



URBAN FOOD ZONING CODE UPDATE PROPOSED DRAFT

Enhancing Portlanders' Connection to Their Food and Community

DISCUSSION DRAFT OF PROPOSED CODE CHANGES
March 2012
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Planning and Sustainability Commission Public Hearing

Date: Tuesday, April 24, 2012

Time: The Planning and Sustainability Commission (PSC) will hear the Urban Food Zoning Code Update project at their 6 pm meeting. Please call 503-823-7700, one week prior to the hearing for the exact time on the agenda.

Place: 1900 SW 4th Avenue, Room 2500A

You may give the PSC your comments on the Proposed Draft by testifying at the public hearing on April 24th; and/or sending your written comments to:

- Planning and Sustainability Commission, 1900 SW 4th Avenue, Rm. 7100, Portland, OR 97201
- psc@portlandoregon.gov
- Fax number 503.823.7800 att: Planning and Sustainability Commission

Additional copies of this report are available:

- On the project website at www.portlandonline.com/bps/foodcode.
- At the Bureau of Planning and Sustainability at 1900 SW 4th Ave., 7th floor.
- Mailed to you, if you call 503-823-7700.

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www.portlandonline.com/bps/foodcode

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Executive Summary

The Bureau of Planning and Sustainability (BPS), in partnership with Oregon Public Health Institute (OHPI), and with assistance from the Portland Multnomah Food Policy Council, is leading the *Urban Food Zoning Code Update*. The project proposes zoning code amendments that support community food production and distribution with the primary goal of increasing access to healthful affordable food for all Portland residents.

The zoning code amendments address the following topics:

- **Market Gardens** are gardens or orchards where food is grown to be sold.
Currently, market gardens are classified as an Agriculture Use and only allowed in a few zones (employment, open space, and very low density residential zones).
The amendments make several changes to allow market gardens in all zones while ensuring that any negative impacts of the gardening on neighbors are minimized.
- **Community Gardens** are gardens where several individuals or households grow for personal consumption or donation.
Currently, community gardens are allowed in all zones.
The amendments continue to allow community gardens in all zones, but regulations to minimize the negative impacts on the surrounding neighborhood have been added.
- **Food Membership Distribution Sites** are food buying clubs and community supported agriculture (CSA) organizations where food is pre-ordered and delivered to a site for pick-up.
Currently, the Zoning Code is silent on to how to regulate a food distribution site.
The amendments allow food membership distribution sites in all zones and add regulations to address the impacts of the distribution activity (frequency and number of members, hours of operation, traffic, etc.)
- **Farmers Markets** are events that occur on a regular basis in the same location and the majority of vendors are farmers, ranchers, and other agricultural producers selling food, plants, flowers, and added-value products.
Currently, farmers markets are regulated as temporary uses and the regulations can be cumbersome and expensive.
The amendments add regulations in the temporary use specifically for farmers markets that address location, frequency, number of "non-farmer" vendors, and when markets may set up on parking lots.

A more detailed summary of the proposed zoning code amendments for the topic areas above can be found on page 6. See section II, Proposed Zoning Code Amendments, for the actual proposed code language.

Proposed Zoning Code Changes

Topic Area	Current	Proposed
Market Gardens	Classified as Agricultural Use, only allowed in a few zones	Allow in all zones with regulations to mitigate impacts
Community Gardens	Allowed in all zones	Allow in all zones with regulations to mitigate impacts
Food Membership Distribution Site	Not mentioned in current code	Allow in all zones with regulations to mitigate impacts
Farmers Markets	Regulated as a temporary use	Add specific farmers market temporary use regulations
Animals and Bees		No proposed changes

Staff Recommendations

The Bureau of Planning and Sustainability recommends the following actions by the Portland Planning and Sustainability Commission:

1. Recommend that City Council adopt an ordinance that:
 - Amends Title 33: Portland Zoning Code, as shown in this report; and
 - Adopts this report as further findings and legislative intent.
2. Direct the Bureau of Planning and Sustainability to:
 - Continue working on the proposed Zoning Code language, to further refine and clarify the provisions; and
 - Prepare the implementing ordinance and supporting documents described above and submit them to City Council with the Planning and Sustainability Commission's recommendation that they be approved.

I. Introduction

Background

Why are we doing this project?

Portlanders love food. People who live and work here like to eat, grow, cook, and talk about food. Many people shop at farmers markets to buy fresh food and meet the farmers who grow it; join food buying clubs to purchase bulk quantities of affordable food; and subscribe to Community Supported Agriculture farms (CSAs) to receive a weekly delivery of fresh, organic food. The demand for community gardens far exceeds available plots—although more plots are continuously being added — and gardening classes are extremely popular.

Along with this love of food, there is concern that many in our community are hungry, or don't have access to healthful food because of income or location.

The City of Portland initiated this code review to remove obstacles to urban food production and distribution. The project affirms the City's commitment to promote appropriate neighborhood-scaled food production that builds community capacity and knowledge, and increases access to healthful, affordable food for all residents, especially those who have limited access.

How will this project increase access to healthful, affordable food?

This project will increase access to healthful, affordable food by removing zoning code barriers to growing, buying, and selling food and supporting activities that are appropriate to neighborhoods. While the food economy—from farmers markets to community gardens—has dramatically increased over the last decade, the zoning code has not kept pace; the regulations can be a disincentive because they do not address some situations and are unclear and/or too restrictive about others. With zoning barriers removed, government and social services providers can more effectively prioritize programs that increase access to healthful, affordable food to diverse communities.

Why regulate these activities at all?

During the City's initial research and outreach there were significant concerns about over-regulating urban food production and distribution. Many asked why regulations were needed at all.

The amendments seek to revise unclear, cumbersome and restrictive regulations. For example, food membership distribution sites—which are not addressed at all in the zoning code—have produced some conflicts with neighbors in residential zones. And while growing food for personal consumption is allowed throughout the city, small-scale market gardens that grow food to sell are not allowed in most residential and commercial zones. The code is not clear whether gardeners can sell their produce, either at off-site locations or on their own property. Farmers markets, which are not defined in the code, have had to apply for expensive land use reviews to operate in specific zones. And finally, the code is not clear when these types of food-related activities are added to institutional sites.

Introduction

If trends continue, food production and alternative distribution models such as these will only be more common in the future. This will increase the possibility of conflicts with neighbors over livability issues such as traffic, parking, truck delivery and general increase in activity. The proposals in this report explicitly allow progressive food systems to flourish, while protecting neighborhood livability by mitigating negative impacts.

Who have we been working with?

The Bureau of Planning and Sustainability and the Oregon Public Health Institute received funding from Multnomah County Health Department through the Centers for Disease Control and Prevention's Communities Putting Prevention to Work (CPPW) Initiative. The purpose of the CPPW program is to improve access to healthful food and opportunities for physical activity. City, county, regional agencies, and community-based organizations funded by CPPW aim to ensure that policy decisions promote health equity and the equitable distribution of resources to underserved communities.

The project staff, an interdisciplinary team with experience in food policy and programs, neighborhood planning, zoning code development, and public health, held many meetings with the community. In the Fall of 2010 project staff began meeting with the Portland Multnomah Food Policy Council's Committee on Food Production and Distribution to discuss their past work on these issues. Initial topic area discussions with the broader community were held during Winter 2011, followed by two rounds of public review: one to discuss conceptual approaches to regulating these activities (Concept Report, July 2011); and, one to discuss initial zoning code language (Discussion Draft, Feb 2012). More than 800 people completed online questionnaires during these review periods. In addition, to help staff develop the zoning code language, 18 people were asked to serve as a Code Development Advisory Group (CDAG). The 18 represented a variety of interests, perspectives, and experiences around urban food production and distribution, and provided invaluable advice. (See acknowledgements in the front of this report)

How will these proposals affect food production and distribution?

The proposed zoning code amendments add definitions and clarify the regulations for market gardens, community gardens, food membership distribution sites, and farmers markets. Most significantly, the amendments allow for-profit market gardens throughout the city (with size limitations in residential zones), provide stability for food distribution activities such as farmers markets, CSAs, and food buying clubs, and encourage all these activities on institutional sites.

(See Section II. Proposed Zoning Code Amendments, for detailed information on the proposed amendments.)

Project Objectives

- **Affirm the City’s commitment to encouraging food production in the city, and promoting a range of food distribution strategies that increase options for all residents.** This commitment is reflected in the community values and policies of the *Climate Action Plan*, *Peak Oil Task Force Report*, the Guiding Principles of the Portland Multnomah Food Policy Council, and the ongoing work of the *Portland Plan*.
- **Increase access to healthful, affordable food, especially in diverse communities.** Recognizing the connections between food and the community’s environmental, economic, and public health goals, the City of Portland strives to increase access to healthful, affordable food for all residents, especially for those who may have fewer healthful food options or limited means of access. A lack of access to healthful and affordable food can lead to significant health problems, such as diabetes and obesity. While the Zoning Code is a good tool for treating issues equally, it is not a good tool for addressing equity. Removing zoning barriers will allow government and social services providers to prioritize programs that meet the needs of diverse communities more effectively.
- **Support healthy, vibrant neighborhoods by increasing opportunities to grow, sell, and purchase healthful food.** Gardening, farmers markets, and food membership networks can bolster a neighborhood’s sense of community by combining common interests with gathering places for social interaction, group activities, and educational programs. Institutions such as schools, faith-based facilities, hospitals and community centers provide excellent opportunities for neighborhoods to increase food-centered activity and promote neighborhood cohesion.
- **Support the local food economy.** Increasing the ability to garden for profit allows entrepreneurial food ventures and urban farmers the opportunity to employ neighborhood residents, supplement household incomes, and offer more opportunities for residents to buy locally grown food.
- **Develop zoning code regulations that support residents’ ability to grow, sell, and buy healthful food at a scale that is appropriate to Portland’s neighborhoods.** Develop clear regulations that support food production and easier access to healthy, affordable food, and, when appropriate, mitigate impacts to the surrounding neighborhood (such as noise and traffic). Limit the use of expensive land use reviews and permitting procedures to activities and situations that clearly have a significant impact on the surrounding neighborhood; for smaller or less intensive activities, develop standards that can be met with minimal cost to the applicant.
- **Identify and document issues that require larger or more specific discussions.** Many issues outside the scope of this zoning code project influence access to healthful, affordable food. As part of this project, issues and recommendations for “next step” will be compiled.

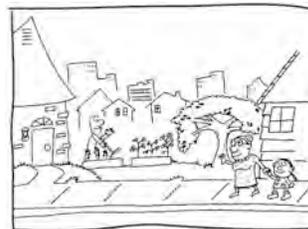
Topic Area Descriptions and Proposed Zoning Code Amendments

The proposed zoning code amendments add definitions and clarify the regulations for market gardens, community gardens, food membership distribution sites, and farmers markets. Most significantly, they allow for-profit market gardens throughout the city (with size limitations in residential zones), provide more certainty for food distribution activities such as farmers markets, CSAs, and food buying clubs, and encourage all these activities on institutional uses.

Each topic area is described below with a summary of current and proposed regulations. See Section II for more details of the proposed amendments to the zoning code.

1. **Market Gardens** are gardens or orchards where food is grown to be sold. It may be sold directly to consumers, restaurants, or stores. Market gardens tend to be more intensively cultivated and smaller scale than typical farms. A market garden can be the only use on a site or it may be on the same site as a house or building.

Regulations: Currently, market gardens are classified as an Agriculture Use. They are allowed only in a few zones (employment, open space, and very low density residential zones) and are prohibited in some commercial zones, most single dwelling residential zones, and all multi-dwelling residential zones. The proposed amendments create a definition of market gardens and allow them in all zones. Regulations also address maximum size in residential zones, on-site sales, hours of operation and the use of motorized equipment. The operators of larger market gardens will have to notify and meet with neighbors.



2. **Community Gardens** are gardens where any kind of plant is grown—including flowers—and several individuals or households garden at a site. The site may be divided into small plots, or gardeners may work together to cultivate the entire property. The land may be publicly owned, as in the Portland Parks and Recreation Community Gardens Program, or may be privately owned. The garden may be on the site of a religious institution, school, or medical center.



The distinction between market and community gardens is that food is grown for sale on market gardens while food from community gardens is used for personal use or donation.

Regulations: Currently, community gardens are classified as a Parks And Open Areas Use and allowed in all zones. The proposed amendments will not affect this, but will add a definition and regulations that address hours of operation, use of motorized equipment, and allow limited on-site sales.

3. Food Membership Distribution Sites. Groups that use food membership distribution sites fall into two categories:

- Food Buying Clubs allow people to buy food directly from wholesalers, distributors, or growers, usually at significant savings. Types of items purchased include bulk or processed foods, fresh fruits and vegetables, dairy and meat products. Although Food” is coordinated by a club member who works with the distributor or farmer and arranges the specifics of the delivery and member pick-up. The “pick-up window”—when members come for their purchases--varies from a few hours to several days.
- Community Supported Agriculture (CSA) organizations allows people to buy a "share" of a farm's future output of produce, meat, eggs, etc. The farmer typically delivers the multiple members' shares, usually once a week, to a predetermined location- often a member's house. Participants go to the distribution site to pick up their shares. The shares may come in pre-assembled boxes or members may assemble them at the distribution site.



