time of development.

### 33.676.300.B.3.

This amendment clarifies that existing development must remain in conformance with all development standards except lot dimension and minimum density standards, unless an adjustment is approved. The clarification is necessary because it has been confusing to apply B.1 and this regulation together because B.1 says adjustments are prohibited, but B.3 (currently subsection C) says adjustments are a possibility.

To resolve this conflict, clarification is being added to state that development must be in conformance (or not move further out of conformance) with development standards other than the minimum lot dimensions and minimum density.

**C. Other.**

1. Narrative. A written narrative explaining how the regulations and standards of this chapter have been met; and
2. Fees. The applicable filing fees.

**33.676.300 Standards**

A request for a Lot Confirmation will be approved if all of the following are met:

**A.** [No change]

**B. Development standards.**

1. Minimum lot dimension standards. The following lot dimension standards apply to each lot, adjusted lot, lot remnant, lot of record or combination thereof. The standards must be met without necessitating a property line adjustment. Adjustments are prohibited:
  - a~~1.~~ In the OS, C, EX, CI and IR zones, each lot must have a front lot line that is at least 10 feet long. There are no other minimum lot dimension standards.
  - b~~2.~~ In the single-dwelling zones, each lot must have frontage on a street, and each lot must meet the standards of 33.110.202, When Primary Structures are Allowed.
  - c~~3.~~ In the multi-dwelling zones, each lot must have frontage on a street, and each lot must meet the standards of Section 33.120.205, Development on Lots and Lots of Record.
  - d~~4.~~ In the EG zones, each lot must meet Standard B stated in Table 614-1.
  - e~~5.~~ In the I zones, each lot must meet Standard B stated in Table 615-1.
  - f~~6.~~ If the lot is in an overlay zone or plan district that regulates minimum lot dimensions, the minimum lot dimension standards of the overlay zone or plan district must be met instead of the standard that corresponds to the base zone.
2. Minimum density. Minimum density regulations do not apply to a lot confirmation.
- 3C. All other ~~D~~development standards. The following standards apply to development standards other than minimum lot dimensions and minimum density:
  - a. If existing development is in conformance with the development standards of this Title, the development must remain in conformance after the Lot Confirmation.
  - b. If existing development is not in conformance with a development standard of this title, the Lot Confirmation will not cause the development to move further out of conformance with the standard unless an adjustment or Property Line Adjustment is approved.

**CD. Conditions of previous land use reviews.** All applicable conditions of previous land use reviews must be met, see 33.700.110, Prior Conditions of Land Use Approvals. Adjustments are prohibited.

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## Commentary

### 33.677 Property Line Adjustment

#### Summary of changes to this chapter:

- Revise application submittal requirements
- Update reference to state survey requirements
- Add exception to allow flexibility for already undersized E or I zoned lots

### 33.677.200.

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. The option to submit a paper copy is still available if an applicant does not have access to scanning equipment or computers. Because BDS will scan and upload the application into the permit system for distribution to reviewers, only one copy of a paper application is required.

#### 33.677.200.B. Surveys

This paragraph currently contains an incorrect reference to the Oregon Revised Statutes. This amendment changes the reference to Oregon Revised Statutes more generally as a way to eliminate the risk of the specific citation being incorrect in the future. Since this language is more informational than regulatory (the county surveyor reviews and approves the recorded plat), a general citation can be used here.



## 33.677 Property Line Adjustment

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### 33.677.200 Application Requirements

A complete application for a property line adjustment consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. No more than three Property Line Adjustments may be requested on a site within one calendar year.~~The application must contain the following:~~

- A. Application form.** ~~Two copies of the~~The completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.
- B. Surveys and supplemental site plan.**
- ~~1. Three paper copies of a~~A property line survey. The survey must be ~~prepared~~, stamped and signed by a registered land surveyor as required by Oregon Revised Statutes to meet ORS 92.050. The survey must show all existing and proposed property lines and all existing lot lines. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet;
  - ~~2. One copy of the property line survey that is 8 1/2 by 11 inches in size; and~~
  - ~~23. One paper copy of a~~A survey of the proposed PLA prepared, stamped, signed, and attested to for accuracy by a registered land surveyor, showing the location, dimensions and setbacks of all improvements on the site. This survey map must be drawn to a scale at least 1 inch = 200 feet.
  3. Site plan. If there is existing development on either property, a site plan, drawn to scale, that shows:
    - The location of existing and proposed lot or property lines;
    - All development on the site including driveways and parking areas;
    - The location of utilities and services;
    - The location and dimensions of existing curb cuts abutting the site; and
    - Any additional information needed to demonstrate that the standards in 33.677.300 will be met.
- C. Legal description.** ~~Two copies of the~~Legal descriptions for each adjusted property and each exchange parcel. The legal descriptions must be ~~prepared and~~ signed and stamped by a registered land surveyor.

