



THE BUREAU OF  
**PLANNING &  
SUSTAINABILITY**

## Memo

Date: October 23, 2024  
To: Mayor and City Commissioners  
From: Sandra Wood, Principal Planner  
Re: Housing Adjustment Compliance Project – Potential Amendments

On October 30, 2024, City Council will hold a hearing on the Housing Adjustments Compliance Project (HACP). The HACP is an ordinance to amend Portland’s zoning code to bring it into compliance with several provisions of Senate Bill 1537. The compliance deadline is January 1, 2025.

This memo includes code language and commentary for an amendment that Mayor Wheeler will introduce at the October 30<sup>th</sup> hearing, prior to hearing public testimony. This memo is being provided prior to the hearing so that the public has an opportunity to be informed and provide testimony.

The amendment is necessary to facilitate the replacement of the Burnside Bridge, by clarifying that only parts of the zoning code apply to development in the public right-of-way.

### **Recommended zoning code amendment**

(Language to be added is underlined. Language to be deleted is shown in ~~strikethrough~~.)

## **33.10 Legal Framework and Relationships**

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### **33.10.030 When the Zoning Code Applies**

- A. **All land and water.** The zoning code applies to all land and water within the City of Portland except as provided in Subsections B., C., and D. below. All land divisions, uses and development must comply with all of the requirements specified in the zoning code for that location.
- B. **Clarification for rights-of-way.** Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:
  1. The act of creating or dedicating public rights-of-way through a land division; ~~Rights-of-way in the greenway, river, environmental conservation, environmental protection, pleasant valley natural resource, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;~~

2. Structures that project from private property over rights-of way, such as oriel windows;  
The act of creating or dedicating public rights-of way through a land division;
  3. Proposals for park-and-ride facilities for mass transit;Development within the design overlay or historic resources protection overlay zone;
  4. Development within rights-of-way in the design, historic resource, greenway, river, environmental conservation, environmental protection, pleasant valley natural resource, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion of existing rights-of-way. In this situation, the regulations and standards of the base zones, plan districts and 200 series of chapters do not apply.Structures that project from private property over rights-of way, such as oriel windows; and
  5. Proposals for park-and-ride facilities for mass transit.
- C. Clarification for waterbodies.** The siting of fills or structures on or over waterbodies is subject to the zoning code provisions. The zoning code does not regulate shipping, dredging, boating, and other similar uses on or in water bodies. The zoning code does regulate dredging in the Willamette River Central and South reaches and the Greenway overlay zone in the South Waterfront Subdistrict of the Central City but does not regulate dredging on or in any other portion of the Willamette River or any other water body.
- D. Private rights-of-way.** The creation of private rights-of-way is regulated by Title 33, Planning and Zoning. Street improvements in private rights-of-way are allowed by right in all zones.

**Recommended commentary:**

**33.10.030.B Clarifications for rights-of-way**

In most cases, the zoning code does not apply within public rights-of-way. However, there are a few exceptions where both Title 17, Public Improvements, and Title 33, Planning and Zoning, apply. The exceptions include public right-of-way in design, historic resource, greenway, river, and environmental overlay zones. The intent is for development in the right-of-way (such as a bridge) to comply with the purpose and regulations of these special overlay areas. An example is for development in the river overlay to “promote the protection, conservation, restoration, enhancement and maintenance of ... lands along the Central and South reaches of the Willamette River.”

However, 33.10.030.B.1 and 3 suggest that when development is proposed in one of the overlay zones listed, the entire zoning code applies instead of just the regulations of the overlay zones. Because most of the other rules in the zoning code are written for development, such as buildings, on real property (e.g. setbacks from property lines, height limits, and maximum floor area ratios), it doesn't make sense to apply them to projects in the public right-of-way, which generally include roadway improvements, bike lanes, sidewalks, and bridges. In fact, the remainder of the zoning code regulations outside of the overlay zone rules have rarely, if ever, been applied by permitting staff to projects in the public right-of-way.

This amendment clarifies that, when the right-of-way is within one of the listed overlay zones, the zoning code regulations that are not relevant to projects in the public right-of-way, including base zone, plan district and the 200 series of regulations, do not apply. This will narrow the application of the zoning code to the regulations in the applicable overlay zones as intended.

This amendment is necessary to ensure that the Central City height limits are not applied to the Burnside Bridge replacement because, as mentioned above, standards such as height limits, floor area ratios, and setbacks are intended for buildings and other structures on real property, not for bridges or other elements in the public right-of-way. The purpose statement for the Central City height standard (33.510.210) supports this conclusion, because it primarily contemplates heights being applied to buildings. For example, the purpose statement includes: "Locating the tallest building heights along the Transit Mall and high-capacity transit lines", and "Emphasizing bridgehead locations with taller buildings" [underline added]. In addition, the existing Burnside Bridge currently exceeds a height limit on the west side of the bridge in Tom McCall Waterfront Park—the height limit is 35 feet and, according to Multnomah County, the bridge is currently just over 40 feet tall.

To the extent that height limits in the Central City are there to protect important public views, the City Council adopted the Central City 2035 Plan (CC2035). CC2035 included adoption of the Scenic Resources Protection Plan (Ord. No. 190023), which identifies the Willamette River bridges as being part of important public views:

- **CC2035 Scenic Resource Protection Plan Volume 3A Part 1: Summary; pg. 1:** Views: A view is an aesthetically pleasing landscape or scene comprised of one or more visual features. A view may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A view may be to a faraway object, such as a mountain, or of a nearby object, *such as a city bridge (emphasis added)*. Views are also referred to as view corridors in the plan.
- **CC2035 Scenic Resource Protection Plan Volume 3A Part 1: ESEE Summary pg. 26**

A. Policy Priorities

The policy priorities are intended to describe the general approach to protect views and viewpoints in and around the Central City. The description of the protected views and viewpoints refines the general policy priorities based on the Central City Scenic Resources Economic, Social, Environmental and Energy Analysis (ESEE).

Willamette River Bridges

Portland is also known as "Bridge City USA" because there are 12 bridges that cross the Willamette River, nine of which are located in the Central City. There are

unique and significant views of the bridges. *The Willamette River bridges can be seen in most views of and across the Central City (emphasis added).*

The Burnside Bridge is mentioned as being visible in several views both of and from the Central City and is called out as a secondary focal point of view #SW61.

This amendment is being proposed for the Housing Adjustments Compliance Project because the project contains an amendment to allow adjustments to height limits in the Central City. However, the allowance for adjusting height is limited to projects that include housing. This is further evidence that the height standard is intended for development on private property not infrastructure in the public right-of-way because housing is not built in the public right-of-way.



# **Housing Adjustment Compliance Project**

## **To address Senate Bill 1537**

**October 2024 – Recommended Draft**



# LANGUAGE ACCESS

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### How can I participate?

- 1. Watch the public hearing** (live stream and recorded) at <https://www.portland.gov/council-clerk>
- 2. Testify at the City Council hearing.** The hearing on **October 30, 2024 beginning at 2:00 pm** will be a hybrid format with options to participate either in person or virtually using a computer, mobile device, or telephone. You **must** sign up to testify in advance. The Council Clerk will post the agenda with the public testimony registration links on Friday, October 25, 2024 by 9:00 AM. To testify before City Council in person or virtually:
  - Use the QR code to the right to sign up on your mobile device; or
  - Visit the project website at [www.portland.gov/bps/planning/housing-adjustments](http://www.portland.gov/bps/planning/housing-adjustments)
  - Visit the Council Agenda at [www.portland.gov/council/agenda](http://www.portland.gov/council/agenda)
  - Call 311, or visit the 311 Customer Service Desk in the Portland Building, or;
  - Visit the Auditor’s Office on the first floor of City Hall, Room 130



After registering, you will receive a confirmation email containing information about joining the hearing. **The deadline to sign up for the October 30 hearing is Monday, October 29 at 5:00 p.m.** Individuals have three minutes to testify, unless stated otherwise at the hearing.

- 3. Submit written testimony.** We strongly encourage electronic written testimony via the Map App. Written testimony must be received by the time of the hearing and must include your name

Use the Map App:	Use U.S. Mail:
<a href="http://portlandmaps.com/bps/mapapp">portlandmaps.com/bps/mapapp</a> Click on "Housing Adjustment Compliance" then click the "Testify" button. Testifying in the Map App is as easy as sending an email.	City Council Housing Adjustment Compliance Testimony 1221 SW 4 <sup>th</sup> Ave, Room 130 Portland, OR 97204

### Contact Project Staff:

For more information contact:  
 Phil Nameny, Project Manager: 503-823-7709 or [phil.nameny@portlandoregon.gov](mailto:phil.nameny@portlandoregon.gov)

# Acknowledgments

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Carmen Rubio  
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Erica Thompson, Vice-Chair  
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## Portland Planning Commission

Mary-Rain O'Meara, Chair

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Nikesh Patel  
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Michael Pouncil, Vice Chair  
Michael Alexander  
Brian Ames

Wade Lange  
Eli Spevak



September 24, 2024

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

Dear Mayor and City Commissioners,

With this letter, the Planning Commission transmits its recommendation to the City Council on the Housing Adjustment Compliance Project, which brings the City's Zoning Code into compliance with the state rules adopted through Senate Bill 1537 and signed by Governor Kotek this past spring.

On September 10, 2024, the Commission voted 7-0 to recommend that City Council adopt the proposed Zoning Code amendments with two modifications to the staff proposal.

To encourage housing development, Senate Bill 1537 requires jurisdictions to either automatically approve adjustments to development standards during permitting or to request an exemption to the automatic approvals and instead continue following their adjustment process, as long as certain development standards are adjustable.

This project removes the prohibition on adjustments to some development standards and brings the zoning code into alignment with Senate Bill 1537. The amendments focus on three areas where current code had adjustment prohibitions: minimum lot sizes & dimensions, maximum height limits, and standards impacting cottage cluster development. Generally, the amendments allow adjustments up to the maximums stated in the bill, which include a 10 percent adjustment to minimum lot sizes and a 20 percent adjustment of the base zone height to maximum height limits. The new provisions sunset on January 2, 2032.



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The Planning Commission held a public hearing on the proposed project on August 27, 2024. The project generated limited testimony, which was focused on expanding the staff proposal for height adjustments beyond the 20 percent cap. At the conclusion of the hearing, a commissioner asked staff to return with more information about heights regulations for consideration of an amendment to remove the 20% upper limit to the allowances for adjustments within the Central City plan district. In addition to the height adjustment amendment, staff had made a request for the Planning Commission to consider an amendment to the locational standards for long term bike parking to allow adjustments to the percentage of long-term bike parking allowed within individual dwellings. Staff stated this adjustment was needed to comply with SB 1537.

During the work session held on September 10, the Planning Commission discussed both amendments, with the focus on the height adjustments. Although staff shared that the upcoming Central City Code Amendments project will be studying height and floor area regulations, the Commission felt that there was a sense of urgency in considering more options for residential projects in the Central City at this time. We discussed that the temporary allowance is relatively low risk, since there are not many projects that push against the upper thresholds of the height limit, and the allowance would expire in 7 years. However, there could be a large benefit if the additional height makes a project viable. In addition, any height adjustment or modification request would be reviewed by staff or the Design Commission to determine whether it meets the design guidelines. For that reason, the Planning Commission voted to amend the staff proposal to allow height adjustments in the Central City to exceed the 20% amount that is needed to achieve compliance with the bill. At the conclusion of the work session, the Planning Commission voted to include both amendments into their recommendation which follows.

### **Recommendation**

The Planning Commission recommends that the City Council:

1. Adopt the Housing Adjustment Compliance project – Recommended Draft
2. Amend the Zoning Code (Title 33) as shown in the Recommended Draft

Thank you for the opportunity to participate in the review of this project and for considering our recommendations.