Regulations: Currently, the Zoning Code is silent as to how to regulate food distribution membership sites. Some may be classified as Retail Sales And Service Uses, but each one is different. The proposed changes add a definition that includes descriptions of both food buying clubs and community supported agriculture (CSA) organizations. The proposals amend the Use Categories to allow food membership distribution sites in all zones. There are also regulations that address size and frequency of “buys”, hours when items may be delivered and members can pick up items, and the extent of exterior activities. The operators of distribution sites used more frequently or with more people arriving during a “pick-up window” will have to notify and meet with neighbors. There are also some limits on the location of the sites that are busiest: they must be near a non-local street.

4. Farmers Markets are events where farmers, ranchers, and other agricultural producers sell food, plants, flowers, and added-value products, such as jams and jellies, they have grown, raised, or produced from products they have grown or raised. In addition, some vendors sell food that is freshly made and available for immediate consumption on site, and some may be community groups, services, or other vendors or organizations. Farmers Markets occur on a regular basis in the same location. They are free and open to the public. Some markets are seasonal, while others occur year-round.



Regulations: Although farmers markets occur throughout the city, there are no specific regulations for them in the Zoning Code. They are treated as temporary activities or Retail Sales And Service Uses depending on their location. With the proposed amendments, there will be a definition, and all farmers markets will be regulated as temporary uses. There will be specific regulations to address location, frequency, how many "non-farmer" vendors are allowed, and when markets may set up on parking lots.

Public Outreach and Community Involvement

Portland Multnomah Food Policy Council (Fall 2010)

Project staff attended several meetings of the Food Production and Distribution Committee of the Portland Multnomah Food Policy Council (FPC). The FPC has examined zoning code issues for many years and taken the lead in identifying barriers in the zoning code that inhibit food production and distribution. BPS worked with members of the FPC to document past research of these issues as well as utilize the Council members' broad connections to groups and individuals to ensure key stakeholders were included in the initial project scoping. These meetings were open to the public.

Topic Areas Discussions (Winter 2011)

The Bureau of Planning and Sustainability and FPC committee on Food Production and Distribution hosted a series of topic area discussion on urban food production, community gardens, farmers markets, food membership distribution sites, and animals/bees. The four meetings were open to the public and more than 60 people were involved in the various discussions.

Concept Report (Spring/Summer 2011)

Building on the topic area discussions and additional research, staff published a Concept Report that identified issues, benefits, potential impacts and examples of how other cities regulate food growing and distribution activities. The report identified a conceptual "direction" for how each topic area could be regulated. During the five-week comment period there were three community meetings and over 800 questionnaires and comments were submitted. A summary of these comments as well as the individual responses are available on the project website.

Discussion Draft of Code Amendments (Fall 2011/Winter 2012)

A Code Development Advisory Group (CDAG) was established to assist project staff with developing the code. This group, composed of 18 members with a variety of interests, perspectives and experiences around urban food production and distribution, attended six meetings and worked closely with project staff to develop the code proposals in this Discussion Draft. (See list of CDAG members at the front of this report.)

Planning and Sustainability Commission Review (Spring 2012)

The Planning and Sustainability Commission will hold a public hearing on April 24th on the proposals in this report. After they complete their review their recommendations will be forwarded to City Council.

City Council Review and Final Action (Spring/Summer 2012)

Portland City Council will hold a public hearing on the Planning and Sustainability Commission recommendations before making a final decision.

II. Proposed Zoning Code Amendments

Summary of Proposed Code Amendments by Topic Area

Market Gardens		Page
Definition	Add a definition of market gardens in 33.910. Specify produce is grown primarily to be sold	13
Use Category	Add market gardens to the list of examples in the Agriculture Use Category (33.90.500)	31
	Amend base zone use tables to allow market gardens in all zones	63-81
Special Regulations	Add regulations that establish size limits of market gardens in residential zones and cover hours of operation and use of motorized equipment (33.237.200)	37-41
	Allow on-site sales of produce and value-added products from garden up to 70 days each year (33.237.200.C)	39
	Add section 33.237.500 Neighborhood Notification and Meeting with requirements on how and who to notify if intensity of activities trigger this regulation.	49
Locations market gardens would be allowed	All zones- all institutional sites	
Community Gardens		Page
Definition	Add a definition of community garden in 33.910. Specify produce is grown primarily for personal consumption or donation	13
Use Category	No change (Parks and Open Areas, allowed in all zones)	
Special Regulations	Add regulations that allow unlimited size and cover garden-related structures, hours of operation, use of motorize equipment and limited opportunities to sale produce. (33.237.100)	43, 41
Locations community gardens would be allowed	All zones- all institutional sites	

Proposed Zoning Code Amendments

Food Membership Distribution Sites		Page
Definition	Add a definition of food membership distribution site and include descriptions of both food buying clubs and community supported agriculture (CSA) organizations. Add a definition of “delivery days”	13
Use Category	Amend Use Categories to allow food membership distribution organizations as an accessory use in all use categories	15-33
Special Regulations	Add regulations that address size and frequency of “buys”, hours members can pick up items, truck deliveries, and location for exterior activities. Add Table 237-2 to establish tiers of regulations based on the number of delivery days and the number of members coming to the site. Add section 33.237.500 Neighborhood Notification and Meeting with requirements on how and who to notify if intensity of activities trigger this regulation.	45-47 47 49
Locations food membership distribution sites would be allowed	All zones- all institutional sites	
Farmers Markets		Page
Definition	Add a definition of farmers market in 33.910.	13
Use Category	Amend 33.900 to add farmers markets as an example of retail sales and service sales-oriented uses.	19
Special Regulations	Amend 33.296, Temporary Activities to establish regulations for locations, frequency, vendor composition, and use of required on-site parking.	53-61
Locations market gardens would be allowed	All zones, except low density multidwelling zones and single family residential zones- all institutional sites.	
Nonconforming Situations		Page
	Process and regulations for existing market gardens, food membership distribution sites and farmers markets.	51

Proposed Zoning Code Amendments

How to Read the Code Amendments

Proposed changes to the code are as follows:

- Code language is on the right-handed pages with staff commentary on the left hand pages.
- Code language to be added is underlined and code language to be removed is shown in ~~striketrough~~.

Commentary

Chapter 33.910, Definitions

Delivery Days. A delivery day is the day a delivery occurs for later pick-up by members. The length of the "pick-up window" (the period of time that members can pick up their purchases) is not regulated. "Pick-up windows" range from several hours to several days, depending on the type of food and the practices of the Food Membership Distribution Organization.

Food Membership Distribution Site

Two types of food membership organizations require a distribution site:

- **Food Buying Clubs** allow people to buy food directly from wholesalers, distributors, or growers, usually at significant savings. While many of the items purchased are bulk or processed foods with a long shelf life, fresh produce, meat, dairy, and eggs can also be included. The growers or distributors typically make deliveries to a single location. The club then relies on the efforts of its members to divide up the food for the participants, who go to the site to pick up their food.
- **Community Supported Agriculture Organizations** allow people to buy a share or a specified amount of a farm's output in advance. This entitles them to future produce, meat, eggs, etc. The farmer delivers the food, usually once a week. In most cases, the farmer delivers food for a number of people to a single location, and participants go to the site to pick up their food.

Community Gardens and Market Gardens. Under this proposal, Market Gardens have size limits and on-site sales are allowed up to 70 days each year. Community Gardens have no size limit, but sales are only allowed occasionally. These are the key distinctions between the two uses. Market Gardens are commercial in nature, while Community Gardens act as "an offsite back yard" for many people, providing home-grown produce, the pleasure of gardening, and can build a sense of community.

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

AMEND CHAPTER 33.910, DEFINITIONS

Calendar Year is the year from January 1 through December 31.

Farmers Market. Farmers Markets are events where farmers, ranchers, and other agricultural producers sell food, plants, flowers, and added-value products, such as jams and jellies, they have grown, raised, or produced from products they have grown or raised. In addition, some vendors sell food that is available for immediate consumption on site, and some may be community groups, services, or other vendors or organizations. Farmers Markets occur on a regular basis in the same location. They are free and open to the public. Some markets are seasonal, while others occur year-round.

Food Production and Distribution Related Definitions

- **Community Garden.** A site where any kind of plant, including flowers, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners, or for donation, and only limited sales are allowed.
- **Delivery Days** are days when deliveries of food or other goods are made to Food Membership Distribution Sites for later pick-up by members of Food Buying Clubs or Community Supported Agriculture Organizations.
- **Food Membership Distribution Site.** A site where items ordered through a Food Buying Club or Community Supported Agriculture Organization are picked up by the members.
 - **Food Buying Clubs** are membership organizations. The members, as a group, buy food and related products from wholesalers, distributors, growers, and others. All products are pre-ordered and pre-paid, and at least 70 percent of the products are food.
 - **Community Supported Agriculture Organizations** are membership organizations. Individuals or households become members by purchasing a share or a specified amount of an agricultural producer's output in advance. Members receive food items from the producer on a regular schedule.
- **Market Garden.** A site where food is grown to be sold. The food may be sold directly to consumers, restaurants, stores, or other buyers, or at Farmers Markets.

Commentary

Chapter 33.920, Use Categories

Food Membership Distribution does not fit neatly into any of the existing use categories. While some charge a fee or a markup, which could make them a Retail Sales And Service Use, others do not charge a fee or markup. Given the intermittent nature of the activity—the distribution—they always occur on sites with another primary use. Many of the sites are individuals' homes, and a number use the sites of institutional uses, such as churches or schools. Some Office or Retail Sales And Service Uses are also used for the distribution. Because of these factors, the best "fit" is to consider Food Membership Distribution as an accessory use to other uses. They can be accessory to most uses, however, they are not appropriate to the following uses: Mining, Radio Frequency Transmission Facilities, and Rail Lines And Utility Corridors.

Market Gardens are classified as an Agriculture Use (see commentary for 33.920.500).

Community Gardens are currently classified as a Parks And Open Areas Use (see commentary for 33.920.460).

Farmers Markets are a Retail Sales And Service Use, and are regulated primarily by Chapter 33.296, Temporary Uses.

Institutional Uses are referred to in this document. The following are classified as Institutional Uses:

- Basic Utilities
- Colleges
- Community Service
- Daycare
- Medical Centers
- Parks And Open Areas
- Religious Institutions
- Schools

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

AMEND CHAPTER 33.920, USE CATEGORIES

Residential Use Categories

33.920.100 Group Living

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, ~~and~~ parking of vehicles for the facility, and food membership distribution.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.110 Household Living

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, ~~and~~ bed and breakfast facilities, and food membership distribution are accessory uses that are subject to additional regulations.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

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

Commercial Use Categories

33.920.200 Commercial Outdoor Recreation

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses may include concessions, restaurants, parking, caretaker's quarters, food membership distribution, and maintenance facilities.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.210 Commercial Parking

- A. Characteristics.** [No change.]
- B. Accessory Uses.** In a parking structure only, accessory uses may include gasoline sales, car washing, food membership distribution, and vehicle repair activities if these uses provide service to autos parked in the garage, and not towards general traffic.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.220 Quick Vehicle Servicing

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses may include auto repair, food membership distribution and tire sales.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.230 Major Event Entertainment

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses may include restaurants, bars, concessions, parking, food membership distribution, and maintenance facilities.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

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33.920.240 Office

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building. Accessory uses may also include food membership distribution.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.250 Retail Sales And Service

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, food membership distribution, and parking.
- C. Examples.** Examples include uses from the four subgroups listed below:
 1. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and Farmers Markets; and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
 2. Personal service-oriented: [No change.]
 3. Entertainment-oriented: [No change.]
 4. Repair-oriented: [No change.]
- D. Exceptions.**
 1. through 8. [No change.]

Commentary

A guy walks into a doctor's office with a carrot stuck up his nose.

"I can see what the problem is!" says the doctor.

"You're not eating right!"



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33.920.260 Self-Service Storage

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include security and leasing offices and food membership distribution. Living quarters for one resident manager per site in the E and I zones are allowed. Other living quarters are subject to the regulations for Residential Uses in the base zones. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.270 Vehicle Repair

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses may include offices, sales of parts, ~~and~~ vehicle storage, and food membership distribution.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Industrial Use Categories

33.920.300 Industrial Service

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include offices, food membership distribution, parking, storage, rail spur or lead lines, and docks.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

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33.920.310 Manufacturing And Production

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include offices, cafeterias, food membership distribution, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, or truck fleets. Living quarters for one caretaker per site in the E and I zones are allowed. Other living quarters are subject to the regulations for Residential Uses in the base zones.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.320 Railroad Yards

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses include offices, employee facilities, food membership distribution, storage areas, and rail car maintenance and repair facilities.