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## Commentary

### **33.677.200.D Other**

This amendment adds application requirements that are routinely required as part of other types of land use applications.

### **33.677.300.A.4.**

When a property line adjustment is proposed between a lot that conforms to maximum lot size and one that exceeds maximum lot size, the current regulations stipulate that only the lot that is already non-conforming with regard to maximum lot size may remain non-conforming. This is unnecessarily restrictive and inconsistent with regulations for replats. This amendment allows the other lot to exceed maximum lot size, so long as the previously non-conforming lot meets the maximum lot size standard after the property line adjustment.

### **33.677.300.A.6. and A.7.**

There are two basic lot size requirements in the E and I zones—standard A (large) and standard B (smaller). These amendments clarify how to evaluate property line adjustments when the two lots being adjusted are both smaller than the standard lot size requirements.

When both lots are already smaller than the standard A size, then at least one lot must at least meet standard B (i.e. be at least 10,000 sq ft in size).

This also means that in cases where both lots are smaller than standard B, one lot will need to meet standard B after the PLA.

**D. Other.**

1. Narrative. A written narrative explaining how the regulations and standards of this chapter have been met; and
2. Fees. The applicable filing fees.

**33.677.300 Standards**

The site of a Property Line Adjustment is the two properties affected by the relocation of the common property line. A request for a Property Line Adjustment will be approved if all of the following are met:

**A. Conformance with regulations.** Both properties will remain in conformance with regulations of this Title, including those in Chapters 33.605 through 33.615, except as follows:

1. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation;
2. If the Property Line Adjustment will configure one of the properties as a flag lot, nonconformance with the maximum floor area ratio standard is allowed for the existing development at the time of the property line adjustment. Future alterations may not move the development further out of conformance and new development must comply with the maximum floor area ratio;
3. If both properties are already out of conformance with maximum lot area standards, they are exempt from the maximum lot area standard;
4. If one property is already out of conformance with maximum lot area standards, ~~it is then~~ one lot is exempt from the maximum lot area standard;
5. Lots with an institutional use are exempt from maximum lot size standards; ~~and~~
6. If both properties are already less than 20,000 square feet in total area and the site is in an EG1 or EG2 zone, then at least one lot must comply with Standard B stated in Table 614-1;
7. If both properties are already less than 40,000 square feet in total area and the site is in an industrial zone, then at least one lot must comply with Standard B in Table 615-1; and
8. ~~6.~~ If at least one lot is already out of conformance with the minimum lot area standards and the site is in the R5 zone, the minimum lot area is 1600 square feet and the minimum width is 36 feet, if:
  - a. At least one lot is a corner lot; and
  - b. The adjusted property line must be perpendicular to the street lot line for its entire length.

See Figure 677-1.

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

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## Commentary

### **33.677.300.E.**

This subsection is being amended to clarify that the River Environmental and Pleasant Valley Natural Resource overlay zones are also environmental overlay zones generally.

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

- E. ~~Environmental~~**Overlay zones**. If any portion of either property is within an Environmental, River Environmental, or Pleasant Valley Natural Resources environmental overlay zone, the provisions of Chapter 33.430, Chapter 33.465, or Chapter 33.475 as applicable must be met. Adjustments are prohibited.
- F-G. [No change]

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## Commentary

### 33.730 Quasi-Judicial Procedures

#### Summary of changes to this chapter:

- Revise application submittal requirements
- Update cross references
- Update neighborhood contact submittal requirements
- Revise the Landslide Hazard Study submittal requirements
- Add a land suitability documentation requirement
- Clarify when a Transportation Impact Study is required

#### 33.730.060.D. Application requirements

Currently, the land division application requires variable numbers of copies:

- 1 reduced size copy of all plans/maps
- 3 copies of the application form
- 2 copies of the written statement
- 3 copies of a vicinity map
- Unspecified number of copies of the proposed land division:
- Unspecified number of copies of tree information
- 1 landslide hazard study (if applicable)
- 2 copies of neighborhood contact info (if applicable)
- 2 copies of pre app notes (if applicable)
- 1 phase I site assessment (if applicable)
- 3 copies of transportation impact study (if applicable)

BDS has largely shifted to electronic submittals for land use applications. As such, only a single copy of the information is required. The option to submit a paper copy is still available if an applicant does not have access to scanning equipment or computers. Because BDS will scan and upload the application into the permit system for distribution to reviewers, only one copy of a paper application is required.