Respectfully submitted,



Mary-Rain O'Meara, Chair



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# Section I: Introduction

## Planning Commission Recommendation

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

- Adopt this report; and
- Amend Title 33, Planning and Zoning, as shown in the Recommended Draft. The amendments generally allow further adjustments of the code as directed in Senate Bill 1537.

## Project Summary and Code Changes

**The Housing Adjustment Compliance Project amends several sections of the Title 33, Portland Zoning Code, to comply with the provisions of Oregon Senate Bill (SB) 1537.** Senate Bill 1537 (SB 1537) was approved by the Oregon Legislature during the 2024 regular legislative session and signed by Governor Kotek in April 2024. The bill requires local jurisdictions to approve requests to adjust, or vary from, a range of development and design standards when the adjustment is associated with the development of housing. As an alternative, the bill allows jurisdictions to continue using their own adjustment or variance process if it can show that the development standards listed in the bill are adjustable and that the jurisdictions track record for approving adjustments over the past five years is 90 percent or greater.

The City of Portland intends to apply for an exemption and continue using its current adjustment and modification processes for developers of housing projects. The City already allows adjustments or modifications through Design or Historic Resource review for most standards listed in the SB 1537. In addition, the City has approved well over 90% of adjustments and modifications in the past five years. This project amends the zoning code to allow adjustments for a short list of standards that SB 1537 identifies, but for which adjustments are not currently allowed. This will enable the City to use its existing, and successful processes, fees and code criteria rather than creating a second adjustment process specific to SB 1537.

The summary of changes are:

- Amend the zoning code to address the list of standards in SB 1537 for which the zoning code does not already allow adjustments. The vast majority of standards listed in SB 1537 are already adjustable in the zoning code. The amendments remove prohibitions on adjustments to minimum lot sizes in single dwelling zones, maximum height limits (generally in specific plan districts), bike parking locational standards, and a few standards specific to middle housing options in the single dwelling and RM1 zones. Specifically, this proposal amends the following chapters as follows:
  - 33.110 Single-dwelling zone: Minimum lot size/dimension for existing lots/lots of record, Residential infill (RIP) – standards for duplex height, minimum lot area for 3 or 4-plex, maximum height for affordable 4-6plex, cottage cluster standards

- 33.120 Multi-dwelling zone: Minimum lot frontage for deep lots, cottage cluster standards
  - 33.130 Commercial Mixed-Use zone: General height bonus standard
  - 33.266 Parking, Loading and Transportation and Parking Demand Management: Bike parking location standards in dwelling units
  - 33.510 Central City Plan District (PD): Base and bonus height standards
  - 33.526 Gateway PD: Maximum and bonus heights, open area requirements
  - 33.532 Hayden Island PD: Maximum and bonus height
  - 33.536 Hollywood PD: Maximum and bonus height
  - 33.561 North Interstate PD: Maximum and bonus height
  - 33.562 Northwest PD: Bonus height (general height allows adjustments)
  - 33.563 Northwest Hillside PD: Minimum lot size/dimension in Linnton
  - 33.564 Pleasant Valley PD: Minimum flag lot pole dimension
  - 33.583 St Johns PD: Maximum height outside of CM3 zone (CM3 allows modification)
  - 33.595 West Portland Town Center PD: Maximum bonus heights (base heights regulated by 33.100s)
  - 33.610 Land Divisions in single family zones: Minimum lot size/dimension standards, minimum flag lot pole dimension
  - 33.677 Property Line Adjustment: Minimum flag lot pole dimension
  - 33.700 Administration and Enforcement: Date of application change request – permanent change
  - 33.805 Adjustments: Acknowledge allowance for cottage cluster to increase density
- Limit the amount of variation allowed as provided for in the bill. In some cases, that means the standard can be adjusted by a certain amount (such as increasing height by no more than 20% outside of the Central City, or reducing lot sizes by 10%), whereas in other situations, the adjustment may be more open ended. Note that Central City height may be adjusted for an amount greater than 20%.
  - Incorporate a sunset date reflecting the duration of the bill – i.e., until January 1, 2032. Beginning January 2, 2032, the provisions specifically allowing these adjustments will automatically be rescinded and the code that is currently in effect will apply again.
  - Create a permanent change in Chapter 33.700 to allow applicants to request a change in date of application in limited circumstances.

## **Background**

### **Adjustments and development standards**

The City of Portland’s zoning code was most recently adopted in 1991. However, it has been continuously updated and modified in the decades since then. A key provision of the zoning code is the use of clear and objective development and design standards to guide the

establishment of various uses, and the development of buildings to accommodate those uses. These standards are provided in the base zones, overlay zones and plan districts.

Because not every situation or site condition can be considered when zoning code provisions are being adopted, the current zoning code provides a discretionary process by which the standards can be adjusted or varied from. These variances from the standard are called adjustments, or modifications when they are included in other reviews such as Design review or Historic Resource review. Adjustments provide flexibility for unusual situations and allow for alternative ways to meet the purpose of the standard, while still carrying out the goals and policies of the Comprehensive Plan. They also allow the community to be notified of and engage in the process.

However, adjustments and modifications to some design and development standards are prohibited. These situations are fairly narrow and are currently related to the residential infill (i.e. middle housing) options, bike parking allowances in a dwelling unit, the minimum lot size requirements in single-dwelling zones, and the maximum or bonus height limits that apply in several plan districts. In these cases, adjustments are prohibited because the standards themselves have flexibility built into them that allow for a variety of situations. The intent on limiting adjustments in these situations is to focus the options on specific desirable outcomes such as affordable or middle housing.

### **Senate Bill 1537**

Senate Bill 1537 was signed by Governor Kotek in the Spring of 2024. This bill established a list of development and design standards that local jurisdictions must allow applicants to adjust when housing is proposed. In some cases, there are specific parameters that allow a jurisdiction to limit how far an adjustment can go, such as requiring a jurisdiction to grant adjustments to minimum lot sizes up to a maximum variance of 10 percent. In other cases, such as for facade articulation or balcony requirements, the bill allows for a full waiver of the standard.

There are three ways a jurisdiction can comply with this bill:

1. A jurisdiction can apply the rules directly from the bill without amending their zoning code.
2. A jurisdiction can incorporate the bill's language and approval criteria into their local zoning code as an alternative adjustment or variance process.
3. A jurisdiction can apply to the State of Oregon for an exemption to the bill's language, if it can show that the standards addressed by the bill are adjustable and that the track record for approving adjustments over the past 5 years is 90 percent.

The City of Portland is choosing option 3 and will be requesting an exemption from applying the bill directly. There are several reasons for this:

- Implementing the bill directly requires applicants and staff to reference two sets of rules and procedures for adjustments—an existing one in the zoning code and one listed in the bill itself—for the next seven years. In addition, the bill uses language that is not aligned with Portland's zoning code language, introducing the need for interpretation which can lead to confusion for the applicant and implementers.

- The City already has a well-established and understood adjustment and modification process. The process includes criteria steps that are consistently applied to address cumulative impacts and allow for neighborhood notification.
- Most of the standards listed in the bill are already adjustable in Portland, and it is only a small subset of standards that need to be addressed, in order to allow adjustments.

### **Data Review**

Portland Permitting & Development (PP&D) provided BPS staff with data on the adjustments and modifications that they had processed between 2018 and 2023. During that time, there were a total of 887 cases that involved either adjustments or modifications. Of these, there were only a total of 8 denials leading to a success rate of 99 percent.

Bureau of Planning and Sustainability staff previously did a study of adjustments and modifications from 2018 and 2022 to determine what adjustments were most common. The most common adjustments generally were for building setbacks, vehicle parking standards and bicycle parking standards. The bicycle parking adjustments were reduced with the implementation of the bicycle parking code updates implemented in 2020, while the other more common adjustments will not be impacted by these amendments.

### **Conclusion**

This project contains amendments to zoning code standards that are prohibited from being adjusted. To align with SB 1537, this subset of standards will be adjustable during the life of the bill, which expires on January 2, 2032. The amendment to 33.700 regarding the date of application is a permanent change.

By amending the zoning code to incorporate the temporary adjustment allowances, the City's permitting staff can continue to review and process adjustments as they currently do. Allowing these provisions to be incorporated into current processes means that the City does not need to directly apply the processes or approval criteria within the bill or to create a separate secondary adjustment process.

### **Community Engagement**

During the introduction and discussion of SB 1537, the state engaged in an outreach process that resulted in a considerable amount of testimony on this bill. Testimony was received by statewide interests as well as interested parties located within Portland. BPS staff reviewed this testimony to gauge the opinions of people within our area of influence. The bill generated several hundred pieces of written testimony. Testimony records can be found within the Oregon Legislature's 2024 bill tracking system.

Staff with the Bureau of Planning and Sustainability (BPS) have engaged in initial discussions with the State Department of Land Conservation and Development (DLCD) to ensure that the City's proposal aligns with the intent of SB 1537. The deadline to comply with the bill is January 1, 2025. Staff will continue to work with DLCD during the exemption application process. BPS staff have discussed the proposal with planners who implement the zoning code at Portland



Permitting & Development (PP&D), formerly known as the Bureau of Development Services (BDS).

Notice of the proposed draft and the Planning Commission hearing was submitted online to the DLCD and was sent to the BPS’s legislative project list. The legislative list includes recognized organizations, neighborhood associations, and business associations. The notice was also emailed to over 30 individuals who expressed an interest in the project. The proposed draft was made available on the project web site and the City’s testimony database (Map App) was made available to submit testimony. A total of people submitted written testimony through the Map App. While the testimony expressed a general support for the changes, there were also requests to go beyond the adjustment limits required under the bill, especially for height limits, and to consider making the allowances permanent.

The Planning Commission held a hearing on August 27. Two of the members of the public that submitted written testimony also testified in person, with the request to consider allowing greater adjustments to height within the Central City. In addition, BPS staff noted that an amendment would be needed to the bike parking location within dwelling units to align with the provisions of the bill.

During a work session held on September 10, staff and the Commission discussed the proposal and potential amendments, with the focus on changing the maximum limit for height adjustment requests in the Central City. Staff provided background on the development of height limits within the Central City 2035 plan, which went into effect in 2018, and the scope of a future Central City update project. Staff also provided an overview on the bike parking amendment. The Planning Commission voted to accept the staff bike parking amendment and moved to amend the code to remove an upper limit to height adjustments within the Central City, while keeping the expiration date of January 2, 2032. The Planning Commission expressed confidence that review of modifications or adjustments to height could be adequately addressed during the Design or Historic Resource review process.

The notice for the City Council hearing was submitted on October 11 to those who testified at the Planning Commission. Staff also emailed information on the hearing to those who have expressed interest in the project. Information on the Council hearing was made available on the project web site and through the monthly BPS project communication. The Recommended Draft was made available on the project web site and the City’s testimony database (Map App) was reopened to allow for the submittal of written testimony starting on October 11.

## Timeline

<b>April 2024</b>	Senate Bill 1537 signed by Governor Kotek
<b>July 2024</b>	Housing Adjustment Compliance Project Proposed Draft released
<b>August 27, 2024</b>	Planning Commission public hearing
<b>September 10, 2024</b>	Planning Commission work session and recommendation
<b>October 30, 2024</b>	City Council public hearing
<b>November 2024</b>	City Council work session and potential vote
<b>Early 2025</b>	Amendments effective





## Section II: Amendments to the Zoning Code

This section presents amendments to Title 33, Planning and Zoning. The section is formatted to facilitate readability by showing code amendments on the right-hand (odd) pages and related commentary on the facing left-hand (even) pages.