33.920.330 Warehouse And Freight Movement

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include offices, food membership distribution, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.340 Waste-Related

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses may include recycling of materials, offices, food membership distribution, and repackaging and transshipment of by-products.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

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33.920.350 Wholesale Sales

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include offices, food membership distribution, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Institutional Use Categories

33.920.400 Basic Utilities

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses may include food membership distribution, parking; control, monitoring, data or transmission equipment; and holding cells within a police station.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.410 Colleges

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses include offices, housing for students, food service, food membership distribution, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

What is small, red and whispers?
A hoarse radish.

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33.920.420 Community Services

- A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- B. Accessory uses.** Accessory uses may include offices; meeting areas; food preparation areas; food membership distribution, parking, health and therapy areas; daycare uses; and athletic facilities.
- C. Examples.** Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, crematoriums, columbariums, mausoleums, soup kitchens, park-and-ride facilities for mass transit, and surplus food distribution centers.
- D. Exceptions.**
 1. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales And Service. Commercial museums (such as a wax museum) are in Retail Sales And Service.
 2. Parks are in Parks And Open Areas.
 3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
 4. Public safety facilities are classified as Basic Utilities.

33.920.430 Daycare

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses include offices, food membership distribution, play areas, and parking.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

33.920.460 Parks And Open Areas

Community Gardens are currently listed in Subsection A. This amendment also adds them as an example.

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33.920.450 Medical Centers

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, food membership distribution, parking, maintenance facilities, and housing facilities for staff or trainees.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

33.920.460 Parks And Open Areas

- A. Characteristics.** Parks And Open Areas are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, Community Gardens, or public squares. Lands tend to have few structures.
- B. Accessory uses.** Accessory uses may include club houses, maintenance facilities, concessions, caretaker's quarters, food membership distribution, and parking.
- C. Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, Community Gardens, and land used for grazing that is not part of a farm or ranch.

33.920.470 Religious Institutions

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses include Sunday school facilities, food membership distribution, parking, caretaker's housing, one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one household where the average length of stay is less than 60 days.
- C. Examples.** [No change.]

33.920.480 Schools

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses include play areas, cafeterias, recreational and sport facilities, athletic fields, auditoriums, food membership distribution, and before- or after-school daycare.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.]

Commentary

33.920.500 Agriculture

This adds *Market Gardens* to the *Agriculture Use* category. Regulations in the base zone chapters (33.100, .110, .120, .130, .140) clarify where all *Agriculture Uses* are allowed and where only *Market Gardens* are allowed. Chapter 33.237, *Food Production and Distribution*, contains standards for *Market Gardens* that do not apply to other types of *Agriculture Uses*.

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Other Use Categories

33.920.500 Agriculture

- A. Characteristics.** Agriculture includes activities that raise, produce or keep plants or animals.
- B. Accessory uses.** Accessory uses include dwellings for proprietors and employees of the use, food membership distribution, and animal training.
- C. Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; Market Gardens, and wholesale plant nurseries.
- D. Exceptions.**
 1. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing And Production.
 2. Livestock auctions are classified as Wholesale Sales.
 3. Plant nurseries that are oriented to retail sales are classified as Retail Sales And Service.
 4. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Agriculture or Retail Sales And Service.

33.920.510 Aviation And Surface Passenger Terminals

- A. Characteristics.** [No change.]
- B. Accessory uses.** Accessory uses include freight handling areas, concessions, offices, parking, maintenance and fueling facilities, and aircraft sales areas, rental car facilities, food membership distribution, and Basic Utilities.
- C. Examples.** [No change.]
- D. Exceptions.** [No change.].

Commentary

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33.920.520 Detention Facilities

- A. Characteristics.** [No change.]
- B. Accessory Uses.** Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, food membership distribution, and hobby and manufacturing activities.
- C. Examples** [No change.]
- D. Exceptions.** [No change.]

Commentary

Chapter 33.237 Food Production And Distribution

This is a new chapter that contains regulations for *Community Gardens*, *Market Gardens*, and food membership distribution by food buying clubs and community supported agriculture (CSA) organizations. The regulations in this chapter apply to these uses in all base zones.

Market Garden or Community Garden?

Under this proposal, *Market Gardens* have size limits and on-site sales are allowed up to 70 days each year. *Community Gardens* have no size limit, but sales are only allowed occasionally. These are the key distinctions between the two uses. *Market Gardens* are commercial in nature, while *Community Gardens* act as "an offsite back yard" for many people, providing home-grown produce, the pleasure of gardening, and can build a sense of community.

This is a new chapter. For ease of reading, the language is not underlined.

**CHAPTER 33.237
FOOD PRODUCTION AND DISTRIBUTION**

Sections:

- 33.237.010 Purpose
- 33.237.020 Where These Regulations Apply
- 33.237.100 Market Gardens
- 33.237.200 Community Gardens
- 33.237.300 Food Membership Distribution
- 33.237.500 Neighbor Notification and Meeting
- 33.237.550 Farmers Markets
- 33.237.600 Regulations for Existing Market Gardens, Food Membership Distribution, and Farmers Markets

33.237.010 Purpose

The purpose of the regulations in this chapter is to increase access to affordable, healthful, food for all, especially for those who may have limited options because of location, access, or income. The regulations encourage Community Gardens, Market Gardens, and food membership distribution at a scale that is appropriate to neighborhoods in an urban environment, and support small-scale agricultural use of land that is not otherwise developed. The regulations also recognize that the gardens and food membership organizations can help build a sense of community and offer increased opportunities to garden and to interact with neighbors.

In addition, the regulations ensure that these uses and activities are compatible with the surrounding area by limiting potential negative effects, particularly in residential neighborhoods, and take into consideration neighborhood character, scale, visual impacts, traffic, noise, fumes, local environmental resources, and hours of operation.

33.237.020 Where These Regulations Apply

The regulations of Section 33.237.100 apply to Market Gardens. The regulations of Section 33.237.200 apply to Community Gardens. The regulations of Section 33.237.300 apply to Food Membership Distribution. The regulations of Section 33.237.600 apply to Market Gardens, Food Membership Distribution, and Farmers Markets that existed before these regulations were adopted.

Commentary

33.237.100 Market Gardens

Market Gardens are a small-scaled agricultural use that can be compatible with the character of residential neighborhoods. Currently, they are not addressed in the Zoning Code, although they would most likely be classified as an Agriculture Use—which is only allowed in a few zones. On-site sales are currently governed by Chapter 33.296, Temporary Uses, which allows "seasonal outdoor sales" twice a year, for up to five weeks each time, for a total of 70 days each year. However, the time between each sale has to be at least four times as long as the last sale.

The regulations proposed in this section are intended to support this activity while reducing potential negative impacts to surrounding residential areas. Under this proposal, Market Gardens are also allowed in nonresidential zones, with a lower level of regulation.

The proposed regulations recognize that Market Gardens, which are commercial in nature, have benefits to the neighborhood beyond a typical home occupation, including increased access to affordable, healthful food (particularly with on-site sales), providing green spaces, and using land that might otherwise not be maintained.

A. Maximum Area

Maximum area limitations vary with the zone to ensure that the size of the garden is appropriate with the character and scale of the zone in which it is located. The sizes allowed are generous enough that the vast majority of sites that could accommodate a Market Garden will be able to do so without going through any extra steps, or by notifying neighbors and holding an informational meeting. An adjustment review is an option for larger gardens, but would be needed for only a small percentage of potential sites.

There are no maximum area limitations in nonresidential zones.

In the single-dwelling zones, the numbers are based on the size of a typical lot in that zone. The equivalent of two lots (e.g., 14,000 square feet in an R7 zone, 20,000 square feet in an R10 zone) are allowed without any extra steps. The equivalent of three typical lots ((e.g., 21,000 square feet in an R7 zone, 30,000 square feet in an R10 zone) are allowed if the gardener notifies neighbors and holds a meeting (see 33.237.500). In multi-dwelling zones and sites with institutional uses in residential zones, the sizes are more liberal, and are based on a rough estimate of typical lot sizes and, for institutional uses, typical site sizes.

This area limitation has been one of the most-discussed issues in this project. Despite many concerns, these size limits make sense for several reasons. As noted above, there is concern about the effect on the character of urban neighborhoods and the potential differences in scale. It is also more likely that smaller sites will be cultivated by hand, which is more compatible with residential neighborhoods; on larger sites, efficiency might call for more frequent use of mechanical equipment, or for larger equipment. In addition, it is easier to get well-designed development on larger sites than on smaller sites; the

(continued on next commentary page)

This is a new chapter. For ease of reading, the language is not underlined.

33.237.100 Market Gardens

- A. Maximum area.** The maximum area allowed for a Market Garden is specified in Table 237-1. The area of a Market Garden includes the area under cultivation, the area covered by any structures associated with the garden, the compost pile, any off-street parking, or any other area associated with the activities of the garden.

Table 237-1 Maximum Area for Market Gardens		
Zone	Maximum Area Allowed per Site	Maximum Area Allowed per Site if Neighbor Notification and Meeting requirements of Section 33.273.500 are met
RF Zone	174,000 square feet	261,000 square feet
R20 Zone	40,000 square feet	60,000 square feet
R10 Zone	20,000 square feet	30,000 square feet
R7 Zone	14,000 square feet	21,000 square feet
R5 and R 2.5 Zones	10,000 square feet	15,000 square feet
Multi-Dwelling Zones	14,000 square feet	21,000 square feet
Sites with Institutional Uses in residential zones	14,000 square feet or 10 percent of the total site area, whichever is larger.	21,000 square feet or 15 percent of the total site area, whichever is larger
Industrial, Employment, Commercial, and Open Space Zones	No maximum	-----

Commentary

A. Maximum Area (continued from previous commentary page)

larger the site is, the more options there are for configuring buildings, parking, location buildings, parking, location of garbage areas, and so on. While we expect that many Market Garden sites will be redeveloped over time, there is some value to being more careful about the larger sites—especially in light of state land use laws that seek to place agriculture outside the Urban Growth Boundary and development inside the UGB.

Effect of maximum area limits on potential sites for Market Gardens.

Under the proposed maximum area limits, a vast majority of the potential sites for Market Gardens in residential zones would be allowed without an adjustment. If all residential zones are considered, there are nearly 54,000 potential sites. Of those, 87 percent meet the maximum area allowed per site and would not be subject to the Neighbor Notification and Meeting requirement. An additional 7 percent would be subject to the Neighbor Notification and Meeting requirement, and only 6 percent would have to seek an adjustment to exceed the limits in Table 237-1.

B. Sales Allowing on-site sales gives neighbors increased access to fresh, locally grown food. Currently, seasonal outdoor sales of produce are allowed as a temporary use in most residential zones. Sales may occur twice a year for up to five consecutive weeks each time. The time between each sale must be four times as long as the duration of the last event. In the nonresidential zones, seasonal outdoor sales are allowed for one month a year.

1. **Nonresidential Zones.** This proposal allows sales to be regulated as Retail Sales And Service, which is more consistent with the actual use. Because sales are limited to what can be produced by the site, it is unlikely that sales will be intensive, so there is not a need to provide parking or limit exterior display. There is no limit on how many days sales can occur
2. **Residential Zones.** This proposal allows produce to be sold for the same number of days (70) as allowed under the current regulations for residential zones, but does not require the days to be consecutive. Limiting sales to what can be produced by the site will further limit impacts because the amount that can be sold is relatively small.

And we all know the famous quote from the sweet potato: "I think, therefore I yam."

This is a new chapter. For ease of reading, the language is not underlined.

B. Sales.

1. On-site sales.
 - a. Nonresidential zones. In nonresidential zones, on-site sales are a Retail Sales And Service Use; and the following regulations apply:
 - (1) No parking is required;
 - (2) Exterior display is allowed; and
 - (3) Only food and value-added products made from produce grown on site, such as jams and pickles, may be sold
 - b. Residential zones. In residential zones, on-site sales are allowed as accessory to the Agriculture use, and the following regulations apply:
 - (1) No parking is required;
 - (2) Exterior display is allowed;
 - (3) Only food and value-added products made from produce grown on site, such as jams and pickles, may be sold;
 - (4) Sales are allowed only between 7 AM and 9 PM; and
 - (5) Sales are allowed up to 70 days in each calendar year.
2. Off-site sales. Off-site sales are not limited by the regulations of this Chapter.

Commentary

C. Hours of operation in residential zones

Hours of operation have been expanded from 7 AM and 9 PM (the times employees or customers may come to a home occupation site) to include daylight hours if earlier than 7AM and later than 9PM. Farmers reported to us that during the summer many worked their gardens in the early morning and late evening.