## 33.730 Quasi-Judicial Procedures

# 730

### 33.730.060 Application Requirements

A-B. [No change]

C. **Required information for land use reviews except land divisions.** Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request.

1. ~~Two copies of a~~The completed application form bearing an accurate legal description, tax account number(s) and location of the property. The application must include the name, address, and telephone number of the applicant, the name and addresses of all property owners if different, the signature of the applicant, and the nature of the applicant's interest in the property.
2. ~~One copy of a~~A written statement that includes the following items:
  - A complete list of all land use reviews requested;
  - A complete description of the proposal including existing and proposed use(s) or change(s) to the site or building(s);
  - A description of how all approval criteria for the land use review(s) are met. As an alternative and where appropriate, this information may be placed on the site plan; and
  - Additional information needed to understand the proposal, or requested at the pre-application conference, if applicable.
3. ~~Four copies of a~~ site or development plan. At least one complete copy must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:
  - All property lines with dimensions and total lot area;
  - North arrow and scale of drawing;
  - Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
  - Existing natural features such as watercourses including the ordinary high water line and top of the bank;
  - The location, size, and species of all trees 6 inches and larger in diameter. On sites where the development impact area option for large sites in Chapter 11.50 will be used, only trees within that area must be shown;
  - Trees proposed to be preserved, including protection methods meeting the requirements of Chapter 11.60, and trees proposed to be removed;

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## Commentary



- Easements and on-site utilities;
  - Existing and proposed development with all dimensions;
  - Building elevations;
  - Location of adjacent buildings;
  - Distances of all existing and proposed development to property lines;
  - Types and location of vegetation, street trees, screening, fencing, and building materials;
  - Percentage of the site proposed for building coverage, and landscaping coverage;
  - Motor vehicle and pedestrian access and circulation systems, including connections off-site;
  - Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas;
  - Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site; and
  - Additional requirements of the specified land use review.
4. In the case of a land use review that requires a pre-application conference, a copy of the completed pre-application conference summary or proof of participation, if available.
5. A transportation impact study, if required by the Office of Transportation at a pre-application conference.
6. In the case of a zone change within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, the application must include verification from the school district that there is adequate enrollment capacity to serve the zone change site.
- D. Required information for land divisions.** Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. Application materials may be filed electronically in a format designated by the Director of BDS. If a paper copy is submitted, at least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size and be suitable for reproduction. The applicant is responsible for the accuracy of all information submitted with the request. ~~At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.~~
1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include one copy~~all~~ of the following:
- a. Application form. ~~Three copies of t~~The completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;

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## Commentary

### **33.730.060.D.1.b.**

This amendment clarifies that all applicable standards and approval criteria must be met, and expands the list of past uses that might impact the suitability of the site for development to include uses specifically mentioned in 33.635.

### **33.730.060.D.1.d.**

A scale range is being added to ensure that drawings are legible. The range being added here is the same scale range specified for property line adjustments (see 33.677.200.B.1)