How to read these amendments:

- Language to be added is show in underline.
- Language to be deleted is show in ~~strikethrough~~.

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## Commentary

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

These regulations set the standards for when existing lots, lots of record or lot remnants may be developed. The standards are intended to apply to older parcels of land that may, or may not, have gone through a land division or subject to current standards. In some cases, such as minimum lot sizes, the standards applicable to existing lots, lots of record, or lot remnants are not currently adjustable.

This amendment allows for adjustments to the minimum lot size requirement for these parcels up to a factor of 10 percent. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments of up to 10 percent through January 1, 2032.

## 33.110 Single-Dwelling Zones

110

### 33.110.202 When Primary Structures are Allowed

- A. Purpose.** The regulations of this section allow for development of primary structures on lots and lots of record that are an adequate size, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations ensure that development on a site will in most cases be able to comply with all site development standards. The regulations also allow development of primary structures on lots that were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.
- B. Adjustments.** Except as allowed by C.4.a and C.5, Adjustments to this section are prohibited.
- C. Primary structures allowed.** Development of a primary structure is allowed as follows:
1. On a 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, lot of record, lot remnant, or combinations thereof that did not abut a lot, lot of record, or lot remnant under the same ownership on July 26, 1979, and has not abutted a lot, lot of record, or lot remnant 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 stated in Table 110-3. Until January 2, 2032, adjustments to reduce the minimum lot size requirements by up to 10 percent may be requested. Beginning January 2, 2032, adjustments are prohibited; 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 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 110-3. Until January 2, 2032, adjustments to reduce the minimum lot size requirements by up to 10 percent may be requested. Beginning January 2, 2032, adjustments are prohibited.
- D. Plots.** Development is prohibited on plots that are not lots, adjusted lots, lots of record, or lot remnants or tracts.

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## Commentary

### 33.110.265 Residential Infill Options

- A. Purpose.** This amendment adds language to the purpose statement to address potential situations where standards previously were not adjustable. Many of the standards currently prohibited from receiving adjustments address minimum lot sizes and maximum height. Adjustment to these standards may be covered by addressing the reference to the overall character of the single dwelling neighborhood. However, some of the previously non-adjustable standards covered aspects of development such as minimum window requirements and minimum open area especially within cottage cluster development. As a result, additional provisions are added to the purpose statement that explain the purpose of providing common open area and providing visual connections between these areas and the dwelling units.
- D. Duplexes.** The current standards allow for the creation of a second “detached duplex” on a lot that contains an existing house that is at least 5 years old. However, the standard limits the height of the detached duplex to 25-feet, which is lower than the height limit for primary structures in the single-dwelling zones, and it prohibits adjustments to the standard. The amendment allows for this standard to be adjustable until January 2, 2032 to be consistent with the provisions of SB 1537.

### 33.110.265 Residential infill options

**A. Purpose.** The residential infill options allow for a variety of residential housing types in a manner that maintains the overall character of single-dwelling neighborhoods, and a positive relationship to the public realm or common areas. These options have several public benefits:

- They promote housing types that accommodate households of varying sizes and income levels;
- They promote energy-efficient development;
- They provide for a more efficient use of residential land; ~~and~~
- They promote better site layout and adequate opportunities for private or common recreational and open areas; ~~and~~
- They promote a visual connection between the residences and the common open areas.

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

**D. Duplexes.**

1. Duplexes consisting of two primary dwelling units in one structure are allowed on lots in the R20 through R2.5 zones.
2. Duplexes consisting of two detached primary dwelling units are allowed on lots in the R20 through R2.5 zones, and must meet the following standards. Unless specifically allowed below, aAdjustments are prohibited:
  - a. Existing dwelling unit. The lot must contain a primary dwelling unit that received final inspection at least 5 years ago.
  - b. Maximum height. The maximum height allowed for the dwelling unit that is not the existing primary dwelling unit is 25 feet. Adjustments to this standard may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.

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## Commentary

**E. Triplexes and fourplexes.**

**F. Affordable fourplexes and multi-dwelling structures.**

The standards for triplexes and fourplexes, and for the affordable fourplexes and multi-dwelling structures were developed as part of the Regulatory Improvement Project (RIP). The intent was to create options for a variety of middle housing forms of development within single dwelling zones, including smaller multi-dwelling complexes. However, the intent was also to maintain some of the aspects of these zones including requiring similar minimum lot sizes for the character of the respective zones. As a result, several aspects of these standards prohibited adjustments.

With the implementation of SB1537, several of these development and design standards are now required to allow for adjustments. This includes allowing small adjustments to the lot size and dimension standards, as well as adjustments to height. The amendments made to the following page allow for a 10 percent reduction in minimum lot area based upon Table 110-7. In addition, allowances within other sections to new or existing lots that allow similar reductions in width or depth would allow for an overall set of adjustments to those standards consistent with SB 1537.

Some of the other prohibitions on adjustments to this page have to do with limitations on the development/building type definitional threshold and with affordability. These prohibitions are not addressed by SB 1537. The commentary for height is on the following page.



- E. Triplexes and fourplexes.** Triplexes and fourplexes that meet the following standards are allowed in the R20 through R2.5 zones. Triplexes and fourplexes are prohibited on lots that do not have frontage on a maintained street, except lots that have frontage on a private street that connects to a maintained street, and lots that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement.
1. Density. Up to a maximum of four dwelling units are allowed.
  2. Minimum lot area. Lots for triplexes and fourplexes must meet the minimum lot area requirement shown in Table 110-7. Adjustments to reduce the required minimum lot area by up to 10 percent may be requested prior to January 1, 2032. Beginning January 2, 2032, Adjustments are prohibited.

<b>Zone</b>	<b>Minimum Lot Area</b>
R20	12,000 sq. ft.
R10	6,000 sq. ft.
R7	4,200 sq. ft.
R5	3,000 sq. ft.
R2.5	1,500 sq. ft.

3. [No change]
- F. Affordable fourplexes and multi-dwelling structures.** Fourplexes and multi-dwelling structures with no more than six dwelling units are allowed in the R20 through R2.5 zones when the following standards are met. Fourplexes and multi-dwelling structures are prohibited on lots that do not have frontage on a maintained street, except lots that have frontage on a private street that connects to a maintained street, and lots that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement.
1. Density. A maximum of six dwelling units are allowed. More than six dwelling units are prohibited.
  2. Affordability. 50 percent of the total number of dwelling units on the site must be affordable to those earning no more than 60 percent of the area median family income or an affordability level established by Title 30. The applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the affordability requirement of this option and any administrative requirements of the Portland Housing Bureau. The letter must be submitted before a building permit can be issued for the development but is not required in order to apply for a land use review. Adjustments are prohibited.
  3. Minimum lot area. Lots for affordable fourplexes and multi-dwelling structures must meet the minimum lot area requirement shown in Table 110-7. Adjustments to reduce the required minimum lot area by up to 10 percent may be requested prior to January 1, 2032. Beginning January 1, 2032, Adjustments are prohibited.

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## Commentary

### **F. Affordable fourplexes and multi-dwelling structures.**

5. **Maximum Height.** The current standard for these affordable developments provides a height limit of 35-feet, which exceeds the 30-foot height limit for other forms of development in the R20-R5 zones. (The R2.5 zone already has a 35-ft height limit). However, this maximum height is not adjustable.

The amendment allows for adjustments to this maximum height through January 1, 2032, to be consistent with the provision in SB 1537 to require jurisdictions to allow adjustments to height for residential development in nearly all cases. Similar to other height standards for primary buildings within the single dwelling zones, the adjustment allowance to height is not limited but will be based upon meeting the approval criteria.

### **G. Cottage cluster**

Much of the current set of standards for cottage clusters was taken from state guidance for these forms of development, although some lot requirements were based on the City's anticipation that cottage clusters be used more for infill opportunities.

However, other than limits on building height, the provisions in SB 1537 allowing adjustments supersede the previous state guidance on cottage clusters. This includes allowing adjustments for standards like lot dimensions, unit density, outdoor or common area, building orientation, and window requirements. The amendments on the following pages allow applicants to request adjustments, including the following:

1. **Minimum site dimensions.** This amendment allows for adjustment requests to reduce minimum site dimensions up to 10%, consistent with the SB 1537 language.
2. **Maximum area.** This amendment allows for adjustment requests to increase maximum lot area by 10 percent if it is in conjunction with an increase in unit density (max dwelling units below).

4. Maximum FAR. The maximum FAR is 1.2 to 1. Adjustments are prohibited.
  5. Maximum Height. The maximum height is 35 feet. Adjustments to this standard may be requested prior to January 2, 2032. Beginning January 2, 2032, Aadjustments are prohibited.
  6. Building Coverage.
    - a. Generally. The maximum building coverage allowed is stated in 33.110.225.
    - b. Exception. The maximum building coverage allowed per lot is 60 percent. In this case, the maximum height allowed is reduced to 25 feet. Adjustments are prohibited.
  7. Required outdoor area.
    - a. Generally. Outdoor area is required as stated in 33.110.240.
    - b. Exception. At least 48 square feet of outdoor area must be provided per dwelling unit. Each outdoor area must be designed so that a 4-foot x 6-foot square will fit entirely within it. The outdoor area must be directly accessible to the unit. Areas used for pedestrian circulation to more than one dwelling unit do not count towards meeting this standard. If the area is at ground level, it may extend into the entire required side and rear setback. The requirements of 33.110.240.C continue to apply. Adjustments are prohibited.
  8. [No change]
- G.** Cottage cluster. Cottage clusters that meet the following standards are allowed on sites in the R10 through R2.5 zones. Cottage clusters are prohibited on sites that do not have frontage on a maintained street, except sites that have frontage on a private street that connects to a maintained street, and sites that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement. Except as allowed below, aAdjustments to the following standards are prohibited.
1. Minimum site dimensions. Adjustments to reduce the minimum required site dimensions by up to 10 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.
    - a. Minimum site area.
      - (1) R10 and R7. In the R10 and R7 zones, cottage cluster sites must be at least 7,000 square feet in area.
      - (2) R5 and R2.5. In the R5 and R2.5 zones, cottages clusters sites must be at least 5,000 square feet in area.
    - b. Minimum site width. Cottage cluster sites must be at least 36 feet wide. Site width for a cottage cluster is measured as lot width is measured. See 33.930.100.
  2. Maximum area. Cottage cluster sites must not be greater than one acre. Adjustments to increase the area by up to 10 percent above this standard may be requested prior to January 2, 2032, if an adjustment to the maximum number of dwelling units is also requested. Beginning January 2, 2032, adjustments are prohibited.

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## Commentary

4. **Maximum dwelling units.** This standard creates an upper limit on the total number of cottages allowed on a site, and is considered to fall under the "unit density" provision in the bill. This amendment allows for adjustment requests to exceed the 16-unit maximum dwellings on site.
  
  
  
  
  
  
  
  
  
  
6. **Maximum height.** SB 1537 specifically exempts cottage clusters from allowing adjustments to maximum height. The provisions are shown here for context.
  
  
  
  
  
  
  
  
  
  
8. **Building coverage.** No amendment is proposed to this standard. The cottage cluster site is exempt from overall building coverage, and only the individual unit footprints are limited. These limits do not necessarily impact site coverage since there can be a variety in the number of units proposed.

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

3. Minimum density. The minimum number of dwelling units required is 3 or the minimum number stated in Table 110-8 whichever is greater.