Use of motorized equipment is limited to between 7 AM and 9 PM (the same hours employees or customers may come to a home occupation site). We considered stricter limits on the noisiest types of equipment, but did not choose that option for two reasons. First, we realized that determining which equipment would be further restricted would be extremely difficult and the regulations would be hard to enforce. Second, because Market Gardens are limited in size, motorized equipment that makes significant noise is rarely used once the garden is created (creation of the garden may require heavy machinery). Once a garden is established, a small tractor or rototiller is the most likely equipment to make significant noise in a Market Garden. Lawn mowers and string trimmers (also known as weed whackers and whipper snippers) may be used for maintenance purposes.

D. Fences. We considered increasing the height of fences allowed in the front setback of sites in residential zones from the current 3-1/2 feet to increase security and keep out animals. However, we propose retaining the current regulation to provide more compatibility with the character of most residential areas.

In addition, because many Community Gardens and Market Gardens will be on sites with existing development, a house with a Market Garden in the back yard should not be able to have a tall fence in the front setback, while the identical house next door that has only a personal garden may not have a tall fence in the front setback.

Taller fences are allowed outside of the front setback. The front setback in single-dwelling zones ranges from 10 to 20 feet, and from zero to 10 feet in multi-dwelling zones.

This is a new chapter. For ease of reading, the language is not underlined.

C. Hours of operation in residential zones.

1. In residential zones, operation may begin at sunrise or 7 AM, whichever is earlier, and must end at sunset or 9 PM, whichever is later. A Market Garden is operating if people are on the site. Automatic equipment functioning, such as sprinklers, is not considered operation.
2. Use of motorized equipment in residential zones is allowed only between 7 AM and 9 PM.

D. Fences. Fences are regulated by the base zones.

Commentary

33.237.200 Community Gardens

Currently, Community Gardens classified as a Parks and Open Areas use, and are allowed in all zones. There are no regulations that apply specifically to them. In residential zones, structures and fences are subject to the regulations that would apply to residential uses. On-site sales are currently governed by Chapter 33.296, Temporary Uses, which allows "seasonal outdoor sales" twice a year, for up to five weeks each time. This proposal reduces the opportunities to sell produce, but offers the option of the Market Garden, where more sales are allowed. Owners of these gardens may impose more restrictive rules. Currently, most Community Gardens are operated by the Portland Bureau of Parks and Recreation, which has additional operating regulations.

These regulations encourage creation of Community Gardens (and Market Gardens) on institutional sites; these sites often have areas that are not otherwise used, and are often already a neighborhood focal point. To this end, the regulations that might trigger the need for a land use review when a garden is created are also amended by this proposal: See the amendments to Chapters 33.279, 33.281, and 33.815.

If you had 5 oranges in one hand and 5 pears in the other hand what would you have?
Massive hands

This is a new chapter. For ease of reading, the language is not underlined.

33.237.200 Community Gardens

- A. Maximum area.** There is no maximum area for Community Gardens.
- B. Sales.** Sales of produce from a Community Garden may occur for no more than three consecutive days on two different occasions during a calendar year. Sales must occur on-site.
- C. Other regulations.** The regulations of Subsections 33.237.100.C and D apply to Community Gardens.

Commentary

33.237.300 Food Membership Distribution

Food Membership Distribution occurs when items ordered through a Food Buying Club or Community Supported Agriculture Organization are picked up by the members. (See also 33.910, Definitions.)

- Community Supported Agriculture allows people to buy a share or specified amount of a farm's future output. The farmer delivers the "share"—a box or bag of food, usually once a week. In many cases, the farmer delivers multiple shares to one location and members go to that distribution site to pick up their shares.
- Food Buying Clubs allow people to buy food directly from wholesalers, distributors, or growers, usually at significant savings. While many of the items purchased are bulk or processed foods with a long shelf life, fresh produce, dairy, eggs, meat, and poultry may be included. The growers or distributors typically make deliveries to a single location or distribution point, where the members pick up their orders.

There are many Food Buying Clubs and Community Supported Agriculture Organizations throughout the city. As we worked on this project, we learned that each club and organization operates differently; there are some commonalities, but they are each tailored to the needs and interests of the members. Although few complaints have been sent to the city from neighboring properties, the legal status of these distribution sites is unclear, and the potential for negative impacts in residential neighborhoods is significant; we expect that these distribution sites will multiply in coming years, and that some operators may not be as considerate as those now in operation.

The regulations seek to both protect the distribution and limit negative impacts, particularly in residential neighborhoods. These regulations place limits on how intensely a distribution site is used by considering both the frequency with which members will come to the site, and the number of members who will come to the site. After a certain level of activity is reached, sites should cap activity, relocate to an institutional site or nonresidential zone, or share distribution duties with another site.

B. Use. Food Membership Distribution is an intermittent activity that occurs at sites with other primary uses, including residential, commercial, industrial, and institutional uses. See 33.920, Use Categories.

This is a new chapter. For ease of reading, the language is not underlined.

33.237.300 Food Membership Distribution

- A. Use.** Food Membership Distribution is accessory to most use categories, but not a primary use on a site.
- B. Residential zones.** The regulations of this subsection apply to sites in residential zones that are not in Institutional use.
 - 1. The maximum number of members who may come to the site to pick up items delivered on one delivery day, and the number of delivery days that are allowed in a calendar year are specified in Table 237-2. If a site fits into more than one cell, the more restrictive requirement applies.
 - 2. The operator of a site must select a maximum number of delivery days and maximum number of members who may come to the site, and is responsible for compliance with the regulations that apply to the combination of delivery days and maximum number of members who may come to the site. This may require limiting the number of members who may participate in each order, or moving some deliveries to other locations.
 - 3. Members may pick up items at the site only between 7 AM and 9 PM.
 - 4. Truck deliveries are allowed between 8 AM and 5 PM.
 - 5. Exterior activities, except delivery and pick up, may not occur in the area between the primary building and any street lot line.
- C. Institutional uses on sites in residential zones.** The regulations of this subsection apply to sites in residential zones that are in Institutional use.
 - 1. Sites that have at least three parking spaces reserved specifically for members picking up their food are subject to Paragraphs C.3 and C.4.
 - 2. Sites that do not have at least three parking spaces reserved specifically for members picking up their food are subject to Paragraphs C.1 through C.4.

Commentary

Table 237-2: Food Membership Distribution: Frequency and Number of Members

The number of Delivery Days allowed per Calendar Year is based in part on typical delivery schedules for Community Supported Agriculture Organizations. Most deliver weekly; some operate only during the typical growing season, but others have been able to extend the growing season through use of cold frames, greenhouses, and the like, and can deliver food year-round. While the first column (up to 5 Delivery Days a year) is for those who only occasionally "host" food distribution, the second column (6 to 26 Delivery Days a year) will accommodate those Community Supported Agriculture Organizations that deliver weekly for up to half the year. For deliveries that occur weekly year-round, whether for a Community Supported Agriculture Organization or a Food Buying Club, the third column (27 to 52 Delivery Days a year) contains the requirements, and those with an average frequency more than once a week and as often as twice a week are in the fourth column (53 to 104 Delivery Days a year). More frequent Delivery Days are not allowed.

Maximum number of members who come to the site. These numbers are based on discussions with the advisory group—which included several representatives from food membership distribution organizations—and a special meeting staff attended with food buying clubs and CSA farmers. Twelve as the threshold for a small pick-up was arrived at because many felt this number of people could come and go with little impact on the neighborhood. The higher number of 56 was based on the home occupation regulations that allow 8 people to come to the site 7 days a week for a total of 56 people a week. The absolute maximum of 100 members who may come to the site is based on a recommendation from the Bureau of Transportation: they are concerned that higher numbers would have a significant impact on the functioning of streets and intersections, leading to congestion and safety concerns.

Proximity to non-local streets. Generally, sites that are close to non-local streets are more likely to be close to transit, giving members the option to take transit to pick up their orders. In addition, the expectations of neighbors near such streets is often that there will be slightly more traffic and activity.

Initially, we considered applying the 500-foot distance citywide, but realized that there are far fewer non-local streets east of I-205 than west of I-205. Keeping the 500-foot distance east of I-205 would sharply limit the potential for Food Membership Distribution in that area. Because that area also has fewer opportunities for access to affordable, healthful food than most of Portland, the 1,000-foot distance is appropriate.

A map showing all non-local streets, and areas that are not within the specified distance from them, is on our website at www.portlandonline.com/foodcode. The map is also available for review at our office, and will be at all hearings.

This is a new chapter. For ease of reading, the language is not underlined.

Table 237-2 Food Membership Distribution: Frequency and Number of Members					
	Number of Delivery Days per Calendar Year				
Maximum Number of Members Who Come to Site per Delivery Day↓	Up to 5/year	6 to 26/year	27 to 52/year	53 to 104/year	More than 104/year
Up to 12	Allowed	Allowed	Allowed	Allowed if requirements of Section 33.237.500, Neighbor Notification and Meeting, are met	Not Allowed
13 to 56	Allowed	Allowed if requirements of Section 33.237.500, Neighbor Notification and Meeting, are met	Allowed if: 1. Requirements of Section 33.237.500, Neighbor Notification and Meeting, are met; and 2. West of I-205, site is within 500 feet of a non-local street; east of I-205, site is within 1,000 feet of a non-local street	Allowed if: 1. Requirements of Section 33.237.500, Neighbor Notification and Meeting, are met; and 2. West of I-205, site is within 500 feet of a non-local street; east of I-205, site is within 1,000 feet of a non-local street	Not Allowed
57 to 100	Allowed	Allowed if: 1. Requirements of Section 33.237.500, Neighbor Notification and Meeting, are met; and 2. West of I-205, site is within 500 feet of a non-local street; east of I-205, site is within 1,000 feet of a non-local street	Allowed if: 1. Requirements of Section 33.237.500, Neighbor Notification and Meeting, are met; and 2. West of I-205, site is within 500 feet of a non-local street; east of I-205, site is within 1,000 feet of a non-local street.	Not Allowed	Not Allowed
More than 100	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed

Commentary

33.237.500 Neighbor Notification and Meeting

The Neighbor Notification and Meeting will be required for Market Gardens and Food Membership Distribution Sites. This is a new process, although it is based, in part, on a process used in conjunction with certain land use reviews and building permits (see Section 33.700.025, Neighborhood Contact).

C. Notification. These requirements ensure that both owners who live elsewhere and neighbors who may not own the property are informed of the proposal. Sending a copy of the letter to the Bureau of Development Services makes it easier for staff to respond to questions from the public about the proposal.

- C.1. The letter to owners may not be delivered by hand because many owners do not live on site. Mailing a letter to the address listed in the property tax records ensures the legal owner will receive notice. Names and addresses can be obtained online from www.portlandmaps.com.

This is a new chapter. For ease of reading, the language is not underlined.

33.237.500 Neighbor Notification and Meeting

- A. Purpose.** The requirements of this section allow neighbors an opportunity to become aware of and comment, in an informal manner, on a proposal before operations begin. By sharing information and concerns, all involved have the opportunity to identify ways to improve a proposal, and to resolve conflicts. While the comments from the neighbors are not binding, a collaborative approach is encouraged.
- B. When Neighbor Notification and Meeting is required.** Neighbor Notification and Meeting is required as specified in Section 33.237.100 and Table 237-2.
- C. Notification.**
 1. A letter must be sent to the owners of property within 150 feet of the site, and to the Planning and Zoning Section of the Land Use Division of the Bureau of Development Services. The letter must be sent by US Mail, FedEx, UPS, or similar service. The letter may not be sent electronically or delivered by hand.
 2. The letter must:
 - a. Describe the proposal in detail;
 - b. Include information on how to contact the person or organization making the proposal;
 - c. Show the location of the site on a map, and give the address of the site; and
 - d. Invite people to a meeting to discuss the proposal, specifying the date, time, and location of the meeting.
 3. The letter must be mailed at least 14 days before the meeting.
 4. At least one copy of the letter must be posted on the site.
 - a. A copy of the letter must be placed on each street frontage of the site. If a street frontage is over 600 feet long, a notice is required for each 600 feet, or fraction thereof. Notices must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notices may not be posted in a public right-of-way. Notices are not required along street frontages that are not improved and allow no motor vehicle access.
 - b. Letters must be posted at least 14 days before the meeting, and may not be removed before the meeting.
 5. A copy of the letter and the mailing list must be retained in the files of the person or organization making the proposal.
- D. Meeting.** A meeting to discuss the proposal must be held at a location within the boundaries of the neighborhood association that the site is within. The person making the proposal must attend the meeting.

Commentary

33.237.600 Regulations for Existing Market Gardens, Food Membership Distribution Sites, and Farmers Markets

The regulations of this section work with those in Chapter 33.258, Nonconforming Situations. First, this section confirms that the Market Gardens, Food Membership Distribution Sites, and Farmers Markets that existed before these regulations take effect may continue to operate. Those that do not meet the new regulations for Market Gardens, Food Membership Distribution Sites, and Farmers Markets will be considered nonconforming—a designation given to uses and development that were legally established, but no longer meet current rules because the rules have changed over time. Nonconforming situations are sometimes said to be "grandfathered in," and have "grandfather rights."