- b. Written statement. ~~Two copies of a~~ A written statement that includes the following:
- A complete list of all land use reviews requested;
  - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
  - A description of how all applicable approval standards and criteria are met for the land division and any concurrent land use reviews;
  - Additional information needed to understand the proposal, or requested at the pre-application conference;
  - Names and address of land division designer or engineer and surveyor;
  - Proposed maintenance agreements or Conditions, Covenants and Restrictions; ~~and~~
  - If Preliminary Plan phasing is proposed, a description and timeline of each phase and timing of associated improvements;
  - If more than 3 lots are proposed, the proposed name of the land division;
  - Proposed names of all streets;
  - A description of the type and location of any known potential geologic hazards such as liquefaction hazards, seismic hazards and faults, landfills, contamination; and
  - A description of past uses on the site that may affect the suitability of the site for development, such as industrial uses, landfills, railroad yards, mining, dry cleaners, outdoor firing ranges, and Quick Vehicle Servicing;
- c. Vicinity map. ~~Three copies of a~~ A vicinity map. ~~The map must cover an area~~ extending at least 800 feet in each direction from the land division site, and shows the following existing conditions for both the site and the vicinity:
- Zoning and Comprehensive Plan designations;
  - Streets;
  - Transit, pedestrian, and bicycle facilities and connections; and
  - Water bodies, wetlands, combined flood hazard areas, floodways, and potential landslide hazard areas; and
  - Location of utilities and services;
- d. ~~Copies of t~~ The proposed land division, drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet ~~and of a format, material, and number acceptable to the Director of BDS.~~ The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
- (1) Base map. The following information must be on all maps:
- Surveyed information:
- Boundary lines of the site with dimensions and total site area;
  - North arrow and scale of map;
  - Identification as the Preliminary Plan Map;
  - Stamp of surveyor; and

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## Commentary

### 33.730.060.D.1.d(2)

The tree canopy preservation option is being deleted from 33.630. As a result, this exemption from the requirement to survey trees on the site is being deleted.

This amendment also corrects the inadvertent omission of wetlands from the requirement to identify and delineate seeps, springs and wetlands.

- If more than 3 lots are proposed, the proposed name of land division;

Additional information:

- Proposed lot layout with sizes, dimensions, and lot numbers;
- Proposed tract layout with sizes, dimensions, purpose, and name;
- Proposed layout and widths of all rights-of-way including dimensioning and roadway width;
- Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way; and
- Proposed location, dimensions, and purpose of all easements;

- (2) Existing conditions map. The following existing site conditions must be shown:

Surveyed information:

- Ground elevations shown by contour lines at 5-foot vertical intervals for slopes greater than 10 percent, and at 2-foot vertical intervals for ground slopes of 10 percent or less;
- Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;
- All trees completely or partially on the site that are 6 inches or more in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. ~~On sites where the proposal is to preserve tree canopy under Option 5 or 6 of the Tree Preservation Standards in 33.630.100.A.5 or 6, the trees do not have to be surveyed;~~
- Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
- Seeps and springs, wetlands, watercourses, and all water bodies including the ordinary high water line and top of bank; if there is a seep, ~~or~~ spring, or wetland on the site, a wetland delineation is required to determine the edge of the seep, ~~or~~ spring, or wetland. This delineation must be performed by an environmental scientist;
- The centerline of existing drainageways, including ditches, swales, and other areas subject to wet weather inundation; and
- Location of flood hazard areas, including elevations of the combined flood hazard area and floodway boundaries. Sites that contain a water body not shown on the combined flood hazard area maps must identify the location of the combined flood hazard areas;

Additional information:

- Zoning and Comprehensive Plan designations; and
- Location, dimensions, and purpose of existing easements on and abutting the site;

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## Commentary

### **33.730.060.D.1.d(3)**

This additional information is no longer necessary at the land division stage. If onsite parking is expected, location of driveways should be shown to better ensure that future development will be able to meet street access requirements.

### **33.730.060.D.1.d(4)**

This amendment clarifies that the River Environmental and Pleasant Valley Natural Resource overlay zones are considered to be environmental overlay zones generally.

And, this amendment clarifies that the land division application should also include the proposed amount of soil to be deposited on and/or removed from the site.