<b>Table 110-8 Cottage Cluster Minimum Density</b>				
	<b>R10</b>	<b>R7</b>	<b>R5</b>	<b>R2.5</b>
Minimum density	1 unit per 12,500 sq. ft. of site area	1 unit per 8,750 sq. ft. of site area	1 unit per 6,250 sq. ft. of site area	1 unit per 3,125 sq. ft. of site area

4. Maximum dwelling units. The maximum number of dwelling units allowed on a cottage cluster site is 16. Adjustments to this standard may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.
5. Floor area. Cottage clusters are exempt from 33.110.210, Floor Area Ratio. However, the maximum average floor area for the cottage cluster site is 1,400 square feet per dwelling unit, including the floor area for attached accessory structures. The applicant may choose to exclude the floor area of any existing dwelling units that received final inspection at least 5 years ago from the average. The maximum floor area allowed for a detached or connected accessory structure is 400 square feet.
6. Maximum height. The maximum height allowed is 25 feet. Existing dwelling units that received final inspection at least 5 years ago that exceed this maximum height are allowed but the height cannot be increased. The maximum height standards for detached and connected accessory structures are stated in 33.110.245, Detached and Connected Accessory Structures.
7. Separation. Dwelling units within the cottage cluster site must be separated by at least 6 feet.
8. Building coverage. Cottage clusters are exempt from 33.110.225. Building Coverage. The following building coverage standards apply:
- The maximum building coverage allowed for each dwelling unit is 900 square feet and includes attached accessory structures. Existing dwelling units that received final inspection at least 5 years ago that exceed this limit are allowed but the building coverage cannot be increased; and
  - The building coverage of a detached or connected covered accessory structure may not be greater than the building coverage of the smallest primary structure.

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## Commentary

- 9 Common outdoor area. SB 1537 allows individual development projects to request adjustments to "the common area, open space or area that must be landscaped on the same lot or parcel as the proposed housing", up to 25 percent reduction. Within cottage clusters, this standard requires a certain minimum total amount of common area. This amendment allows the total area required to be adjusted by up to 25 percent until January 2, 2032, consistent with the bill. However, other size and design standards for individual areas will remain.
  
10. Dwelling unit orientation. SB 1537 lists building orientation requirements other than transit street requirements to be adjustable. While the base zone building orientation requirements in single dwelling zones do allow for adjustments, the provision specific to cottage clusters do not. This amendment allows adjustments to our dwelling unit standards that are intended to provide a close relationship between the units, their main entrances and the common areas. The adjustment is allowed until January 2, 2032.

9. Common outdoor area. The following common outdoor area standards apply to cottage clusters. Cottage clusters are exempt from 33.110.240:
  - a. The total amount of common outdoor area required is 150 square feet per dwelling unit if all the dwelling units are separated by at least 10 feet, or 200 square feet per dwelling unit if any of the dwelling units are separated by less than 10 feet. Adjustments to reduce the total required amount of common outdoor area by up to 25 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.
  - b. Each common outdoor area:
    - (1) Must be at least 450 square feet in area. Required pedestrian connections located adjacent to or within a common outdoor area count toward this minimum size;
    - (2) Must measure at least 15 feet in all directions. Required pedestrian connections located adjacent to or within a common outdoor area are included in this minimum width; and
    - (3) Must be located outside the required front setback.
  - c. Each required common outdoor area must be surfaced with landscaping, pavers, decking, or sport court paving to allow the area to be used for active or passive recreational use. No more than 50 percent of the total common outdoor area can be in an impervious surface. Common outdoor area may not be used as vehicle area.
  - d. User amenities. User amenities, such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pools may be placed in the outdoor area. Common, shared outdoor areas may also be developed with amenities such as play areas, plazas, picnic areas, and open recreational facilities.
10. Dwelling unit orientation. Dwelling units located within 25 feet of a street property line must meet the base zone main entrance standards of 33.110.230. All other dwellings units are exempt from 33.110.230 but must meet the following dwelling unit orientation standards. Adjustments to the following standards may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited:
  - a. At least 50 percent of the dwelling units that are exempt from 33.110.230 must:
    - (1) Have at least one main entrance facing a common outdoor area; and
    - (2) Be located within 10 feet of the common outdoor area, measured from the closest point of the façade with the main entrance to the nearest edge of the common outdoor area.
  - b. Dwelling units that do not have a main entrance facing the common outdoor area or street must have at least one main entrance facing a pedestrian connection that is connected to the common outdoor area.

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## Commentary

11. **Windows.** SB 1537 includes a requirement to allow adjustments to window percentages of up to 30 percent as long as the base minimum is not reduced below 12 percent of the façade. In general, our base zones do not prohibit adjustments to the window standards. However, the cottage cluster provision requiring windows/doors on 15 percent of the façade that includes the main entrance is not currently adjustable. This amendment allows the standard to be adjusted down to 12 percent until January 2, 2032.



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

11. Windows. Cottage clusters are exempt from 33.110.235.C. However, 15 percent of the area of the façade with the required main entrance must be windows or main entrance doors. Adjustments to this standard may be requested prior to January 2, 2032, however adjustments to reduce the percentage required below 12 percent are prohibited. Beginning January 2, 2032, all adjustments are prohibited. Windows used to meet this standard must allow views from the building to the street, pedestrian connection or common outdoor area. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard.

12.-13. [No change]

**H. Planned development.** See Chapter 33.270, Planned Developments.

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## Commentary

### 33.120.206 Minimum Required Site Frontage for Development

#### C. Minimum required site frontage standard

1. Standard. This standard applies a minimum street frontage requirement in order to develop on a deeper lot. These lots are often located in areas of East Portland that were initially developed with a lower density but have since been upzoned to a multi-dwelling zone. The intent is to encourage narrow deep lots to combine with adjacent lots to create development that can better orient to the public realm. It does provide some exceptions when the adjacent lots are already developed or if a proposal only involves the addition of an accessory dwelling unit. However, it is not adjustable. While the terminology of the standard refers to "site frontage" it is basically creating a minimum front lot line dimension, in order to develop at a multi-dwelling density. For this reason, it appears that the requirements of SB 1537 to allow adjustments should apply.

This amendment allows this standard to be adjusted up to 10 percent below the minimum frontage amount, which aligns with the requirements of SB 1537. This would allow an applicant to potentially develop on a lot with frontage of 81 to 90 feet through the adjustment without having to meet the exceptions. Adjustments would be allowed until January 2, 2032.

## 33.120 Multi-Dwelling Zones

# 120

### 33.120.206 Minimum Required Site Frontage for Development

- A. Purpose.** The purpose of the minimum required site frontage standard is to ensure that sites in and around certain centers in Eastern Portland have sufficient street frontage and site area to:
- Accommodate new streets where pedestrian, bicycle and vehicular connectivity is lacking;
  - Foster efficient site design;
  - Allow for buildings with an orientation to the street; and
  - Provide opportunities to create outdoor space and preserve trees.
- B. Where the standard applies.** The minimum required site frontage standard applies in the multi-dwelling zones to sites shown on Map 120-2.
- C. Minimum required site frontage standard.**
1. Standard. If the site is more than 160 feet deep, new dwelling units are prohibited unless the site has at least 90 feet of frontage on a street. Adjustments to reduce the required amount of frontage by up to 10 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, aAdjustments are prohibited.
  2. Exceptions. The following exceptions apply:
    - a. Adding an accessory dwelling unit to a lot with an existing house, existing attached house, existing manufactured home, or existing duplex is allowed;
    - b. Development is allowed on a site when all of the lots that share a side lot line with the development site meets at least one of the following:
      - (1) The lot is zoned multi-dwelling and meets the minimum density standard for the base zone;
      - (2) The lot is zoned multi-dwelling and has at least three primary dwelling units on the lot; or
      - (3) The lot is not zoned multi-dwelling.
    - c. Development approved through a Planned Development Review is allowed. See Chapter 33.270, Planned Development.

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## Commentary

### 33.120.270 Alternative Development Options

#### A. Purpose

Similar to the amendments within the single-dwelling zones, the amendment to the purpose statement helps to address the cottage cluster standards that are now adjustable.

#### G. Cottage cluster

Cottage clusters are an allowed alternative development option within the RM1 zone as the densities of the cottage cluster can align with minimum densities within that zone. The cottage cluster standards that applied within the single-dwelling zones also apply within the RM1 zone, and like the single dwelling zone, the standards are currently not adjustable.

The amendments on the following pages repeat the cottage cluster amendments within the single dwelling zones to allow adjustments to several of the standards required of cottage clusters. More information is provided in the commentary for 33.110.265.G. The adjustments, which can be requested until January 2, 2032 apply to site dimensions/sizes, density, common outdoor areas, building orientation and window requirements.

### 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 adequate opportunities for private or common recreational ~~and open~~ areas;
  - They promote a visual connection between the residences and the common open areas;
  - Allow for greater flexibility within a development site while limiting impacts to the surrounding neighborhood;
  - Promote more opportunities for affordable housing;
  - Allow more energy-efficient development;
  - Reduce the impact that new development may have on surrounding residential development;
  - Allow a greater sense of enclosure within common greens and shared courts; and
  - Ensure adequate open area within common greens.
- B-F.** [No change]
- G. Cottage cluster.** Cottage clusters that meet the following standards are allowed in the RM1 zone. Cottage clusters are prohibited on sites that do not have frontage on a maintained street, except sites that have frontage on a private street that connects to a maintained street, and sites that have frontage on a self-contained pedestrian connection created solely for pedestrians and bicycles that connects to a maintained street. Payment in lieu of street improvements does not satisfy this requirement. Except as allowed below, aAdjustments to the following standards are prohibited.
1. Minimum site dimensions. Adjustments to reduce the minimum required site dimensions by up to 10 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.
    - a. Minimum site area. Cottages cluster sites must be at least 5,000 square feet in area.
    - b. Minimum site width. Cottage cluster sites must be at least 36 feet wide. Site width for a cottage cluster is measured as lot width is measured. See 33.930.100.
  2. Maximum area. Cottage cluster sites must not be greater than 40,000 square feet. Adjustments to increase the area by up to 10 percent above this standard may be requested prior to January 2, 2032, if an adjustment to the maximum number of dwelling units is also requested. Beginning January 2, 2032, adjustments are prohibited.
  3. Maximum dwelling units. The maximum number of dwelling units allowed on a cottage cluster site is 16. Adjustments to this standard may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.

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## Commentary

4. Floor area. Cottage clusters are exempt from 33.120.210, Floor Area Ratio. However, the maximum average floor area for all dwelling units on the cottage cluster site is 1,400 square feet, including the floor area for attached accessory structures. The applicant may choose to exclude the floor area of any existing dwelling units that received final inspection at least 5 years ago from the average. The maximum floor area allowed for a detached accessory structure is 400 square feet.
5. Maximum height. The maximum height allowed is 25 feet. Existing dwelling units that that received final inspection at least 5 years ago exceed this maximum height are allowed but the height cannot be increased. The maximum height standards for detached accessory structures are stated in 33.120.280, Detached Accessory Structures.
6. Separation. Dwelling units within the cottage cluster site must be separated by 6 feet.
7. Building coverage. Cottage clusters are exempt from 33.120.225. Building Coverage. The following building coverage standards apply:
  - a. The maximum building coverage allowed for each dwelling unit is 900 square feet and includes attached accessory structures. Existing dwelling units that received final inspection at least 5 years ago that exceed this limit are allowed but the building coverage cannot be increased; and
  - b. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the smallest primary structure.
8. Common outdoor area. The following common outdoor area standards apply to cottage clusters. Cottage clusters are exempt from 33.120.240:
  - a. The total amount of common outdoor area required is 150 square feet per dwelling unit if all the dwelling units are separated by at least 10 feet or 200 square feet per dwelling unit if any of the dwelling units are separated by less than 10 feet. Adjustments to reduce the total required amount of common outdoor area by up to 25 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited.
  - b. Each common outdoor area:
    - (1) Must be at least 450 square feet in area. Required pedestrian connections located adjacent to or within a common outdoor area count toward this minimum size;
    - (2) Must measure at least 15 feet in all directions. Required pedestrian connections located adjacent to or within a common outdoor are included in this minimum width; and
    - (3) Must be located outside the required front setback.