This section clarifies that uses and activities that do not meet current regulations will be treated like other nonconforming situations. Generally, that means they may continue to operate, but expansions and significant changes are limited, and they may not change in ways that take them further out of conformance with current regulations. For example, if a Food Membership Distribution site is operating during the specified time with 60 delivery days per year, and 80 members coming to the site, it would be nonconforming because that is a situation that would not be allowed under these regulations. The site may continue to operate at that level, but may not increase either the delivery days or number of members coming to the site. Reducing either number is allowed.

Nonconforming use rights are site-specific and are not transferable to a new site, so if an operation moves to a new site, the current regulations will have to be met on the new site. Changes that bring nonconforming uses or development closer to conformance with current regulations are always allowed.

Those situations that do meet the current regulations are conforming, and are not subject to the regulations of Chapter 33.258, Nonconforming Situations.

C. and D. Unlike a Market Garden, which exists at the one location all of the time, Farmers Markets and Food Membership Distribution Sites are not always in operation or existence. A Food Membership Distribution site may only have one or two delivery days per year, and a Farmers Market typically sets up just one day a week, and often not year-round. These variations explain the different dates use for determining whether a use or activity should be "grandfathered in."

Inventory of Market Gardens, Food Membership Distribution Sites, and Farmers Markets

We are assembling an inventory of Market Gardens, Food Membership Distribution Sites, and Farmers Markets that exist before these regulations take effect. Being listed on the inventory will prevent people from having to document that their use existed before the regulations took effect: the listing will be all the evidence needed. If you operate a Market Garden, Food Membership Distribution Site, or Farmers Market—or know about one—please visit our website at www.PortlandOnline/bps/FoodCode and add the site to the inventory. Alternatively, you can send an email to Jessica.Richman@PortlandOregon.gov. Thank you for your help!

This is a new chapter. For ease of reading, the language is not underlined.

33.237.550 Farmers Markets

The regulations for Farmers Markets are in Chapter 33.296, Temporary Uses, and in Section 33.267.600.

33.237.600 Regulations for Existing Market Gardens, Food Membership Distribution Sites, and Farmers Markets

- A. Purpose.** Before the regulations in this chapter were adopted, the regulations for Market Gardens, Food Membership Distribution Sites, and Farmers Markets were sometimes unclear. To simplify regulations for those uses that existed when the regulations were adopted, those that existed are automatically given status as if they were legally established.
- B. Market Gardens.** Market Gardens that existed on June 1, 2012, are considered to have been legally established. If they do not meet the current regulations, they are nonconforming, and changes to size, operation, or other aspects are regulated by Chapter 33.258, Nonconforming Situations.
- C. Food Membership Distribution Sites.** Food Membership Distribution Sites that were operating at any time between June 1, 2011 and June 1, 2012, are considered to have been legally established. If they do not meet the current regulations, they are nonconforming, and changes to the number of members coming to the site, the number of delivery days per year, size, operation, or other aspects are regulated by Chapter 33.258, Nonconforming Situations.
- D. Farmers Markets.** Farmers Markets that were operating during the month of June, 2012, are considered to have been legally established. If they do not meet the current regulations, they are nonconforming, and changes to size, operation, or other aspects are regulated by Chapter 33.258, Nonconforming Situations.

Commentary

Chapter 33.296. Temporary Activities

33.296.010 Purpose and 33.296.020 Description

Although no changes are proposed to these sections, they are included for information and context.

33.296.030 Zone and Duration

A. IR and RF through RH zones.

3. Sales.

- b. Seasonal outdoor sales. This clarifies that sales from Community and Market Gardens are not subject to the limits of this section, but are regulated by Chapter 33.237, Food Production and Distribution.
- c. These regulations allows Farmers Markets on the sites of Institutional uses with a land use review, and in the highest density multi-dwelling zones. The markets are allowed to be open up to 70 days per calendar year. Currently, seasonal outdoor sales of plants and produce are allowed twice a year for up to five consecutive weeks each time. Ten weeks works out to 70 days; this regulation allows the days when the market is open to occur at any time.

We considered limiting the hours markets could operate and, when they were near residential uses, the hours when they could set up or take down the market. Our concerns were based on the potential for noise early in the morning or late at night. However, discussions with the advisory committee—which included representatives of Farmers Markets—persuaded us that regulating the hours is unnecessary. First, markets will only be open when there are many people willing to purchase food; that effectively eliminates late evening hours.

Second, we learned that it can take several hours to set up a large market, such as the Saturday morning market held in the Portland State Park Blocks, which begins setup as early as 5:00 AM. Although that site is adjacent to several high-density apartment buildings, there have been no complaints: the operators of the markets assured us that vendors and others working to set up the markets are careful about noise. In fact, there have been no complaints about noise from Farmers Markets citywide.

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AMEND CHAPTER 33.296. TEMPORARY ACTIVITIES

33.296.010 Purpose

This chapter allows short-term and minor deviations from the requirements of the zoning code for uses which are truly temporary in nature, will not adversely impact the surrounding area and land uses, and which can be terminated and removed immediately. Temporary uses have no inherent rights within the zone in which they locate.

33.296.020 Description

Temporary activities are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary activities include: construction trailers, leasing offices, garage sales, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. There are two categories of temporary activities. First, there are those which are allowed by the zone but do not meet the development standards. Examples include Christmas tree sales and a parking lot sale in a commercial zone. Second, there are temporary activities which if permanent, would not be allowed by the base zone. Examples include church carnivals in residential zones and retail warehouse sales in industrial zones.

33.296.030 Zone and Duration

A. IR and RF through RH zones. The regulations for temporary uses in the IR and RF through RH zones are as follows:

1. Use of existing house or manufactured dwelling during construction. [No change.]
2. Residential sales offices. [No change.]
3. Sales.
 - a. Garage sales. Garage sales and other sales for items from the site may occur for no more than three consecutive days on two different occasions during a calendar year. The sale of products brought to the site for the sale is not allowed.
 - b. Seasonal outdoor sales. Seasonal outdoor sales of plants and produce are allowed twice a year for up to five consecutive weeks each time. This does not apply to Community and Market Gardens; they are regulated by Chapter 33.237, Food Production and Distribution.
 - c. Farmers Markets are allowed as follows:
 - (1) Markets are allowed on a site with an institutional use, and on sites in the IR, R1, and RH zones. The Market may be open up to 70 days per calendar year.

Commentary

33.296.030 Zone and Duration

A. IR and RF through RH zones.

3. Sales.

c.

- (2) These standards ensure that Farmers Markets will be primarily for the sale of food or other locally grown agricultural products. Markets dominated by other types of sales, such as crafts markets or flea markets, are not allowed under these provisions. While the Discussion Draft proposed a 70/20/10 split (agricultural producers/sellers of other foods/other uses), we learned that such a requirement is impractical for the smaller markets, especially the new ones. Requiring at least half of the vendors to be agricultural producers, and allowing no more than 20 percent of vendors to be selling non-food, non-agricultural items will ensure that the markets are primarily providing food.

B. RX, C, E, and I zones.

2. Seasonal outdoor sales. See commentary for A.3.b.

8. These regulations allows Farmers Markets in most nonresidential zones and in the highest density residential zone, RX. The regulations are the same as Subsection A.

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(2) Vendors.

- At least 50 percent of vendors must be farmers, ranchers, and other agricultural producers who sell food, plants, flowers, and added-value products, such as jams and jellies, they have grown, raised, or produced from products they have grown or raised.
- Up to 30 percent of market vendors may be those who sell food, but do not fit into the first category. This includes sales of wild-caught fish, freshly made food available for immediate consumption on site, cheesemakers who do not raise their own animals, and the like.
- Up to 20 percent of market vendors are not required to be related to agriculture or food.

(3) The market cannot obstruct a path that is part of a required pedestrian circulation system.

4. Fairs, carnivals and other major public gatherings. [No change.]
5. Show of model homes. [No change.]
6. Natural disasters and emergencies. [No change.]
7. Staging areas for public utility installation. [No change.]
8. Radio Frequency Transmission Facilities. [No change.]

B. RX, C, E, and I zones. The regulations for temporary uses in the RX, C, E, and I zones are as follows:

1. Parking lot sales. [No change.]
2. Seasonal outdoor sales. Seasonal outdoor sales are allowed for up to one month at any one time. This does not apply to Community and Market Gardens; they are regulated by Chapter 33.237, Food Production and Distribution.
3. Fairs and carnivals. [No change.]
4. Warehouse sales. [No change.]
5. Natural disasters and emergencies. [No change.]
6. Staging areas for public utility installation. [No change.]
7. Radio Frequency Transmission Facilities. [No change.]

Commentary

8.b.

See Commentary for 33.296.030.A.3.c(2)

How do you fix a cracked pumpkin
With a pumpkin patch.

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

8. Farmers Markets are allowed as follows:

a. Markets are allowed on sites in the RX, C, E, and I zones. The Market may be open up to 70 days per calendar year.

b. Vendors.

(1) At least 50 percent of vendors must be farmers, ranchers, and other agricultural producers who sell food, plants, flowers, and added-value products, such as jams and jellies, they have grown, raised, or produced from products they have grown or raised.

(2) Up to 30 percent of market vendors may be those who sell food, but do not fit into the first category. This includes sales of wild-caught fish, freshly made food available for immediate consumption on site, cheesemakers who do not raise their own animals, and the like.

(3) Up to 20 percent of market vendors are not required to be related to agriculture or food.

c. The Market cannot obstruct a path that is part of a required pedestrian circulation system.

Commentary

C. OS zone.

5. These regulations allows Farmers Markets in the OS zone. The regulations are the same as Subsection A.

5.b See Commentary for 33.296.030.A.3.c(2)

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

C. OS zone. The regulations for temporary uses in the OS zone as follows:

1. Fairs, carnivals, and other special events. [No change.]
2. Natural disasters and emergencies. [No change.]
3. Staging areas for public utility installation. [No change.]
4. Radio Frequency Transmission Facilities. [No change.]
5. Farmers Markets. Farmers Markets are allowed as follows:
 - a. The market may be open up to 70 days per calendar year.
 - b. Vendors.
 - (1) At least 50 percent of vendors must be farmers, ranchers, and other agricultural producers who sell food, plants, flowers, and added-value products, such as jams and jellies, they have grown, raised, or produced from products they have grown or raised.
 - (2) Up to 30 percent of market vendors may be those who sell food, but do not fit into the first category. This includes sales of wild-caught fish, freshly made food available for immediate consumption on site, cheesemakers who do not raise their own animals, and the like.
 - (3) Up to 20 percent of market vendors are not required to be related to agriculture or food.
 - c. The Market cannot obstruct a path that is part of a required pedestrian circulation system.

D. Time between activities. For Subsection A. and B. above, except for manufactured dwellings, construction trailers, Farmers Markets, and residential sales offices, the time between temporary activities must be four times as long as the duration of the last event.

Commentary

33.296.040 General Regulations

- D. Farmers Markets frequently set up on surface parking lots. If the parking is not otherwise being used by the primary use on the site, or if the parking is not required by the Zoning Code, a parking lot location may be ideal for both the market and the neighborhood. These regulations allow the markets to occupy required parking spaces in two situations.

Some uses invite farmers to set up a few tables to sell produce to those who are already to visit the site. This increases access to fresh produce for people coming to the site, and gives the farmers an additional sales outlet. The sales are usually limited to a few tables, and are most common at religious institutions. D.1 would accommodate such situations, where a few spaces are occupied, but the bulk of the parking remains available to those coming to the site because of the primary use.

D.2 allows a larger, more typical Farmers Market to occupy all required parking on a site if the parking is not in high demand by the primary use on the site. This is similar to regulations for joint use parking in Chapter 33.266, Parking and Loading.

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

33.296.040 General Regulations

All temporary activities are subject to the regulations listed below.

- A.** Permanent changes to the site are prohibited.
- B.** Temporary parking areas are allowed only during construction on the site . . . [No change.]
- C.** Signs. [No change.]
- D.** Temporary activities may not cause the elimination of required off-street parking, except for Farmers Markets. Required parking may be temporarily occupied by a Farmers Market, as follows:
 - 1. The market may occupy up to 3 required spaces or 30 percent of the required spaces, whichever is more; or
 - 2. If the market occurs at a time other than a peak time for the primary use on the site, the market may occupy all of the required spaces. If this option is used, the operator of the market must keep an analysis on file. The analysis must document when the peak times are for the primary use, and the hours of operation (including set-up and take-down) for the market.
- E.** Temporary activities in C, E, and I zones that are maintained beyond the allowed time limits are considered permanent uses, and are subject to the use and development standards of the base zone.
- F.** Temporary activities on sites where the primary use is a conditional use may not violate the conditions of approval for the primary use, except as allowed by Subsection D.
- G.** These regulations do not exempt the operator from any other required permits such as sanitation facility permits or electrical permits.