- (3) Proposed improvements map. The following proposed improvements must be shown:
- ~~Enough information to determine that minimum lot width requirements are met for each proposed lot including footprint of structures and~~ Proposed locations of driveways ~~if necessary~~;
  - Distances of all known proposed development to proposed lot lines;
  - Proposed pedestrian connections;
  - If proposed lots are within a combined flood hazard area or landslide hazard area, proposed building locations; ~~and~~
  - If Preliminary Plan phasing is proposed; boundaries of sequence of the proposed phasing;
  - Existing and proposed services and utilities; and
  - Preliminary Stormwater Plan that meets the requirements of the Stormwater Management Manual and the BES Sewer Design Manual. This plan must show the capacity, type, and location, as well as the land area required, of the stormwater management system and stormwater disposal facilities proposed. The plan must also provide information on the feasibility of the stormwater management system being proposed;
- (4) Preliminary Clearing and Grading Plan. A Preliminary Clearing and Grading Plan that identifies all areas of clearing and grading. The plan must show the following:
- Existing contours and drainage patterns;
  - Existing drainageways, wetlands, streams, seeps and springs, and other water bodies;
  - Existing trees and vegetation;
  - Areas of the site where fill has been placed;
  - Boundaries of Environmental, River Environmental, or Pleasant Valley Natural Resources overlay zones ~~Overlay Zones~~;
  - Proposed areas of clearing and grading, including grading and clearing for:
    - Rights-of-way;
    - Services and utilities; and
    - Structures, such as retaining walls, necessary for the construction of these elements. Proposed areas of clearing and grading for individual lots and tracts may also be shown;
  - Proposed contours within areas to be cleared and graded;
  - Proposed stormwater and sedimentation control devices to be used during construction;
  - Proposed stockpile areas;
  - Proposed trees and vegetation to be preserved;
  - Proposed location and material of construction fencing for proposed tree preservation tract;
  - Proposed location and material of construction fence;
  - Proposed amount (cubic yards) of soil to be disturbed, deposited or removed from the site; and
  - Proposed structures necessary to construct streets or pedestrian connections;

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## Commentary

### 33.730.060.D.1.e(4)

The term "protection" has been added to the tree preservation plan to better describe the plan's required contents, specifically the protection methods in the 8<sup>th</sup> bullet.



- e. Tree information, as follows:
- (1) Existing tree map and preservation/protection plan showing the following:
    - Existing and proposed lots, tracts, rights-of-way, and utilities;
    - Surveyed location of all trees completely or partially on the site required to be surveyed by D.1.d(2);
    - The location, species and size of trees located in adjacent rights-of-way;
    - The approximate location, species, and size of trees on adjacent sites, within 15 feet of proposed or future disturbance areas;
    - Heritage trees on or adjacent to the site;
    - Tree numbers corresponding to the arborist report;
    - Location, type, and size of trees to be removed;
    - Location, type, and size of trees to be preserved and tree protection meeting the requirements of Chapter 11.60, Technical Specifications; and
    - Existing and proposed tree preservation tracts.
  - (2) Tree planting information, including:
    - Conceptual planting plan showing general area where trees will be planted on the lots as mitigation and/or to satisfy the tree density standards of Chapter 11.50, Trees in Development Situations;
    - A preliminary street tree planting plan; and
  - (3) A written statement describing how the requirements of Chapter 33.630, Tree Preservation, are met; and
  - (4) A written report prepared by an arborist that includes the following:
    - Trees located on the development site. The information listed below must be provided for all trees required to be shown on the existing tree map, as described in e.(1) above. Trees must be numbered consistent with the tree survey:
      - Evaluation of tree health and condition;
      - Identification of tree groves and Heritage Trees;
      - Identification of nuisance, dead, dying, and dangerous trees;
      - Evaluation of the suitability of each tree for preservation based on proposed or future development on the site, including consideration of grading and utility plans;
      - Identification of trees to be preserved and trees to be removed;
      - Root protection zone and tree protection methods specified for each tree to be preserved, as required by Chapter 11.60, Technical Specifications;
      - A discussion of activities that will be prohibited within root protection zones during construction, and any other relevant construction management needs; and
      - Recommendations for short or long-term tree care.
    - Trees in adjacent rights-of-way or on adjacent sites. Trees on adjacent rights-of-way or on adjacent sites that may be affected by the proposed or future development on the land division or planned development site must be identified. Recommendations for tree protection and methods to limit impacts on adjacent trees must be included in the arborist report.

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## Commentary

### **33.730.060.D.1.f. Landslide Hazard Study.**

The application requirements for a landslide hazard study have been expanded to ensure that the study submitted is relevant to current site conditions and building code requirements and contains all necessary components for application of the code. The additional items in the list are typical guidance provided to applicants during early assistance appointments.

- f. Landslide Hazard Study. If any part of the site is in a potential-landslide hazard area as shown on Map 632-1, the City's Potential Landslide Hazard Areas, ~~Map~~ the application must include a Landslide Hazard Study prepared by a Certified Engineering Geologist and a Geotechnical Engineer. The study must be based on current geotechnical professional standards and practices. If the study was prepared more than 2 years ago, an addendum must be provided that confirms that the study and any recommendations reflect current site conditions.