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## Commentary



- c. Each required common outdoor area must be surfaced with landscaping, pavers, decking, or sport court paving to allow the area to be used for active or passive recreational use. No more than 50 percent of the total common outdoor area can be in an impervious surface. Common outdoor area may not be used as vehicle area.
  - d. User amenities. User amenities, such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pools, Common, shared outdoor areas may also be developed with amenities such as play areas, plazas, picnic areas, and open recreational facilities.
9. Dwelling unit orientation. Dwelling units located within 25 feet of a street property line must meet the base zone main entrance standards of 33.120.231, Main Entrances. All other dwellings units are exempt from 33.120.231 but must meet the following dwelling unit orientation standards. Adjustments to following standards may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments are prohibited:
- a. At least 50 percent of the dwelling units that are exempt from 33.120.231 must:
    - (1) Have at least one main entrance facing a common outdoor area; and
    - (2) Be located within 10 feet of the common outdoor area, measured from the closest point of the façade with the main entrance to the nearest edge of the common outdoor area.
  - b. Dwelling units that do not have a main entrance facing the common outdoor area or street must have at least one main entrance facing a pedestrian connection that is connected to the common outdoor area.
10. Windows. Cottage clusters are exempt from 33.120.232.C. However, 15 percent of the area of the façade with the required main entrance must be windows or main entrance doors. Adjustments to this standard may be requested prior to January 2, 2032, however adjustments to reduce the percentage required below 12 percent are prohibited. Beginning January 2, 2032, all adjustments are prohibited. Windows used to meet this standard must allow views from the building to the street, pedestrian connection, or common outdoor area. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard.
11. [No change]
- H. Planned development.** See Chapter 33.270, Planned Developments.

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## Commentary

### 33.130.212 Floor Area and Height Bonus Options

#### B. General floor area and height bonus regulations

This section provides the regulations to follow when pursuing floor area and height bonuses through the commercial zones. The provisions in subparagraph 3 state that adjustments to these options are prohibited. While floor area maximums are not addressed within SB 1537, height maximums are required to provide an option to request adjustments, both to allow base heights and bonus heights by an amount of up to 20 percent of the base height maximum or a 10-foot minimum whichever is greater. The 10-foot minimum is equivalent to the state requirement to allow one extra story. The adjusted height amount can be applied either to the maximum base height or to the bonus height. The bill limits this required allowance to projects that dedicate at least 75 percent of their floor area to residential uses.

While the base height provisions (and the step-down heights adjacent to residential) within the commercial/mixed use zones do not prohibit adjustments, there is a prohibition for the bonus heights to exceed the amounts listed in Table 130-3. The amendment allows projects that include at least 75 percent of their floor area in residential uses to request an adjustment to increase the bonus height maximums by up to 20 percent of the base height allowances or 10-feet (one story), whichever is greater, to be consistent with SB 1537. The adjustment allowance runs through January 1, 2032.

## 33.130 Commercial/Mixed Use Zones

130

### 33.130.212 Floor Area and Height Bonus Options

- A. Purpose.** The bonus options allow additional floor area and an increase in height as an incentive for development that provides a public or community benefit. The bonus can be gained in exchange for providing affordable housing or affordable commercial space in conjunction with new development.
- B. General floor area and height bonus option regulations.**
- 1-2. [No change]
3. More than one bonus option may be used up to the overall maximums per site stated in Table 130-3. For development without any residential use, and for mixed use development that proposes fewer than 20 dwelling units and does not voluntarily provide units on the site per the standards of 33.245.040.A, the affordable commercial space bonus option must be used up to the maximum increment allowed for the zone before any other bonus is allowed. Except as follows, Adjustments to the maximum FAR and height obtainable through bonuses are prohibited. Until January 2, 2032, adjustments to increase the bonus height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus height by more than 20 percent of the base height limit shown in Table 130-2, or 10 feet, whichever is greater, are prohibited.
- 4-5. [No change]
- C-E.** [No change]

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## Commentary

### 33.266.210 Bicycle Parking Development Standards

#### D. Standards for Long-Term Bicycle Parking

##### 1. General standards.

The current bicycle parking standards provide guidance on where long-term bicycle parking spaces can be located. One of the options is to allow up to 50% of long term bike parking to be located within a dwelling unit (or up to 100% for smaller projects subject to additional standards). While this option provides additional flexibility, any adjustments to the standard is prohibited. SB 1537 includes locational standards for bike parking as a development standard that needs to be allowed to be adjusted.

These amendments allow for adjustments to the percentage of bike parking spaces to be placed within a dwelling unit. For larger project, an adjustment could be requested to allow more than 50% of the required bike parking spaces to be located within dwelling units. The provision could also allow smaller projects to allow bike parking in the upper units if an adjustment were granted. The allowance will run until January 2, 2032.

Other changes to this section are being made to consolidate certain similar standards and to aid in overall readability.

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

266

### 33.266.210 Bicycle Parking Development Standards

A-C. [No change]

#### D. Standards for Long-Term Bicycle Parking.

1. ~~Development~~ General Standards. Long-term bicycle parking must be provided in lockers or racks that meet the following standards. The following general standards apply to long-term bicycle parking~~Long-term bicycle parking for Schools may choose between (1) or (5) or a combination of those two locations:~~
  - a. Location Standards. Long-term bicycle parking ~~may~~must be provided in one or more of the following locations. School uses are only allowed to choose between Subsubparagraph (1) or (5) or a combination of (1) and (5):
    - (1) Within a building outside of dwelling units, including on the ground floor or on individual building floors;
    - (2) Within dwelling units. Long-term bicycle parking is allowed in dwelling units as follows. Long-term bicycle parking provided in a dwelling unit is exempt from the standards of Paragraph C.2, but all other standards in Subsection C apply. Adjustments and modifications to this Subsubparagraph may be requested prior to January 2, 2032. Beginning January 2, 2032, adjustments and modifications to this Subsubparagraph are prohibited:
      - Sites containing residential development with 12 or fewer dwelling units may provide up to 100 percent of required long-term bicycle parking spaces in the dwelling units. For buildings with no elevators, long-term bicycle parking spaces are only allowed in ground floor dwelling units. Only two spaces per dwelling unit count toward the total required long-term bicycle parking spaces.
      - For all other residential development, up to 50 percent of the required long-term bicycle parking spaces may be provide within dwelling units. For buildings with no elevators, long-term bicycle parking spaces are only allowed in ground floor units. Only two spaces per dwelling unit count toward the total required long-term bicycle parking spaces.
    - (3) On-site, including in parking areas and structured parking;

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## Commentary

- (34) In an area where the closest point is within 300 feet of the site; or
- ~~(4) In a residential dwelling unit. Up to 50 percent of long-term bicycle parking spaces may be provided in a residential dwelling unit, if they meet the following. Long-term bicycle parking provided in a residential dwelling unit does not need to meet the requirements for Paragraph C.2. above. Adjustments and modifications to this Subsubparagraph are prohibited.~~
- ~~• The bicycle parking includes a rack that meets the standard bicycle parking spacing dimensions in Table 266-7.~~
  - ~~• For buildings with no elevators, long-term bicycle parking must be located in the ground floor units.~~

- (5) For Schools, long-term bicycle parking must be placed where the closest space is within 100 feet of a main entrance.

~~b. Exceptions. Sites containing residential development with 12 or fewer dwelling units may provide up to 100 percent of required long-term bicycle parking spaces in the dwelling units. All other in-unit standards in Subsubparagraph D.1.a.(4), above must be met.~~

eb. For sites with multiple primary uses, long-term bicycle parking must be provided in an area that can be accessed from each use. If bicycle parking is provided in a common area on the site, the area must be accessible for all tenants.

ec. Covered bicycle parking. All long-term bicycle parking must be covered. Where covered bicycle parking is not within a building or locker, the cover must be:

- (1) Permanent;
- (2) Impervious; and
- (3) The cover must project out a minimum of 2 feet beyond the bicycle parking spaces on the portion of the structure that is not enclosed by a wall.

## 2. Security Standards.

a. Long-term bicycle parking must meet the following security standards:

- (1) Long-term bicycle parking for residential uses must be provided in one of the following:
  - A restricted access, lockable room or enclosure, designated primarily for bicycle parking;
  - A bicycle locker; or
  - In a residential dwelling unit meeting Subsubparagraph D.1.a.(42), above.
- (2) Long-term bicycle parking for all other uses must be located in one of the following locations. For Schools, a minimum of 10 percent of bicycle parking must be located in the following:
  - A restricted access, lockable room or enclosure; or
  - A bicycle locker.

b. All access routes and the bicycle parking spaces must be lighted to a level where the system can be used at night by the employees and residents.

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## Commentary



3. Additional ~~D~~Sdevelopment ~~S~~Standards. The following standards apply to sites with more than 20 long-term bicycle parking spaces:
- a. Minimum number of horizontal bicycle parking spaces. At least 30 percent of spaces must be in a horizontal rack, or on the lower level of a stacked bicycle parking rack. For Schools (K-8), all spaces located outside of the building must be in a horizontal rack.
  - b. Parking for larger bicycle space. At least 5 percent of spaces must accommodate a larger bicycle space, placed in a horizontal rack. These spaces may be included to meet the requirement for Subparagraph D.3.a. See Figure 266-14. Development that includes a residential use is exempt from this standard until January 1, 2029.
  - c. Electrical outlet requirement. At least 5 percent of spaces must have electrical sockets accessible to the spaces. Each electrical socket must be accessible to horizontal bicycle parking spaces.

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## Commentary

### 33.510.210 Height

#### B. Base height.

This paragraph lists the base height maximums within the Central City plan district but prohibits adjustments to these height limits as shown on Map 510-3. As stated above, SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums of an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

This amendment creates an opportunity for applications to adjust the height limit above the values shown on Map 510-3. However, unlike other sections of the code where this amendment is being added, the provision within the Central City does not place an upper limit of 20% or 10-foot minimum to the adjustment request. During the Planning Commission hearing and work session, the Commission listened to testimony to consider allowing more liberal requests to height adjustments within the Central City. The Planning Commission recommendation removed the upper limit threshold to adjustment requests in the Central City, with the understanding that the additional height would be subject to the adjustment/modification criteria, as well as the Central City design guidelines. The adjustment option will still expire on January 2, 2032, consistent with the provisions in SB 1537.

## 33.510 Central City Plan District

# 510

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### 33.510.210 Height

- A. [No change]
- B. **Base height.**
  - 1. Base heights are shown on Map 510-3. Heights greater than shown on Map 510-3 are allowed through the bonus height or height transfer options specified in Subsections D. and E. Except as follows, Adjustments to the height limits shown on Map 510-3 are prohibited. Until January 2, 2032, adjustments or modifications through design review to increase base height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use.
  - 2-3. [No change]
- C. [No change]

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## Commentary

### D. Bonus height options.

The standards here prohibit any adjustments to the maximum bonus height limits indicated in Map 510-4. There are several instances within these regulations where the prohibition to adjustments is stated. The first situation is with the bonus height in the South Waterfront subdistrict, while the second applies elsewhere in the Central City. SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums of an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

The amendments on the following page create the opportunity for applications to adjust the height limit above the bonus height values shown on Map 510-4. However, unlike other sections of the code where this amendment is being added, the provision within the Central City does not place an upper limit of 20% or 10-foot minimum to the adjustment request. During the Planning Commission hearing and work session, the Commission listened to testimony to consider allowing more liberal requests to height adjustments within the Central City. The Planning Commission recommendation removed the upper limit threshold to adjustment requests in the Central City, with the understanding that the additional height would be subject to the adjustment/modification criteria, as well as the Central City design guidelines. The adjustment option will still expire on January 2, 2032, consistent with the provisions in SB 1537.