Commentary

AMENDMENTS TO USE REGULATIONS

Chapter 33.100, Open Space Zone

The change to Table 100-1 and the footnote on the following page establish that Market Gardens are allowed as an Agriculture Use if they meet the regulations of Chapter 33.237, Food Production and Distribution.

Language to be **added** is underlined
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AMEND CHAPTER 33.100, OPEN SPACE ZONE

Use Regulations

Table 100-1 Open Space Zone Primary Uses	
Use Categories	OS Zone
Residential Categories	
Household Living	N
Group Living	N
Commercial Categories	
Retail Sales And Service	CU [1]
Office	N
Quick Vehicle Servicing	N
Vehicle Repair	N
Commercial Parking	N
Self-Service Storage	N
Commercial Outdoor Recreation	CU
Major Event Entertainment	N
Industrial Categories	
Manufacturing And Production	CU [6]
Warehouse And Freight Movement	N
Wholesale Sales	N
Industrial Service	N
Railroad Yards	N
Waste-Related	N
Institutional Categories	
Basic Utilities	L/CU [5]
Community Service	CU [4]
Parks And Open Areas	L/CU [2]
Schools	CU
Colleges	N
Medical Centers	N
Religious Institutions	N
Daycare	CU
Other Categories	
Agriculture	Y L [7]
Aviation And Surface Passenger Terminals	N
Detention Facilities	N
Mining	CU
Radio Frequency Transmission Facilities	L/CU [3]
Rail Lines And Utility Corridors	CU

Y = Yes, Allowed

CU = Conditional Use Review Required

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.100.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

L = Allowed, But Special Limitations

N = No, Prohibited

Commentary

33.100.100 Primary Uses

B. Limited uses.

7. *Agriculture*. This ties into the Use Category of *Agriculture* (33.920.500) and the definition of *Market Garden* in 33.910. If a site meets the regulations for a *Market Garden*, the owner/operator can choose whether to operate the site as a *Market Garden* (where the size is limited, other standards apply, but onsite sales are allowed up to 70 days a year) or as another *Agriculture Use* (no size limit or standards, but onsite sales are governed by 33.296, *Temporary Uses*). If the site does not meet the regulations for a *Market Garden*, it is an *Agriculture Use*, and the regulations for *Market Gardens* do not apply to the site.

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

33.100.100 Primary Uses

- A. Allowed uses.** [No change.]
- B. Limited uses.** Uses allowed that are subject to limitations are listed in Table 100-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 100-1.
1. through 6. [No change.]
7. Agriculture. This regulation applies to all parts of Table 100-1 that have note [7]. Agriculture is an allowed use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden.
- C. Conditional uses.** [No change.]
- D. Prohibited uses.** [No change.]

Commentary

Chapter 33.110, Single-Dwelling Zones

The changes to Table 110-1 and the footnotes on the following page establish that Market Gardens are allowed as an Agriculture Use if they meet the regulations of Chapter 33.237, Food Production and Distribution.

What's red and goes up and down?
A tomato in an elevator.

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

AMEND CHAPTER 33.110, SINGLE-DWELLING ZONES

Use Regulations

Table 110-1 Single-Dwelling Zone Primary Uses						
Use Categories	RF	R20	R10	R7	R5	R2.5
Residential Categories						
Household Living	Y	Y	Y	Y	Y	Y
Group Living	CU	CU	CU	CU	CU	CU
Commercial Categories						
Retail Sales And Service	N	N	N	N	N	N
Office	N	N	N	N	N	N
Quick Vehicle Servicing	N	N	N	N	N	N
Vehicle Repair	N	N	N	N	N	N
Commercial Parking	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N
Commercial Outdoor Recreation	N	N	N	N	N	N
Major Event Entertainment	N	N	N	N	N	N
Industrial Categories						
Manufacturing And Production	CU [6]	N	N	N	N	N
Warehouse And Freight Movement	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N
Industrial Service	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N
Institutional Categories						
Basic Utilities	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]	L/CU [5]
Community Service	CU [1]	CU [1]	CU [1]	CU [1]	CU [1]	CU [1]
Parks And Open Areas	L/CU [2]	L/CU [2]	L/CU [2]	L/CU [2]	L/CU [2]	L/CU [2]
Schools	CU	CU	CU	CU	CU	CU
Colleges	CU	CU	CU	CU	CU	CU
Medical Centers	CU	CU	CU	CU	CU	CU
Religious Institutions	CU	CU	CU	CU	CU	CU
Daycare	L/CU [3]	L/CU [3]	L/CU [3]	L/CU [3]	L/CU [3]	L/CU [3]
Other Categories						
Agriculture	Y L [7]	Y L [7]	L/CU [8]	L/CU [8]	N L [9]	N L [9]
Aviation And Surface Passenger Terminals	CU	N	N	N	N	N
Detention Facilities	N	N	N	N	N	N
Mining	CU	N	N	N	N	N
Radio Frequency Transmission Facilities	L/CU [4]	L/CU [4]	L/CU [4]	L/CU [4]	L/CU [4]	L/CU [4]
Railroad Lines And Utility Corridors	CU	CU	CU	CU	CU	CU

Y = Yes, Allowed

CU = Conditional Use Review Required

L = Allowed, But Special Limitations

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.110.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

Commentary

33.110.100 Primary Uses

B. Limited uses.

7. Agriculture in RF and R20 zones. This ties into the Use Category of Agriculture (33.920.500) and the definition of Market Garden in 33.910. If a site meets the regulations for a Market Garden, the owner/operator can choose whether to operate the site as a Market Garden (where the size is limited, other standards apply, but onsite sales are allowed up to 70 days a year) or as another Agriculture Use (no size limit or standards, but onsite sales are governed by 33.296, Temporary Uses). If the site does not meet the regulations for a Market Garden, it is an Agriculture Use, and the regulations for Market Gardens do not apply to the site.
8. Agriculture in R10 and R7 zones. Currently, a conditional use (CU) is required for Agriculture Uses in these zones. A CU is a land use review, where a fee, an application, public notice, and a public hearing are required. As proposed here, if a site meets the regulations for a Market Garden, the owner/operator can choose whether to operate the site as a Market Garden or apply for the conditional use to operate the site as another Agriculture Use. If the site does not meet the regulations for a Market Garden, it is an Agriculture Use, the regulations for Market Gardens do not apply to the site, and a CU is required.

Records indicate that there has been only one request for a CU for Agriculture in the past 10 years. We considered deleting the option of a CU to simplify the code. However, doing so would, under State law, require notice be mailed to more than 40,000 property owners. Given the cost of the notification, we are not deleting the option.

9. Agriculture in R5 and R2.5 zones. The only Agriculture Use allowed in these zones is a Market Garden.

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

33.110.100 Primary Uses

A. Allowed uses. [No change.]

B. Limited uses. Uses allowed that are subject to limitations are listed in Table 110-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 110-1.

1. through 6. [No change.]

7. Agriculture in RF and R20 zones. This regulation applies to all parts of Table 110-1 that have note [7]. Agriculture is an allowed use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden.

8. Agriculture in R10 and R7 zones. Agriculture is a conditional use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden, which does not require a conditional use.

9. Agriculture in R5 and R2.5 zones. This regulation applies to all parts of Table 110-1 that have note [9]. If the use and site do not meet the regulations of Chapter 33.237, Food Production and Distribution, it is prohibited.

C. Conditional uses. [No change.]

D. Prohibited uses. [No change.]

Commentary

Chapter 33.120, Multi-Dwelling Zones

The changes to Table 120-1 and the footnote on the following page establish that Market Gardens are allowed if they meet the regulations of Chapter 33.237, Food Production and Distribution.



How do you calculate the circumference of your jack-o-lantern?
Use pumpkin pi.

PROPOSED ZONING CODE LANGUAGE

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

AMEND CHAPTER 33.120, MULTI-DWELLING ZONES

Use Regulations

Table 120-1 Multi-Dwelling Zone Primary Uses						
Use Categories	R3	R2	R1	RH	RX	IR
Residential Categories						
Household Living	Y	Y	Y	Y	Y	Y
Group Living	L/CU [1]	Y [1]				
Commercial Categories						
Retail Sales And Service	N	N	N	CU[2]	L/CU [3]	L/CU [10]
Office	N	N	N	CU[2]	L/CU [3]	L/CU [10]
Quick Vehicle Servicing	N	N	N	N	N	N
Vehicle Repair	N	N	N	N	N	N
Commercial Parking	N	N	N	N	CU [4]	N
Self-Service Storage	N	N	N	N	N	N
Commercial Outdoor Recreation	N	N	N	N	N	N
Major Event Entertainment	N	N	N	N	N	CU
Industrial Categories						
Manufacturing And Production	N	N	N	N	N	CU
Warehouse And Freight Movement	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N
Industrial Service	N	N	N	N	N	CU
Railroad Yards	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N
Institutional Categories						
Basic Utilities	L/CU [13]					
Community Service	CU [6]	CU [6]	CU [6]	L/CU [6]	L/CU [5, 6]	CU [6]
Parks And Open Areas	L/CU [7]	L/CU [7]	L/CU [7]	Y	Y	Y
Schools	CU	CU	CU	CU	L/CU [5]	L/CU [11]
Colleges	CU	CU	CU	CU	CU	L/CU [11]
Medical Centers	CU	CU	CU	CU	CU	L/CU [11]
Religious Institutions	CU	CU	CU	CU	CU	CU
Daycare	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	Y	L/CU [12]
Other Categories						
Agriculture	N L [14]					
Aviation And Surface Passenger Terminals	N	N	N	N	N	N
Detention Facilities	N	N	N	N	N	N
Mining	N	N	N	N	N	N
Radio Frequency Transmission Facilities	L/CU [9]					
Rail Lines And Utility Corridors	CU	CU	CU	CU	CU	CU

Y = Yes, Allowed

CU = Conditional Use Review Required

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.120.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

L = Allowed, But Special Limitations

N = No, Prohibited

Commentary

33.120.100 Primary Uses

B. Limited uses.

14. Agriculture . This ties into the Use Category of Agriculture (33.920.500) and the definition of Market Garden in 33.910. The only Agriculture Use allowed in these zones is a Market Garden.

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

33.120.100 Primary Uses

- A. Allowed uses.** [No change.]
- B. Limited uses.** Uses allowed in these zones subject to limitations are listed in Table 120-1 with an “L”. These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 120-1.
 - 1. through 13. [No change.]
 - 14. Agriculture. This regulation applies to all parts of Table 120-1 that have note [14]. If the use and site do not meet the regulations of Chapter 33.237, Food Production and Distribution, it is prohibited.
- C. Conditional uses.** [No change.]
- D. Prohibited uses.** [No change.]

Commentary

Chapter 33.130, Commercial Zones

The changes to Table 130-1 and the footnotes on the following page establish that Market Gardens are allowed if they meet the regulations of Chapter 33.237, Food Production and Distribution.

What did Santa Claus say when he walked through the garden?
Hoe! Hoe! Hoe!

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

AMEND CHAPTER 33.130, COMMERCIAL ZONES

Use Regulations

Table 130-1 Commercial Zone Primary Uses								
Use Categories	CN1	CN2	CO1	CO2	CM	CS	CG	CX
Residential Categories								
Household Living	Y	Y	Y	Y	Y	Y	Y	Y
Group Living	L/CU [1]	L/CU [1]	L/CU [1]	L/CU [1]	L/CU [1]	L/CU [1]	L/CU [1]	L/CU [1]
Commercial Categories								
Retail Sales And Service	L [2]	Y	N	L [3]	L [4]	Y	Y	Y
Office	L [2]	Y	Y	Y	L [4]	Y	Y	Y
Quick Vehicle Servicing	N	L [12]	N	N	N	N	Y	L [12]
Vehicle Repair	N	N	N	N	N	Y	Y	L [5]
Commercial Parking	N	N	N	N	N	Y	CU [11]	CU [11]
Self-Service Storage	N	N	N	N	N	N	L [6]	L [6]
Commercial Outdoor Recreation	N	N	N	N	Y	Y	Y	Y
Major Event Entertainment	N	N	N	N	N	CU	CU	Y
Industrial Categories								
Manufacturing And Production	L/CU [2]	L/CU [2]	N	N	L/CU [4, 5]	L/CU [5]	L/CU [5,7]	L/CU [5]
Warehouse And Freight Movement	N	N	N	N	N	N	CU [5,7]	N
Wholesale Sales	N	N	N	N	L [4, 5]	L [5]	L [5,7]	L [5]
Industrial Service	N	N	N	N	N	CU [5]	CU [5,7]	CU [5]
Railroad Yards	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Institutional Categories								
Basic Utilities	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]	Y/CU [10]
Community Service	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]
Parks And Open Areas	Y	Y	Y	Y	Y	Y	Y	Y
Schools	Y	Y	Y	Y	Y	Y	Y	Y
Colleges	Y	Y	Y	Y	Y	Y	Y	Y
Medical Centers	Y	Y	Y	Y	Y	Y	Y	Y
Religious Institutions	Y	Y	Y	Y	Y	Y	Y	Y
Daycare	Y	Y	Y	Y	Y	Y	Y	Y
Other Categories								
Agriculture	N L [13]	L/CU [14]	L/CU [14]	L/CU [14]				
Aviation And Surface Passenger Terminals	N	N	N	N	N	N	CU	CU
Detention Facilities	N	N	N	N	N	N	CU	CU
Mining	N	N	N	N	N	N	N	N
Radio Frequency Transmission Facilities	L/CU [9]	L/CU [9]	L/CU [9]	L/CU [9]	L/CU [9]	L/CU [9]	L/CU [9]	L/CU [9]
Rail Lines And Utility Corridors	CU	CU	CU	CU	CU	CU	CU	CU

Y = Yes, Allowed

L = Allowed, But Special Limitations

CU = Conditional Use Review Required

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.130.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

Commentary

33.130.100 Primary Uses

B. Limited uses.

13. Agriculture in *CN*, *CO*, and *CM* zones. This ties into the Use Category of Agriculture (33.920.500) and the definition of Market Garden in 33.910. The only Agriculture Use allowed in these zones is a Market Garden.
14. Agriculture in *CS*, *CG*, and *CX* zones. Currently, a conditional use (*CU*) is required for Agriculture Uses in these zones. A *CU* is a land use review, where a fee, an application, public notice, and a public hearing are required. As proposed here, if a site meets the regulations for a Market Garden, the owner/operator can choose whether to operate the site as a Market Garden or apply for the conditional use to operate the site as another Agriculture Use. If the site does not meet the regulations for a Market Garden, it is an Agriculture Use, the regulations for Market Gardens do not apply to the site, and a *CU* is required.