The Landslide Hazard Study must identify landslide hazard areas within the site and identify the part or parts of the site suitable for development in terms of the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site. The Landslide Hazard Study should make recommendations for the layout and design of the land division and development. On sites where the proposal is to meet the standards of 33.632.100.B. the Landslide Study must provide the rationale for slope stability conclusions. The Landslide Hazard Study should include:

- Identification of the safest portion(s) of the site for development;
- Hazardous or no-build areas within the land division site, if any;
- Recommended building setback distances from slopes, if any;
- Recommendations for the location of driveway and/or street locations;
- Utility trench locations;
- Retaining walls, associated drainage and discharge systems, if any;
- Estimated effect of tree removal on slope stability;
- Estimated effect of the development on stormwater and groundwater runoff, as well as evaluation of runoff and stormwater disposal from adjacent property as they relate to slope stability and landslide hazard;
- Recommendations for stormwater and groundwater disposal methods;
- Recommendations and corresponding design calculations for slope stabilization.

If any of the above items are not applicable to the proposal, the Landslide Hazard Study must describe why they are not applicable. The study must provide adequate detail to show the design of all proposed structures and improvements, and must include a statement of on-site slope stability after the proposed development is complete. ~~The study must also include a statement of the estimated effect of the developments on stormwater and groundwater runoff as it relates to slope stability and landslide hazard, and a proposed method of control.~~

The study may also include

- Review of LIDAR or aerial photography including stereo views;
- Review of geologic literature or previous reports;

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## Commentary

### **33.730.060.D.1.h.**

The neighborhood contact requirements have changed over the years. This amendment brings the application requirement related to neighborhood contact into alignment with what is required today—several pieces of information rather than one letter. This referred to outdated neighborhood contact letter requirements.

### **33.730.060.D.1.j**

The land suitability standards require the applicant to confirm that specific uses do not or have not existed on the site. Evidence to determine this may include city permit records, or other evidence such as historical photos. If such evidence exists, additional documentation may be necessary, such as a Phase I Environmental Assessment or documentation from DEQ (e.g the leaking underground storage tank database: <https://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp>, or the environmental cleanup site information database: <https://www.oregon.gov/deq/hazards-and-cleanup/env-cleanup/pages/ecsi.aspx>) that identifies known contaminants and any pending or completed decontamination projects.

### **33.730.060.D.1.k.**

Thresholds have been added for requiring transportation impact studies for land divisions in single-dwelling zones. These thresholds are generally consistent with the applicability thresholds in Title 17.88.050 and comport with the standards in 33.641.

### **33.730.060.D.1.k.**

The application requirement related to adequate school district enrollment capacity is being deleted because the standard requiring such verification is being deleted. See commentary related to chapter 33.655 for more information.

- Site reconnaissance including mapping of observable geologic features or hazards;
  - Additional field explorations as necessary; and
  - Laboratory testing;
  - Subsurface exploration logs; and
  - Slope stability calculations;
- g. Final Plat staging. When the Final Plat for a land division is to be submitted in stages, the application must include the number of stages, the areas each stage includes, and the sequence and time schedule for application for Final Plat approval of the various stages;
- h. ~~Neighborhood contact letters information. When neighborhood contact is required, the applicant must submit a copy of the required information as specified in Section 33.705.020, Neighborhood Contact Steps. Two copies of letters required by Section 33.700.025, Neighborhood Contact;~~
- i. Pre-application conference summary. In the case of a land division that requires a pre-application conference, ~~two copies~~ a copy of the completed pre-application conference summary or proof of participation;
- ~~j. Land suitability documentation. When there is evidence that Quick Vehicle Servicing, outdoor firing range, dry cleaner or any use in the Industrial Use category other than wholesale sales currently or previously existed on the site, a Phase I Environmental Site Assessment or documentation from the Oregon Department of Environmental Quality regarding any known contaminants is required; and~~
- ~~k.j. Transportation Impact Study. Three copies~~ One copy of the Transportation Impact Study, ~~if required; and. The study must be prepared by an Oregon Licensed Traffic Engineer. For land divisions in single-dwelling zones, a Transportation Impact Study is required when 11 or more lots are proposed, when vehicle access from any lot will be from a non-local street, or when a new street intersection is proposed that includes a non-local street. For land divisions in all other zones, the City Engineer may require a Transportation Impact Study when there are potential safety or operation concerns that may be impacted by the layout of the site or the size or location of proposed streets or driveways.~~
- ~~k. When the land division site is within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, and the land division will create eleven or more lots, the application must include verification from the school district that there is adequate enrollment capacity to serve the development site.~~
2. Preliminary Plan for Land Divisions on Large Sites in I Zones. An application for a Preliminary Plan taking advantage of Chapter 33.664, Land Divisions on Large Sites in Industrial Zones, must include all the elements listed in Paragraph D.1., above, except the lot and proposed building locations. Block pattern layout with dimensions and areas and all required tracts must be shown.