**D. Bonus height options.** Bonus height can be achieved through the following options:

1. Bonus height in the South Waterfront subdistrict. Within the South Waterfront subdistrict, buildings that include any floor area achieved through bonuses or from transfers onto the site earn a height bonus as follows:
  - a. In the area located between 125 feet to 150 feet landward of the South Waterfront height reference line shown on Map 510-16, buildings may earn a height bonus of 25 feet if approved as a modification through design review. Projections above 150 feet are prohibited.
  - b. In the area located between 150 feet landward of the South Waterfront height reference line shown on Map 510-16 and the western boundary of the subdistrict, buildings earn a height bonus of 125', up to a maximum building height of 250 feet. Except as follows, Adjustments are prohibited. Until January 2, 2032, adjustments, or modifications through design review, to increase the height bonus and the maximum building height limit may be requested for new buildings when at least 75 percent of the total floor area is in a residential use.
2. South Waterfront height opportunity area. [No change]
3. Bonus height earned through an FAR bonus or transfer. Except for sites in the South Waterfront height opportunity area, the bonus heights shown on Map 510-4, or allowed by Subparagraph D.3.e, are allowed when the following are met. Except as follows, Projections above the height limits shown on Map 510-4, or allowed by Subparagraph D.3.e are prohibited. Until January 2, 2032, adjustments, or modifications through design review, to the bonus heights shown on Map 510-4 or allowed by Subparagraph D.3.e may be requested for new buildings when at least 75 percent of total floor area is in a residential use:
  - a-e. [No change]

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## Commentary

### 33.526.210 Building Height

#### B. Maximum building height.

This paragraph lists the building height maximums within the Gateway plan district but prohibits adjustments to these height limits as shown on Map 526-2 unless allowed through the bonus option in 33.526.230. As stated above, SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

This amendment creates an opportunity for applications to adjust the height limit above the values shown on Map 526-2 based on the 20% threshold parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537.

## 33.526 Gateway Plan District

526

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### 33.526.210 Building Height

- A. **Purpose.** These regulations encourage intense development throughout the plan district, with the highest level of intensity occurring around the light rail stations. This increased development opportunity reinforces Gateway's role as a regional center. In addition, the regulations reduce adverse effects on adjacent single dwelling zones by creating a step-down of building heights at the edge of the plan district.
- B. **Maximum building height.** The maximum building heights are shown on Map 526-2, except as specified in Subsection C. Except as follows, heights greater than shown on Map 526-2 are prohibited unless allowed by Section 33.526.230. Until January 2, 2032, adjustments to increase the maximum building height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase height by more than 20 percent of the maximum building height shown on Map 526-2, or 10 feet, whichever is greater, are prohibited.
- C. **Transition at edges of plan district.** [No change]

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## Commentary

### 33.526.240 Open Area

#### D. Additions of floor area to the site.

##### 1 On-site option.

The Gateway plan district requires larger sites that get developed or add significant amounts of floor area to incorporate parts of the site as open area, up to a maximum requirement of 15 percent. The calculation is based on a percentage of the additional floor area. Adjustments to this standard are currently prohibited.

SB 1537 requires jurisdictions to consider adjustments to minimum landscaping and/or open area requirements up to a reduction of 25 percent below the minimum. This amendment provides the opportunity to request an adjustment to the open area requirement up to that 25 percent reduction. The amendment can be requested until January 2, 2032.

##### 2. Off-site option.

Similar to above, this amendment provides the opportunity to request an adjustment to the off-site open area requirement up to the 25 percent reduction stated in the bill. The amendment can be requested until January 2, 2032.



### 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 reduce the total required amount of open area by up to 25 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, aAdjustments to this standard are prohibited.
    - b-f. [No change]
  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 reduce the total required amount of open area by up to 25 percent may be requested prior to January 2, 2032. Beginning January 2, 2032, aAdjustments 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.

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## Commentary

3. Gateway Regional Center Public Open Area Fund option.

While this standard requires a dollar calculation based upon the square footage requirements, the provision does not prohibit a request for an adjustment. So, no amendment is included for this standard.

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

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.
- E. [No change]

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## Commentary

### 33.532.210 Maximum Building Height

#### B. Maximum building heights.

This paragraph lists the building height maximums within the Hayden Island plan district. While the provision stating the maximum heights on Map 532-2 does not prohibit adjustments, the provisions within the height opportunity area prohibit adjustments to the height opportunity limits on Map 532-2 unless allowed through the bonus option in 33.526.230. As stated above, SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

This amendment creates an opportunity for applications to adjust the height limit in the height opportunity area above the values shown on Map 532-2 based on the 20% threshold parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537.

Note that within the Jantzen Beach subdistrict, there is already the option within Paragraph 3 to request adjustments to go above the base heights. The maximum heights allowed with this adjustment are well above the 20% provision required by SB 1537, so this section does not need to be further amended.

## 33.532 Hayden Island Plan District

532

### 33.532.210 Maximum Building Height

**A. Purpose.** The regulations of this section:

- Allow taller buildings near the Light Rail Station to encourage mixed-use and transit-oriented development;
- Increase opportunities for creative design to encourage development of interesting buildings that help create a sense of place;
- Recognize the prominent location of Hayden Island as a gateway to Oregon and the potential for visually interesting development to welcome visitors and residents, while mitigating for potential impacts through excellent design, articulation and step-backs, and the use of quality materials.

**B. Maximum building heights.**

1. Generally. The maximum building heights are shown on Map 532-2.
2. Height Opportunity Areas. In the Height Opportunity Areas shown on Map 532-2:
  - a. Height may be increased to 90 feet if the maximum building coverage is 20 percent or less;
  - b. Height may be increased to 80 feet if the maximum building coverage is 25 percent or less;
  - c. Except as follows, Adjustments and modifications to the standards of this paragraph are prohibited. Until January 2, 2032, adjustments to the height opportunity area height limits shown on Map 532-2 may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the height opportunity area height limit by more than 20 percent of the maximum building height shown on Map 532-2, or 10 feet, whichever is greater, are prohibited.
3. Jantzen Beach subdistrict. In the Jantzen Beach subdistrict, adjustment may be requested to increase height to the maximum height limit shown on Map 532-2. Heights above the maximum height limit shown on Map 532-2 are prohibited.

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## Commentary

### **33.536.220 Maximum Building Height**

This section lists out the building height maximums within the Hollywood plan district but prohibits adjustments to these height limits as shown on Map 536-2. As stated above, SB 1537 requires jurisdictions to consider adjustments to base height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

This amendment creates an opportunity for applications to adjust the height limit above the values shown on Map 536-2 based on the 20% threshold parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537.

## 33.536 Hollywood Plan District

536

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### 33.536.220 Maximum Building Height

The maximum building heights are shown on Map 536-2 except as specified in Subsection 33.536.230.C. Except as follows, ~~a~~Adjustments to these heights shown on Map 536-2 are prohibited. Until January 2, 2032, adjustments to increase maximum building height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase maximum building heights by more than 20 percent of the height limit shown on Map 536-2, or 10 feet, whichever is greater, are prohibited.

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## Commentary

### 33.536.250 Height and FAR Bonus Options

- C. Bonus heights.
- D. Bonus in the CM2 zones
- E. Bonus options in the CM3 zones

These paragraphs state the bonus building height options and maximums within the Hollywood plan district but prohibit adjustments to these height limits as shown on Map 536-2. As stated above, SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

These amendments create the opportunity for applications to adjust the height limit in each of these situations above the bonus height values shown on Map 536-2 based on the 20% threshold parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537.



### 33.536.250 Height and FAR Bonus Options

- A. Purpose.** Bonus options encourage certain types of development, special facilities and amenities that are desired within the commercial core of Hollywood and near the Hollywood Transit Center.
- B. Where these regulations apply.** The regulations of this section apply to subdistrict A, and to areas outside of subdistrict A where bonus building height limits are shown in parenthesis on Map 536-2.
- C. Bonus heights.** Bonus heights are shown on Map 536-2. Except as allowed by Subsections D. and E., adjustments to these heights are prohibited.
- D. Bonus in the CM2 zone.** The bonus options of this subsection may be used in the CM2 zone.
1. Additions to existing buildings. Where floor area that is in a residential uses is added to an existing building, the portion of the building containing the residential uses may be up to the bonus building height shown on Map 536-2. Until January 2, 2032, adjustments to increase the bonus building height shown on Map 536-2 may be requested. In this case, adjustments to increase the bonus building height by more than 20 percent of the maximum building height limit shown on Map 536-2, or 10 feet, whichever is greater, are prohibited.
  2. New buildings. Where at least 25 percent of the floor area of a new building is in residential uses, the building may be up to the bonus building height shown on Map 536-2. Until January 2, 2032, adjustments to increase bonus building height shown on Map 536-2 may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus building height by more than 20 percent of the maximum building height limit shown on Map 536-2, or 10 feet, whichever is greater, are prohibited.
  3. Bonus FAR: [No change]
- E. Bonus options in the CM3 zone.** The bonus options of this subsection may be used in the CM3 zone.
1. Bonus height. Proposals that use any of the bonus provisions in this subsection may build up to the bonus building height shown on Map 536-2. Until January 2, 2032, adjustments to increase bonus building height shown on Map 536-2 may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus building height by more than 20 percent of the maximum building height limit shown on Map 536-2, or 10 feet, whichever is greater, are prohibited.
  2. Maximum bonus floor area allowed. The maximum bonus floor area increase that may be earned through the bonus options of this subsection is 3 to 1. Adjustments to this maximum are prohibited.
  - 3-7. [No change]

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## Commentary

### 33.561.210 Maximum Building Height

#### B. Maximum building heights.

This paragraph lists the building height maximums within the North Interstate plan district. The plan district is a little different than others by prohibiting adjustments to the height limits shown in Map 561-2, but allowing modifications through Design Review to increase height. However, there are several areas within the plan district where the Design overlay zone does not apply. In addition, some projects in the 'd' overlay zone should be able use the objective design standards within 33.420 in conjunction with a request for a height adjustment, rather than be forced to go through a design review. To abide by the intent of SB 1537, the height options should include the temporary adjustment option of 20 percent over the base height provisions or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

This amendment creates the option for applications to adjust the height limit above the values shown on Map 561-2 using the adjustment process as well as through the currently allowed modification through design review. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537. After that time, requests to adjust the height would only be allowed through a design review.

## 33.561 North Interstate Plan District

# 561

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### 33.561.210 Maximum Building Height

- A. Purpose.** The maximum building height standards:
- Allow taller buildings to provide visual prominence and intense activity near station platforms and at identified focal points;
  - Allow taller buildings along Interstate 5 to achieve a defined edge within the larger neighborhood context and allow buildings to take greater advantage of views to the east over the freeway; and
  - Increase opportunities for creative design, encourage quality construction, and foster provision of neighborhood amenities such as underground parking and ground level open space by allowing additional height in special areas with additional design requirements.
- B. Maximum building heights.**
1. Generally. The maximum building heights are shown on Map 561-2, except as specified in Section 33.561.230. Except as follows, aAdjustments to maximum heights are prohibited, but modifications through Design Review may be requested. Until January 2, 2032, adjustments to increase maximum building height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the maximum height allowance by more than 20 percent of the height limit shown on Map 561-2, or 10 feet, whichever is greater, are prohibited.
  2. In the height opportunity areas shown on Map 561-2, buildings may be up to 125 feet high if:
    - a. The applicant meets with the Design Commission to discuss the proposal before applying for Design Review. As specified in 33.730.050.B, the applicant must submit a design advice request to schedule this meeting; and
    - b. The applicant requests design review, rather than using the Design overlay zone design standards in 33.420.050.