Records indicate that there has been only one request for a *CU* for Agriculture in the past 10 years. We considered deleting the option of a *CU* to simplify the code. However, doing so would, under State law, require notice be mailed to more than 40,000 property owners. Given the cost of the notification, we are not deleting the option.

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

33.130.100 Primary Uses

A. Allowed uses. [No change.]

B. Limited uses. Uses allowed that are subject to limitations are listed in Table 130-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 130-1.

1. through 12. [No change.]

13. Agriculture in CN, CO, and CM zones. This regulation applies to all parts of Table 130-1 that have note [13]. If the use and site do not meet the regulations of Chapter 33.237, Food Production and Distribution, it is prohibited.

14. Agriculture in CS, CG, and CX zones. This regulation applies to all parts of Table 130-1 that have note [14]. Agriculture is a conditional use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden, which does not require a conditional use.

C. Conditional uses. [No change.]

D. Prohibited uses. [No change.]

Commentary

Chapter 33.140, Employment And Industrial Zones

The changes to Table 140-1 and the footnote on the following page establish that Market Gardens are allowed if they meet the regulations of Chapter 33.237, Food Production and Distribution.

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AMEND CHAPTER 33.140, EMPLOYMENT AND INDUSTRIAL ZONES

Use Regulations

Table 140-1 Employment and Industrial Zone Primary Uses						
Use Categories	EG1	EG2	EX	IG1	IG2	IH
Residential Categories						
Household Living	CU	CU	Y	CU [1]	CU [1]	CU [1]
Group Living	CU	CU	L/CU [2]	N	N	N
Commercial Categories						
Retail Sales And Service	L/CU [3]	L/CU [3]	Y	L/CU [4]	L/CU [5]	L/CU [6]
Office	L [3]	L [3]	Y	L/CU [4]	L/CU [5]	L/CU [6]
Quick Vehicle Servicing	Y	Y	N	Y	Y	Y
Vehicle Repair	Y	Y	Y	Y	Y	Y
Commercial Parking	CU [15]					
Self-Service Storage	Y	Y	L [7]	Y	Y	Y
Commercial Outdoor Recreation	Y	Y	Y	CU	CU	CU
Major Event Entertainment	CU	CU	CU	CU	CU	CU
Industrial Categories						
Manufacturing And Production	Y	Y	Y	Y	Y	Y
Warehouse And Freight Movement	Y	Y	Y	Y	Y	Y
Wholesale Sales	Y	Y	Y	Y	Y	Y
Industrial Service	Y	Y	Y	Y	Y	Y
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]
Institutional Categories						
Basic Utilities	Y/CU [12]	Y/CU [12]	Y/CU [12]	Y/CU [13]	Y/CU [13]	Y/CU [13]
Community Service	L [9]	L [9]	L [10]	L/CU [11]	L/CU [11]	L/CU [11]
Parks And Open Areas	Y	Y	Y	Y	Y	Y
Schools	Y	Y	Y	N	N	N
Colleges	Y	Y	Y	N	N	N
Medical Centers	Y	Y	Y	N	N	N
Religious Institutions	Y	Y	Y	N	N	N
Daycare	Y	Y	Y	L/CU [11]	L/CU [11]	L/CU [11]
Other Categories						
Agriculture	Y L [16]					
Aviation And Surface Passenger Terminals	CU	CU	CU	CU	CU	CU
Detention Facilities	CU	CU	CU	CU	CU	CU
Mining	N	N	N	CU	CU	CU
Radio Frequency Transmission Facilities	L/CU [14]					
Rail Lines And Utility Corridors	Y	Y	Y	Y	Y	Y

Y = Yes, Allowed

CU = Conditional Use Review Required

L = Allowed, But Special Limitations

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.140.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

Commentary

33.140.100 Primary Uses

B. Limited uses.

16. *Agriculture*. This ties into the Use Category of *Agriculture* (33.920.500) and the definition of *Market Garden* in 33.910. If a site meets the regulations for a *Market Garden*, the owner/operator can choose whether to operate the site as a *Market Garden* (where the size is limited, other standards apply, but onsite sales are allowed up to 70 days a year) or as another *Agriculture Use* (no size limit or standards, but onsite sales are governed by 33.296, *Temporary Uses*). If the site does not meet the regulations for a *Market Garden*, it is an *Agriculture Use*, and the regulations for *Market Gardens* do not apply to the site.

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33.140.100 Primary Uses

- A. Allowed uses.** [No change.]
- B. Limited uses.** Uses allowed that are subject to limitations are listed in Table 140-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 140-1.
 - 1. through 15. [No change.]
 - 16. Agriculture. This regulation applies to all parts of Table 140-1 that have note [16]. Agriculture is an allowed use. Where the use and site meet the regulations of Chapter 33.237, Food Production and Distribution, the applicant may choose whether it is allowed as a Market Garden.
- C. Conditional uses.** [No change.]
- D. Prohibited uses.** [No change.]

Commentary

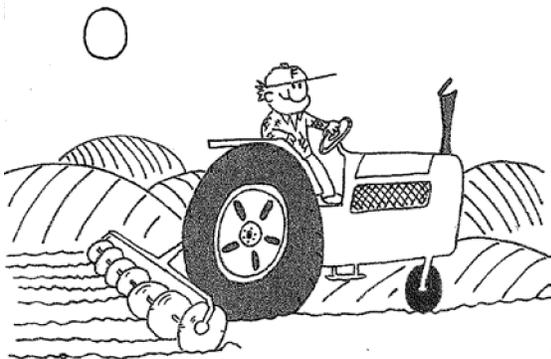
Chapter 33.279, Recreational Fields For Organized Sports

Chapter 33.281, Schools And School Sites

Chapter 33.815, Conditional Uses

Regulations in these three chapters state that an increase in the exterior improvement area by more than 1,500 square feet requires a land use review. A land use review requires an application and an application fee ranging from \$3000 to \$14,000. Notice is sent to neighbors, and there is the opportunity for a public hearing. Given the extremely low impact of adding a Community Garden or Market Garden to the sites addressed by these chapters, these amendments exempt the gardens from triggering a land use review.

These regulations encourage creation of Community Gardens and Market Gardens on institutional sites such as schools, medical centers, and religious institutions; these sites often have areas that are not otherwise used, and are often already a neighborhood focal point.



Why didn't anyone laugh at the farmer's jokes?
Because they were too corny

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AMEND CHAPTER 33.279, RECREATIONAL FIELDS FOR ORGANIZED SPORTS

33.279.030 Review Thresholds for Development

This section states when development related to recreational fields is allowed, when a conditional use review is required, and the type of procedure used.

A. Allowed. Alterations to the site that meet all of the following are allowed without a conditional use review provided the proposal:

- 1. through 3. [No change.]
- 4. Does not increase the exterior improvement area by more than 1,500 square feet. Fences, handicap access ramps, on-site pedestrian circulation systems, Community Gardens, Market Gardens, and increases allowed by Subsections A.6 and A.8, below are exempt from this limitation;
- 5. through 8. [No change.]



AMEND CHAPTER 33.281, SCHOOLS AND SCHOOL SITES

33.281.040 Review Thresholds for Other Uses

This section states when a conditional use is required for changes to nonschool uses on school sites in the OS and R zones, and the type of procedure used when a conditional use review is required.

A. Purpose. [No change.]

B. Other uses on school sites.

- 1. Daycare, Community Service, Community Gardens, Market Gardens, and nonprofit or social service Office uses are allowed at a school site. However, these uses must comply with the parking requirements in Chapter 33.266, Parking and Loading. In addition, any exterior recreation areas including playgrounds and fields must be maintained and open to the public at times when the use is not occupying the areas.
- 2. through 6. [No change.]

Commentary

See commentary for 33.279.

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

33.281.050 Review Thresholds for Development

This section states when development related to schools and on school sites in the OS and R zones is allowed, when a conditional use review is required, and the type of procedure used. Recreational fields used for organized sports are subject to Chapter 33.279, Recreational Fields for Organized Sports.

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

- 1. and 2. [No change.]
- 3. Increases of exterior improvement areas up to 1,500 square feet. Fences, handicap access ramps, on-site pedestrian circulation systems, Community Gardens, Market Gardens, and increases allowed by Paragraphs A.5 and A.8 are exempt from this limitation;
- 4. through 8. [No change.]

AMEND CHAPTER 33.815, CONDITIONAL USES

33.815.040 Review Procedures

The procedure for reviewing conditional uses depends on how the proposal affects the use of, or the development on, the site. Subsection A, below, outlines the procedures for proposals that affect the use of the site while Subsection B outlines the procedures for proposals that affect the development. Proposals may be subject to Subsection A or B or both. The review procedures of this section apply unless specifically stated otherwise in this Title. The review procedures for recreational fields for organized sports are stated in Chapter 33.279. The review procedures for schools, school related uses, and school sites, are stated in Chapter 33.281. Proposals may also be subject to the provisions of 33.700.040, Reconsideration of Land Use Approvals.

A. Proposals that affect the use of the site.

- 1. and 2. [No change.]
- 3. Adding another use.
 - a. In the same use category. [No change.]
 - b. Adding a new conditional use that is in another use category [No change.]
 - c. Adding an allowed use may be allowed by right or require a conditional use depending on the proposed changes to development on the site. See Subsection B., below.
- 4. through 6. [No change.]

Commentary

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B. Proposals that alter the development of an existing conditional use.

Alterations to the development on a site with an existing conditional use may be allowed, require an adjustment, modification, or require a conditional use review, as follows:

1. Conditional use review not required. A conditional use review is not required for alterations to the site that comply with Subparagraphs a through g. All other alterations are subject to Paragraph 2, below. Alterations to development are allowed by right provided the proposal:
 - a. through c. [No change.]
 - d. Does not increase the exterior improvement area by more than 1,500 square feet. Fences, handicap access ramps, and on-site pedestrian circulation systems, ground mounted solar panels, Community Gardens, Market Gardens, and parking space increases allowed by 33.815.040.B.1.f, below, are exempt from this limitation;
 - e. through g. [No change.]
2. Conditional use required. [No change.]

Commentary

Knock, Knock!
Who's there?
Lettuce.
Lettuce who?
Lettuce in, its cold out here.

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

ADDITIONAL TECHNICAL AMENDMENTS

Amend Chapter 33.900, List of Terms, to add the following terms

Calendar Year
Farmers Market

Food Production and Distribution Related Definitions

- Community Garden
- Delivery Days
- Food Membership Distribution Site
 - Food Buying Clubs
 - Community Supported Agriculture Organizations
- Market Garden

Amend the Table of Contents, the List of Chapters, and the 200s Content Sheet to add:

Chapter 33.237, Food Production And Distribution

III. Issues Outside of the Project Scope

While the zoning code will set forth a framework for growing, selling, and distributing healthful food throughout the city, concerns outside of the scope of this project—many of them related to health—were identified. The list below identifies issues heard most frequently.