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## Commentary

### **33.730.060.D.3.g.**

The documentation that demonstrates property ownership is not limited to Title Insurance companies, nor is it always specifically called a "title report". This amendment refers more generally to documentation of ownership from a title insurance company or other entity authorized to provide such information in the state.

3. Final Plat. An application for a Final Plat must include all of the following:
  - a. Final Plat Survey. A copy~~Copies~~ of a Final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following information must be on the Final Plat survey:
    - The statement: “This plat is subject to the conditions of City of Portland Case File No. LUR...”;
    - Easements and tracts, including their purpose;
    - In the case of a middle housing land division, this statement: “This plat was approved as a Middle Housing Land Division under ORS 92.031”.
  - b. Supplemental plan. A copy of the supplemental plan,~~the number determined by the Director of BDS and~~ that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. Such restrictions include special development standards such as special setbacks, lot coverage limitations, impervious surface limitations, access restrictions, restrictive building areas, and approved minimum or maximum densities;
  - c. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval such as development envelopes, final tree preservation plans, mitigation plans, and final landscape / planting plans;
  - d. As-built survey. For a middle housing land division, a copy~~copies~~ of an as-built survey showing building footprints and any building projections with distances to proposed lot lines, and the location of underground services in relation to any tracts or easements;
  - e. Maintenance agreements and CC&Rs. A copy~~Three copies~~ of each required maintenance agreement or Conditions, Covenants and Restrictions;
  - f. Performance Guarantees. A~~One~~ copy of each Performance Guarantee;
  - g. Verification of ownership. A report issued by a title insurance company, or authorized agent to perform such services in the state, verifying ownership and detailing any deed restrictions~~Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;~~
  - h. Service bureau requirements. Documentation of submittal of all service bureau requirements, including water system plans, final street construction plans, final sewer and storm water plans, construction management plans, final clearing and grading plans; and
  - i. Fees. The applicable filing fees.
4. Final Plat for Land Divisions on Large Sites in Industrial Zones. An application for a Final Plat taking advantage of Chapter 33.664, Land Divisions on large Sites in Industrial Zones, must include all the elements listed in Paragraph D.3., above, for the area being platted. The application must also include enough information for the balance of the site to show how the approval criteria will be met.

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## Commentary

### 33.854 Planned Development Review

#### Summary of changes to this chapter:

- Add greater flexibility to address site constraints for accessible routes
- Minor corrections and changes to align with changes in other chapters

#### 33.854.310 Approval Criteria for Planned Developments in All Zones

The current approval criterion for accessible routes is clear and objective, requiring accessible connections between all buildings, parking areas, streets and open areas—the criterion does not currently allow for discretion. Accessible route in the zoning code is defined as “A route that can be used by a disabled person using a wheelchair and that is also safe for and usable by people with other disabilities.” This generally means a hard surfaced walkway with no more than a 5 to 8.3 percent grade. Achieving a 5 foot grade differential would require a ramp at least 60 feet long, which can be exceedingly difficult on sites with more significant slopes. The addition of the phrase “to the extent practicable” makes the criterion discretionary and means that the requirement can be reviewed in context of “taking into consideration cost, existing technology, and logistics in light of overall project purposes.”

#### 33.854.340.A.2.

This amendment directs the requirement to the connectivity approval criteria specifically.

#### 33.854.340.A.5.

The school district capacity requirement is being deleted because the chapter requiring evaluation of school district enrollment capacity is being deleted. See commentary related to Chapter 33.655 for more information.



## 33.854 Planned Development Review

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### 33.854.310 Approval Criteria for Planned Developments in All Zones

Criteria A through E apply to proposals for additional height or FAR in the CM2, CM3, CE, and CX zones that are taking advantage of 33.270.100.I. If the Planned Development is not proposing additional height or FAR as allowed by 33.270.100.I, then only criteria E through H apply.