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## Commentary

### **33.562.210 Maximum Height**

The standard on Maximum height refers to the height limits in Map 562-4, but it does not prohibit adjustments. So, no amendment is needed. It is shown for context with the next section.

### **33.562.230 Bonus Options**

#### **D. Height and floor area ratio bonuses for affordable housing**

This paragraph provides the parameters for achieving height and floor area bonuses with affordable housing in a specific area of the plan district (shown on Map 562-6), but it prohibits adjustments to the bonus height limit of 120-feet stated in the paragraph. SB 1537 requires jurisdictions to consider adjustments to both base height (already allowed as stated above) and bonus height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses.

These amendments create the opportunity for applications to adjust the height limit in each of these situations above the bonus height allowance of 120-feet based on the 20% threshold parameters and allowances stated in the bill. The adjustment cannot be greater than 20% of the base heights, which are on Map 562-4, or 10-feet (one story), whichever is greater. This adjustment would expire on January 2, 2032, consistent with the provisions in SB 1537.

#### **E. Height and floor area bonuses for underground parking**

This paragraph has parameters for increasing the height and floor area if a site proposes underground parking. It also provides a maximum height of 120-feet. However, the paragraph does not prohibit adjustments so no code amendment is needed.

## 33.562 Northwest Plan District

# 562

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### 33.562.210 Maximum Height

The maximum building heights allowed are shown on Map 562-4. Heights greater than those shown on Map 562-4 are allowed under section 33.562.230, Bonus Options.

### 33.562.230 Bonus Options

A-C. [No change]

D. **Height and floor area ratio bonuses for affordable housing.** The following FAR bonus options apply in bonus areas A, B, and C shown on Map 562-6. The regulations of this Subsection do not apply outside of areas A, B, and C; on those sites, the base zone bonus regulations apply. Except as follows, adjustments to this Subsection, or to the amount of maximum floor area allowed through the bonuses in this Subsection, are prohibited. Development that takes advantage of one the following bonus options may be up to 120 feet in height. Until January 2, 2032, adjustments to increase the bonus height allowance may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus height allowance by more than 20 percent of the height limit shown on Map 562-4 are prohibited:

1-2. [No change]

E. **Height and floor area bonuses for underground parking.** In bonus area C shown on Map 562-6, development that includes underground parking receives floor area and height bonuses. Where at least 50 percent of the accessory parking for a building is entirely underground, the building may be up to 120 feet in height and receives three additional square feet of floor area for each square foot of parking area where the finished ceiling height is underground.

F. [No change]

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## Commentary

### **33.563.220 When Primary Structures are Allowed in the Linnton Hillside Subdistrict**

These regulations set the standards for when existing lots of record or lot remnants in the Linnton Hillside subdistrict may be developed. The standards are intended to apply to older parcels of land that may, or may not, have gone through a land division subject to current standards. Adjustments to the standards applicable to existing lots of record, or lot remnants are not currently adjustable.

This amendment allows for adjustments to the minimum lot size requirement for these parcels up to a factor of 10 percent. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments through January 1, 2032.

## 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. Except as follows, Adjustments to the standards of this section are prohibited. Until January 2, 2032, adjustments to reduce the minimum lot width and minimum lot area standards listed in A. through E. by up to 10 percent may be requested. Primary structures are only allowed if one of the requirements in A. through D. are met:

- A. The lot of record, lot remnant, or combination thereof:
  - 1. Is at least 36 feet wide; and
  - 2. Meets the minimum area standard of Table 563-1;
- B. The lot of record, lot remnant, or combination thereof:
  - 1. Is at least 36 feet wide;
  - 2. Meets the minimum area standard of Table 610-2, 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; and
  - 2. Did not abut any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;
- D. On a lot of record, lot remnant, or combination thereof that did meet the requirements of Subsections A, B, or C, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way;
- E. Additional regulations for property line adjustments.
  - 1. The lot of record, lot remnant, or combination thereof described in Subsection A may not be reduced in area below the standards of Table 563-1;
  - 2. The lot of record, lot remnant, or combination thereof described in Subsections B and C may not be reduced in area;
  - 3. There are no minimum lot area or width standards for the lot of record, lot remnant, or combination thereof described in Subsection C;

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## Commentary

### 33.564.350 When A Flag Lot is Allowed

#### A. Purpose

This standard is added to address both the standard for flag access poles that are now adjustable, as well as to provide consistency to the purpose of flag lot proposals. The purpose statement is the same as the purpose statement for flag lots within single-dwelling zones.

#### C. Flag access pole.

This standard requires flag access poles to be at least 12-feet wide and prohibits adjustments. Since SB 1537 specifies that jurisdictions need to allow adjustments to lot dimension standards, it is not currently consistent with the bill.

This amendment allows for adjustments to the minimum flag lot access pole width up to a factor of 10 percent. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments through January 1, 2032.



## 33.564 Pleasant Valley Plan District

564

### 33.564.350 When a Flag Lot is Allowed

**A. Purpose.** These regulations allow the creation of flag lots in limited circumstances. The limitations:

- Minimize the negative impact of flag lots and additional driveways;
- Allow land to be divided when other options are not achievable;
- Ensure that flag lots have adequate access from the street; and
- Ensure that flag lots have access to utilities and services.

**BA. When a flag lot is allowed.** Flag lots are prohibited in the Pleasant Valley plan district except as follows:

1. A new lot is being created for an existing house;
2. The existing house is entirely within the Pleasant Valley Natural Resources overlay zone; and
3. The existing house will remain.

**CB. Flag lot access pole.** The pole portion of the flag lot must meet the following standards. Except as allowed in Subparagraph B.2, 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. Until January 2, 2032, adjustments to reduce the pole width by up to 10 percent may be requested.; and
3. The pole must be part of the flag lot and must be under the same ownership as the flag portion.

**DC. Minimum lot dimensions.** Flag lots must meet the minimum lot dimension requirements of Subparagraph 33.465.165.A.2.c.

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## Commentary

### 33.583.250 Maximum Building Height

#### **B Standards.**

This paragraph lists the maximum building heights and bonus options within the St. Johns plan district. In general, it prohibits adjustments to these height limits shown on Map 583-2, but does allow a 10-foot height bonus from 45-feet to 55-feet in the CM3 zone as a modification through Design Review. It should be noted that any development above 45-feet in the CM3 zone in the plan district triggers a Design Review. The modification would be incorporated into the design review, rather than requiring a separate adjustment. As stated above, SB 1537 requires jurisdictions to consider adjustments to height maximums for an increase of 20 percent over the base height provisions, or 10-feet (one story) whichever is greater, if at least 75 percent of the floor area is in residential uses. While the CM3 option already creates a 10-foot bonus opportunity through a modification process (with 10-feet being our minimum for a story, and is 22 percent of the base zone), any height adjustments in other zones are currently prohibited.

This amendment creates an opportunity for applications in zones other than CM3 to adjust the height limit above the height values shown on Map 583-2 using the 20% threshold parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032, consistent with the provisions in SB 1537.

## 33.583 St. Johns Plan District

# 583

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### 33.583.250 Maximum Building Height

- A. Purpose.** The height regulations in the plan district protect public views and the character of St. Johns, the waterfront, and the residential area along the hillside. The height regulations work together with the Design overlay zone design standards and the Portland Citywide Design Guidelines to ensure that the character and scale of new development is appropriate for this mixed-use area, and for the zone.
- B. Standards.** The maximum building height for all sites is shown on Map 583-2 at the end of this chapter. In the CM3 zone, increased height may be requested as a modification through Design Review, up to the maximums shown in parenthesis on Map 583-2. Heights greater than shown in parenthesis on Map 583-2 are prohibited, and, except as follows, adjustments to maximum height are prohibited in all other zones. Until January 2, 2032, adjustments to increase maximum building height outside the CM3 zone may be requested for new buildings where at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the height by more than 20 percent of the maximum building height limit shown on Map 583-2, or 10 feet, whichever is greater, are prohibited.

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## Commentary

### 33.595.220 Floor Area Bonus Options

#### C. Floor area bonus options in subdistricts C and D

### 33.595.230 Bonus Heights

#### C. Bonus height.

These two sections list the bonus building height options within the West Portland Multicultural plan district. The bonuses come in increments of 10-feet. However, adjustments to exceed these bonuses are prohibited. SB 1537 requires jurisdictions to consider adjustments to both base height and bonus height maximums for an increase of 20 percent over the base height provisions, or one story (considered 10-feet) whichever is greater, if at least 75 percent of the floor area is in residential uses.

The first amendment creates an opportunity for applications to request an adjustment to further increase the height above the 10-foot bonus associated with the development in subdistricts C and D. These can include both commercial and multi-family zones. They can adjust the overall height limit by an increment up to 20 percent of the base zone height values shown in Table 120-3 or 130-2, or 10-feet whichever is greater, to comply with the parameters and allowances stated in the bill. This adjustment option would expire on January 2, 2032 consistent with the provisions in SB 1537.

The second amendment addresses the bonus height options in commercial mixed use zones located with subdistricts A and B. This provision allows a step increase of 10-feet for each feature/ amenity provided, up to the limit in Table 595-3. The amendment allows for the bonus heights shown in Table 595-3 to be adjusted by an amount up to 20 percent or 10-feet, whichever is greater, of the base height shown in Table 130-2 or Table 595-3. As an example, a property in a CM2 zone that is fully satisfying the requirements of the bonus option to achieve a 95-ft maximum height may request an adjustment in the amount of 20% of the base height or 10-feet. Since 20% of the base height (45-ft) is 9-ft, the applicant could ask for a 10-ft adjustment that is applied to the bonus maximum height.

## 33.595 West Portland Multicultural Plan District

# 595

### 33.595.220 Floor Area Bonus Options

A-B. [No change]

C. **Floor area bonus options in subdistricts C and D.** In subdistricts C and D, the base zone floor area bonus regulations apply, except as follows. Except as allowed in Paragraph C.1, ~~A~~adjustments are prohibited.

1. Inclusionary housing bonus option for large sites. In Subdistrict C, on sites 15,000 square feet or more in total site area, the increment of additional floor area allowed for the inclusionary housing bonus and the overall maximum FAR allowed with other bonuses stated in Table 120-5 or Table 130-3 are increased by an amount equivalent to 25 percent of the maximum FAR stated in Table 120-3 or Table 130-2. Projects qualifying for this bonus are also allowed an additional 10 feet of building height beyond the base height stated in Table 120-3 or Table 130-2. Until January 2, 2032, adjustments to increase this bonus height may be requested for new buildings when at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus height more than 20 percent of the base zone height limit shown in Tables 120-3 and 130-2, or 10 feet, whichever is greater, are prohibited.
2. Subdistrict D bonus option limitation. In Subdistrict D, the only bonus option that may be used is the deeper housing affordability bonus option described in 33.120.211.C.2. All other bonuses are prohibited.

### 33.595.230 Bonus Height

A-B. [No change]

C. **Bonus height.** An increment of 10 feet of additional building height above the base height limits of the base zone is allowed in all commercial/mixed use zones in the plan district for each of the following. Base height is shown in Table 130-2 and Table 595-3. The 10-foot height increments allowed by this standard can be combined to provide multiple increments of 10 feet of additional height. The maximum overall height with bonus is shown in Table 595-3. When a height bonus option listed below is used to increase the base height, the step-down height limits of 33.130.210 ~~apply do not increase.~~ Except as follows, aAdjustments to the maximum height shown in Table 595-3 are prohibited. Until January 2, 2032, adjustments to increase the bonus height allowance may be requested for new buildings where at least 75 percent of the total floor area is in a residential use. In this case, adjustments to increase the bonus height by more than 20% of the base zone height limit shown in Table 130-2, or by 10 feet, whichever is greater, are prohibited.

1-5. [No change]

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## Commentary

### **33.610.200 Lot Dimension Regulations**

These regulations set the standards for the lot size and dimension requirements for the creation of new lots through a land division in the single dwelling zones. The standards are intended to provide flexibility to allow a variety of sized lots while ensuring adequate space for lot frontage and size to accommodate detached or attached houses. This is shown in the Purpose Statement below. While the standards allow for additional variation in size through a Planned Development Review or as modifications through an Environmental Review, they do not allow variation through our adjustment process.

These amendments allow for adjustments to the minimum lot size/dimension requirements for new lots up to a factor of 10 percent in compliance with the parameter of SB 1537. The adjustments apply to the standards below that address lot area, lot width, minimum front lot line, and minimum lot depth. Note that maximum lot area can already be adjusted. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments through January 1, 2032.

## 33.610 Lots in RF Through R2.5 Zones

# 610

### 33.610.200 Lot Dimension Regulations

Lots in the RF through R5 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;
  - 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.
- 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. Until January 2, 2032, adjustments to reduce the minimum lot area standard by up to 10 percent may be requested. 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 the maximum lot area standard.
- D. Minimum lot width.** Each lot must meet the minimum lot width standard stated in Table 610-2. Lots that do not meet the standard may be requested through Planned Development Review or, when the site is in an environmental overlay zone, as a modification through environmental review. Until January 2, 2032, adjustments to reduce the minimum lot width standard by up to 10 percent may be requested. Other than as specified in this Subsection, adjustments are prohibited.

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## Commentary

See previous commentary page.

### 33.610.400 Flag Lots

**A. Purpose.**

The Purpose statement is expanded to acknowledge that flag lots still need to address the need for street access and access to utilities. This can also help with the review of adjustments to the access pole amended below. With the additional language, revising the purpose statement as a bulleted list adds clarity.

**C. Flag lot access pole.**

This standard requires flag access poles to be at least 12-feet wide and prohibits adjustments. Since SB 1537 specifies that jurisdictions need to allow adjustments to lot dimension standards, it is not currently consistent with the bill.

This amendment allows for adjustments to the minimum flag lot access pole width up to a factor of 10 percent. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments through January 1, 2032.



- 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 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. Until January 2, 2032, adjustments to reduce the minimum front lot line standard by up to 10 percent may be requested. 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. Until January 2, 2032, adjustments to reduce the minimum lot depth standard by up to 10 percent may be requested. Other than as specified in this Subsection, adjustments to this standard are prohibited.
- G.** [No change]

### **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~~ Minimize the negative impacts of flag lots and additional driveways; ~~on an area while~~
  - ~~Allowing~~ Allowing land to be divided when other options are not achievable;
  - Ensure that flag lots have adequate access from the street; and
  - Ensure that flag lots have access to utilities and services.
- B.** [No change]
- C. Flag lot access pole.** The pole portion of the flag lot must meet the following standards. Except as allowed by Subparagraph C.2, Aadjustments are prohibited:
1. The pole must connect to a street;
  2. The pole must be at least 12 feet wide for its entire length. Until January 2, 2032, adjustments to reduce the pole width by up to 10 percent may be requested.; and
  3. The pole must be part of the flag lot and must be under the same ownership as the flag portion.
- D-F.** [No change]

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## Commentary

### 33.677.300 Standards

#### C. Flag lots in the R5 and R2.5 zone

This standard provides options for flag lots to be created through a property line adjustment within the R5 and R2.5 zones. However, the standard requires flag access poles to be at least 12-feet wide and prohibits adjustments. Since SB 1537 specifies that jurisdictions need to allow adjustments to lot dimension standards, it is not currently consistent with the bill.

This amendment allows for adjustments to the minimum flag lot access pole width up to a factor of 10 percent. The adjustment allowance is temporary to align with the provisions in SB 1537 to allow lot size adjustments through January 1, 2032.

## 33.677 Property Line Adjustment

677

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

**C. Flag Lots in the R5 and R2.5 Zone.** In the R5 and R2.5 zone, a Property Line Adjustment may be used to configure a property as a flag lot when all the following are met:

1. Flag pole. The pole portion of the flag lot must meet the following standards. Except as allowed by Subparagraph C.1.b, Adjustments are prohibited:
  - a. The pole must connect to a street;
  - b. Pole width. Until January 2, 2032, adjustments to reduce pole width by up to 10 percent may be requested:
    - (1) If the pole portion of the flag lot will provide vehicle access to the flag portion of the flag lot, the pole must be at least 12 feet wide for its entire length; or
    - (2) If the pole portion of the flag lot will not provide vehicle access to the flag portion of the flag lot, the pole must be at least 10 feet wide for its entire length. A covenant must be recorded with the deed specifying that no vehicle access is allowed along the pole.
2. Lot dimensions. The lots must meet the following lot dimension standards:
  - a. Lot area.
    - (1) Minimum lot area. Each reconfigured lot must be at least 1,600 square feet. Only the area of the flag portion is included when calculating the minimum lot area for the flag lot. The area of the pole portion of the lot is not included.
    - (2) Maximum flag lot area. The area of the flag lot must be less than 3,000 square feet. The total area of the flag lot, including the pole portion, is included when calculating the maximum lot area for the flag lot.
  - b. Front lot line. There is no minimum front lot line standard for the flag lot.
  - c. Lot width and depth. The minimum lot width and minimum lot depth required for the flag lot is 36 feet measured at the midpoints of the opposite lot lines of the flag portion of the lot. The minimum lot width for the lot in front of the flag lot is 36 feet.

**D. Split zoning.** The Property Line Adjustment will not result in a property that is in more than one base zone, unless that property was already in more than one base zone.

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## Commentary

### 33.700.080 Regulations That Apply at the Time of an Application

#### A. Applications.

This section specifies what land use regulations should apply when an applicant applies for a land use review. Historically the state and our local codes have stated that the regulations in effect when a land use review has been deemed complete are the ones that would apply to that specific land use review. In addition, building permits submitted at a later date that are related to the specific land use review (as an example, a building permit that is for the construction of a building/addition that was approved through a Design review), should also be subject to the land use regulations in effect at the time the land use review was deemed complete.

SB 1537 requires jurisdictions to allow greater flexibility to applicants to determine which regulations are in effect, if the proposal includes residential development. The bill allows an applicant/developer to request to use the regulations in effect at a later date during the initial review of the project. However, the applicant can only request this once, and no requests can be processed if a public notice of the proposal has been released/sent out.

The amendment adds this option to our land use application process within our Administration and Enforcement Chapter, 33.700. Unlike most of the changes above, this provision will not expire.

## 33.700 Administration and Enforcement

700

### 33.700.080 Regulations That Apply at the Time of an Application

The regulations of this section apply to applications for land use reviews and building or development permits.

#### A. Applications.

1. Application for land use review. Applications for land use reviews will be processed based on the regulations in effect on the date an application is filed with the City, or on a date requested by the applicant, as follows:
  - a. Application filing date.
    - (1) Complete at filing. If, on the date the application is filed with the City, the application contains all the information stated in 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, the application will be processed based on the regulations in effect on the date the application is filed;
    - (2)~~b~~. Complete within 180 days. If, on the date the application is filed with the City, the application does not contain all the information stated in Section 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, but the applicant provides the information within 180 days of the date the application was filed, the application will be processed based on the regulations in effect on the date the application was filed.
  - b. Applicant requested date. For a land use review related to residential uses, the applicant may request, in writing, that the application for the land use review be processed based on the regulations in effect on the date of the request after the application is filed with the City but before the public notice of the review has been sent by the City. When this occurs, the applicant will have 180 days from the date of the written request to provide any additional information necessary to determine the application is complete. This request may be made only once for each land use review application.
2. Application for building or development permit. Applications for building or development permits will be processed based on regulations in effect on the date a complete application is filed with the City. For the purposes of this section, a complete building or development permit application contains the information necessary for BDS to determine whether the proposal conforms with all applicable use regulations and development standards.

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

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## Commentary

### 33.700.090 Regulations That Apply After Approval

#### A. Building permits.

This amendment is a companion amendment to the one on the previous page. It clarifies that there are situations when a building permit may be subject to regulations later than when the date of a complete application, if the applicant has requested that date per the option on the previous page.

### **33.700.090 Regulations That Apply After Approval**

The regulations of this section apply to land use approvals that are subject to expiration as provided in 33.730.130, Expiration of an Approval.

- A. Building permits.** Applications for building permits for development approved by a land use decision that has not expired are subject only to the regulations in effect on the date a land use application was filed with the City, or on the date requested by the applicant, as specified in 33.700.080.A.1.
- B. Land divisions.** Applications for Final Plat approval where the Preliminary Plan approval has not expired are subject only to the regulations in effect on the date an application for Preliminary Plan was filed with the City, as specified in 33.700.080.A.1.

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## Commentary

### 33.805.030 Regulations Which May and May Not Be Adjusted

#### B. Ineligible regulations

This paragraph lists the situations where certain regulations are ineligible to request adjustments. Items, #7 states that adjustments cannot be requested to increase density in the RF through RM2 or RMP zones. However, the amendments in this package now include an option to ask for adjustments under some of the middle housing options located within the single dwelling and RM1 zones. As a result, the language in the adjustment regulation needs to recognize that situation. This primarily affects the provisions under the cottage cluster option.

The amendment clarifies that adjustments to maximum density cannot be requested unless there is an allowance elsewhere in the code. This change recognizes the temporary allowances for density increases have been provided in 33.110 and 33.120.



## 33.805 Adjustments

# 805

### 33.805.030 Regulations Which May and May Not Be Adjusted

- A. Eligible regulations.** Unless listed in Subsection B. below, all regulations in this Title and in Chapters 32.32 and 32.34 of the Sign Code may be modified using the adjustment review process.
- B. Ineligible regulations.** Adjustments are prohibited for the following items:
1. To allow a primary or accessory use that is not allowed by the regulations;
  2. As an exception to any restrictions on uses or development which contain the word "prohibited";
  3. As an exception to a threshold for a review. An example is 33.140.100.B.4 in the Employment and Industrial Zones chapter. It states that a single Office use 3,000 square feet or less is allowed by right, but larger ones require a conditional use review. An adjustment could not be granted to allow an Office use of 3,200 square feet; the conditional use review is mandatory;
  4. As an exception to a qualifying situation for a regulation, such as zones allowed or items being limited to new development. An example of this is 33.251.030.C, which says that manufactured dwelling parks are allowed only in the RM1 zone. An adjustment could not be granted to allow a manufactured dwelling park in any other R zone;
  5. As an exception to a definition or classification. An example is a convenience store, which is defined as being under 4,000 square feet in area, requiring a package store liquor license, and being open more than 15 hours a day. An adjustment could not be granted to change the amount of square feet, the package store liquor license, or the hours a convenience store is open;
  6. As an exception to the procedural steps of a procedure or to change assigned procedures;
  7. Except as allowed by other chapters, ~~To~~ allow an increase in density in the RF through RM2 or RMP zones.

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The Bureau of Planning and Sustainability (BPS) develops creative and practical solutions to enhance Portland's livability, preserve distinctive places, and plan for a resilient future.



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