A.-F. [No change]

G. **Accessible connections.** To the extent practicable, provide one or more accessible routes that connect all buildings on the site to adjacent streets, common open areas, and parking areas. Use landscaping and site furnishings to ensure the accessible route provides a pleasant user experience.

H. [No change]

### 33.854.340 Proposals Without a Land Division

The approval criteria of this section apply to Planned Developments that do not include a land division, except Planned Developments that are only using the commercial/mixed use zones Planned Development bonus. The approval criteria are:

#### A. Services.

1. The proposed use must be in conformance with the Arterial Streets Classifications and Policies of the Transportation Element of the Comprehensive Plan;
2. The approval criteria of Section 33.654.110.D, Connectivity and Location of Rights-of-Way, must be met;
3. The standards of Section 33.651.020, Water Service Standards, must be met;
4. The standard of Section 33.652.020, Sanitary Sewer Disposal Service Standard, must be met; and
- ~~5. The standard of Section 33.655.100, School District Enrollment Capacity Standard, must be met; and~~
56. The standard of Section 33.653.020, Stormwater Management Standard, must be met. ~~application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.~~

B. [No change]

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## Commentary

### **33.854.340.C.**

Reference to the RM1 zone and CI zone were inadvertently left out of these regulations. This amendment corrects that omission.

### **33.854.340.F.2.a.**

The amendments to this subparagraph align with revisions that are being made in Chapter 33.640.

**C. Combined flood hazard area.**

1. RF through R2.5 zones. In the RF through R2.5 zones, all proposed building locations must be outside of the combined flood hazard area.
2. RM1RM2 through RX, C, E, I, CI and IR zones. In the ~~RM1RM2~~ through RX, C, E, I, CI and IR zones, all proposed building locations must be outside of the combined flood hazard area where possible. Where it is not possible to have all building locations outside of the combined flood hazard area, all proposed building locations must be configured to reduce the impact of flooding and to provide the greatest protection for development from flooding. Proposed building locations must be clustered on the highest ground and near the highest point of access, and they must be configured in a manner that will minimize obstruction of floodwaters.

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

**F. Streams, springs, seeps, and wetlands.**

1. If there is a stream, spring, seep, or wetland outside of an Environmental Overlay Zone on the site, then the stream, spring, seep, or wetland must be preserved in an easement. The edges of the easement must be at least 15 feet from the edges of the stream, spring, seep, or wetland. The edges of a seep, spring, or wetland are determined through a wetland delineation, performed by an environmental scientist, and approved by BDS. For seeps and springs, if one or more wetland characteristics are absent from the resource, the delineation will be based on the wetland characteristics present. The edges of a stream are defined as the top-of-bank. ~~ww~~Where the edge of the stream, spring, seep, or wetland is less than 15 feet from the edge of the site, the easement boundary will be located along the edge of the site.
2. The following development, improvements, and activities are allowed in the easement:
  - a. Disturbance associated with discharging stormwater to the stream channel or wetland, if when BES has approved the stormwater system design ~~determined that the site's storm water cannot discharge to a storm sewer and BDS has determined that on-site infiltration is not an option;~~
  - b. Removal of non-native invasive species with hand held equipment;
  - c. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;
  - d. Erosion control measures allowed by Title 10 of Portland City Code;
  - e. Construction of required driveway connections or required connections to services when there is no practicable alternative to locating the driveway or service connections within the easement; and
  - f. Maintenance and repair of existing utilities, services, and driveways;

3.-4. [No change]

**G.** [No change]

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## **Commentary**

### **33.930.100 Measuring Lot Widths**

This amendment reflects the fact that chapter 33.611 is being deleted and the regulations of the chapter are being combined with chapter 33.610.

## 33.930 Measurements

# 930

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### 33.930.100 Measuring Lot Widths

- A. Single-Dwelling zones.** In the single-dwelling zones, lot width is measured by placing a rectangle along the minimum front building setback line. Where the setback line is curved, the rectangle is placed on the line between the intersection points of the setback line with the side lot lines. See Figure 930-20.

The rectangle must have a minimum width equal to the minimum lot width specified for the zone in Chapters ~~33.610 and 33.611~~. The rectangle must have a minimum depth of 40 feet, or extend to the rear property line, whichever is less. The rectangle must fit entirely within the lot. See Figure 930-20.

- B. All other zones.** In all other zones, lot widths are measured from the midpoints of opposite lot lines. See Figure 930-15.