- **Food Safety** - Food safety laws regulate food sold both for immediate and later consumption in Oregon. The Oregon Health Authority (OHA) and the Oregon Department of Agriculture (ODA) are the rule making agencies for food safety. OHA oversees licensing and permit applications through their Foodborne Illness Prevention Program in restaurants, food sold at temporary events, food carts and hot foods at farmers markets. Multnomah County Environmental Health enforces OHA's food sanitation rules by performing inspections, responding to complaints, and investigating foodborne illnesses. ODA is the rule making authority for food for later consumption and provides commodity inspections of producers, processing facilities, and retailers.
- **Soil Testing** - The City of Portland Parks and Recreation (PPR) Community Garden program does perform soil tests on public community gardens to ensure that soil contaminants such as heavy metals and organic compounds such as pesticides are present at safe levels. At this time there is no requirement to test soil on land used for gardens in industrial, commercial, or residential zones that are outside PPR. The Environmental Protection Agency (EPA) has issued interim guidelines for safe urban gardening practices. It was suggested that soil testing should be required, encouraged, or subsidized to ensure that all soils where food is grown for personal consumption or for sale is safe.
- **Pesticide Use and Exposure** - ODA enforces the State Pesticide Control Act that regulates the application and use of pesticides. Every pesticide sold in Oregon must be registered with the ODA, who issues pesticide licenses and certifications. There is also a 'no-drift' rule wherein pesticides applied to a garden cannot drift onto adjacent property.
- **Water** - Rainwater runoff can carry hazardous chemicals to neighboring properties and surrounding waterways, eventually contaminating the municipal water table. Depending on the growing practices, this may increase the risk of spreading chemicals such as those found in pesticides. Urban water costs are much higher than agricultural water rates (the latter of which are not available in the city).

IV. Next Steps

When adopted, amendments to the zoning code will clarify the regulations for market gardens, community gardens, farmers markets, and food membership distribution sites, making them easier to establish and operate. The next steps identified below focus on getting the word out that it is easier to do these activities and providing educational/informational support.

Outreach - The goal of this project was to increase people's access to healthful, affordable food by removing zoning code barriers to food production and distribution activities. One next step after adopting code regulations would target organizations that influence these activities and encourage them to take advantage of the new regulations. These groups include, but are not limited to:

- Those trying to establish community gardens,
- Faith-based institutions with programs to increase access to food through food buying clubs and community gardens,
- Non-profit organizations with programs for immigrant and low-income communities that address food security and access to food, and
- School-based and private programs that provide education opportunities for learning more about gardens and food systems.

Educational materials – Educational materials would be helpful for all the topic areas. Handouts, website information, and “how-to guides” could include summaries of the zoning code requirements for the different uses and information on how to establish a community garden, market garden, farmers market, or food membership distribution site. It is especially important that these materials be available in multiple languages to meet the needs of communities of colors and immigrants. These resources could be generated from the City, other government agencies, or groups promoting these activities. The material could also include information on the benefits of these activities and address how institutions (religious, educational, corporate, etc.) can participate.

Currently, the BPS Sustainable Food website lists many resources for growing food. When the amendments are adopted, the site could provide additional information on how the new regulations will impact:

- **Market Gardens/CSAs** - How to start and run a market garden, how to find a site or land for market farm, case studies of successful farmers, marketing assistance, venues for selling produce (e.g., farmers markets, restaurants, CSAs), and food safety regulations.
- **Food Buying Clubs** - How to start a food buying club, best practices for running a food buying club, software resources, how to work with vendors, and how to reduce impacts to surrounding

Next Steps

neighbors. (It would be possible to engage members of the Code Development Advisory Group (CDAG) who have offered their assistance in preparing these materials.)

- **Farmers Markets** - How to find a site, case studies of successful farmers markets, how to reduce impacts to the surrounding neighbors, parking options, the process for working with a city bureau (e.g., Transportation, Parks, Environmental Services, Development Services.)
- **Community Gardens** - Portland Parks and Recreation has materials and information about establishing a city-run community garden. Additional educational materials could include resources for establishing community gardens on private property.
- **Health and Safety** - When appropriate, continue to work with health partners to address issues identified during this project including; exposure to pesticides and fertilizers, contaminated soils, and general food safety.

Appendix A: Project Schedule

Fall/Winter 2010	Food Policy Council Food Production and Distribution Committee Initial Work
	Project staff attended the monthly meetings of the Food Production and Distribution Committee. Staff reviewed background work and confirmed issues as well as identified stakeholders and ideas for public involvement. These meetings were open to the public and relied on notification from the Food Policy Council.
Winter/Spring 2011	Topic Area Discussions
<p>January</p> <p>January 18</p> <p>February 1</p> <p>February 15</p> <p>March 1</p> <p>April 25</p>	<p>Establish Ongoing Communication Tools</p> <p>Project website goes live</p> <p>Publish project brochure</p> <p>Start building project mailing list</p> <p>Set up Dropbox to share background documents and relevant research between partners and interested stakeholders</p> <p>Topic Area Discussions</p> <p>Because of the wide variety of issues covered by this project, initial discussions with stakeholders were divided into the following topic areas:</p> <p>Project Summary/Introduction Meeting</p> <p>Urban Food Production</p> <p>Community Gardens and Animals and Bees</p> <p>Farmers Markets and Community Food Distribution Sites</p> <p>Send summary memo to PAG members</p> <p>The FPC Food Production and Distribution committee members were notified via email of the topic area discussion meetings and additional health, food security, and hunger organizations were identified and invited to participate. People who attended one or all of these meetings were put on a Project Advisory Group (PAG) mailing list. The topic area discussions were open to the public. Participants discussed the existing types of activities for each topic, reviewed the issues, and brainstormed the benefits and possible impacts to surrounding neighborhoods.</p>

Appendix B: Benefits and Impacts

This section was originally included in the Urban Food Zoning Code Update Concept Report, July 2011. For more specific information about benefits and impacts also see the research paper, Urban Food Zoning: Health, Environmental and Economic Considerations (available on the project website).

How does growing, distributing and selling food in Portland affect our daily lives?

This section highlights the potential benefits and impacts that must be considered and balanced as zoning code regulations are developed that allow more food to be grown, distributed, and sold in Portland.

Summary

Market gardens, community gardens, animal husbandry, farmers markets, and community food distribution sites have the potential to provide many public health, environmental, and economic benefits to Portland residents. However, it is important to consider how our health, neighborhood livability and the environment could be impacted. In most cases the benefits outweigh the risks, yet as we explore ways to better regulate these activities, we must try to mitigate factors that may negatively affect the overall community. New zoning code regulations can include operational standards and mitigation strategies to help diverse communities enjoy the benefits of growing, distributing, or selling food in Portland.

Benefits

Health Benefits

- **Access to Healthful Food** – A food environment that provides a variety of healthful food options is necessary to maintain health and well-being. However, not all communities experience an equitable food environment. Cost, transportation and cultural significance are some of the factors that influence healthful food access. In some communities, these factors may present more obstacles than in others. Personal and community gardens can help to improve access and food security in communities that have limited options.
- **Social Connectivity** – Communities that are more socially connected often perceive their neighborhoods to be safer and offer more opportunities for social gathering. Gardening, raising backyard animals, farmers markets and community food distribution points can create social gathering places in communities that have fewer social engagement opportunities. Many of these activities can also help to build and empower communities to get involved in local food justice causes.

Appendix B: Benefits and Impacts

- **Healthy Eating** – A household or community garden plot encourages the eating of more fresh produce as well as helps to fulfill daily nutritional requirements that contribute to good health. There is a direct connection between increased fruit and vegetable intake and successfully maintaining a healthy weight. People who are not obese or overweight are less likely to develop chronic diseases such as diabetes and hypertension.
- **Nature in Neighborhoods** – Urban gardens help to “green” and beautify neighborhoods, offering more places where residents can relax in a natural environment, thereby reducing stress and anxiety, and instilling a sense of place and connection with nature.
- **Cultural heritage** – Gardening provides an opportunity to share knowledge and gain access to foods that have cultural significance for different ethnic groups. Many people who arrive to the United States as refugees and immigrants from rural backgrounds have benefited from applying their agricultural skills in community gardening or economic development projects.
- **Physical Activity** – Gardening and attending farmers markets is a good form of exercise. Physical activity that is integrated into daily errands and activities—such as weeding, maintaining compost and walking or bicycling to a farmers market—help contribute to positive health impacts over a lifetime.
- **Mental Health** – Gardening outdoors can help to strengthen mental health for many people as well as be therapeutic in a clinical setting. It has been found to reduce stress, restore mood and instill a sense of satisfaction in feeding one’s family.
- **Nutrition Education** – Gardening or visiting farmers markets serve as opportunities to teach family and friends about the origins and cultural significance of food. Cooking is a great way to encourage children, parents and seniors in developing lasting healthy eating habits.
- **Health Care Costs** – Increased intake of fruits and vegetables in combination with regular physical activity helps in maintaining a healthy weight, thus reducing the chance of developing chronic diseases such as obesity, heart disease, stroke and some cancers—which can reduce lifelong healthcare costs.
- **Respiratory Health** – Plants and vegetation in urban gardens help to improve the quality of the air, which benefits the health of nearby residents. Children in particular are positively affected, as asthma and other respiratory illnesses often develop early in life as a result of outdoor environmental conditions.

Environmental Benefits

- **Wildlife Habitat** – Green areas created by urban gardens provide a healthy habitat for animals, birds and insects. Beekeeping helps to increase bee populations and improves crop pollination.
- **Biological Diversity** – Gardens that incorporate native plant species support an increased number and variety of regional flora, which helps to ensure the ecological sustainability of numerous plant and animal populations.
- **Healthy Watersheds** – Urban vegetation effectively absorbs and filters rainwater, which reduces the impact on municipal storm water systems and delays storm water runoff that can pollute waterways and harm fish populations.
- **Cooler Temperatures** – The vegetation of vegetable gardens and orchards can have a cooling influence on urban areas. The additional shade surface helps to offset heat generated by surrounding buildings and pavement.
- **Carbon Footprint** – Growing food near home or buying locally-produced goods through farmers markets and community distribution points can reduce carbon emissions from transporting and distributing food. Purchasing food from farmers markets and community food distribution points may reduce automobile trips to grocery stores and the demand on non-regional produce.

Economic Benefits

- **Family Food Costs** – Maintaining a backyard or community garden plot can generate hundreds of pounds of produce in a year, which reduces household food-related costs. The result of vegetable gardening fosters self-sufficiency and supports family food security.
- **Supplemental Income and Multiplier Effect** – Selling food from accessory or market gardens helps to generate income, as well as benefit other businesses in the gardening and agricultural sectors. Farmers markets in Portland, for example, have a “spillover” effect generating dollars for neighboring businesses and supporting jobs. By increasing the places where local food is sold, more economic opportunities are available to producers.

Appendix B: Benefits and Impacts

Impacts

It is important to recognize the potential negative impacts these activities could have on health and neighborhoods as well as the environment. It is particularly important to consider these impacts on communities that have historically been overlooked.

Health Impacts

- **Soil Contamination** – Growing food in soil that contains high levels of lead, mercury, copper and other substances can be hazardous for human consumption. This is particularly true in brown fields, industrial zones, near railroads and high volume streets and freeways where contamination is likely high.
- **Fertilizer and Pesticide Safety** – Chemicals applied on gardens can blow or create runoff onto neighboring properties, possibly leading to soil contamination, entering nearby sewers and waterways. Pesticide exposure has been linked to types of cancers and respiratory illnesses in farm workers.
- **Air Pollution** – Outdoor activities such as gardening or visiting a farmers market which are located near high volume streets and highways increase the likelihood of being exposed to harmful traffic pollutants. Growing crops and raising animals can cause elevated dust and allergen levels, which can adversely impact neighbors.
- **Vehicle Hazards and Noise** – An increased number of vehicles and traffic in neighborhoods that have gardens, CSA drop-off sites or farmers markets can result in more accidents as well as elevated noise, which effects sleep and functioning.
- **Domestic Animals** – Backyard farm animals such as fowl, goats or pigs can harm human health if they become diseased, and pathogens can be spread through their manure. Keeping bees may pose a hazard to surrounding neighbors with severe allergies to bee stings.
- **Pests** – Improperly maintained compost, feeding bins or water catchment systems can attract rats, opossums, mosquitoes, flies and other pests, which often are hosts to various diseases.
- **Food Safety** – It is important that all food and animal products—at home and when sold—are properly washed, stored and prepared before eating.

Neighborhood Impacts

- **Nuisances** – On-street parking from farmers markets or CSA drop off sites, clucking noises from neighboring hens, and barnyard smells or dust can sometimes be irritating and may disrupt one’s enjoyment of their property.
- **Aesthetics** – The act of gardening creates a “look” that some may feel is incongruent with a neighborhood’s residential character. Equipment such as rototillers, structures including greenhouses or sheds, as well as fallow garden beds in the offseason create an effect that neighbors may consider unsightly.
- **Increased Activity** – Allowing more food to be grown, distributed and sold may bring more people to an area—and with them there may be increased litter, noise and traffic. In residential neighborhoods, land uses are primarily restricted to household living. Uses in neighborhoods that generate more activities like churches or schools, are often subject to a conditional use review.

Environmental Impacts

- **Waterways** – With more usage of municipal utility water for gardening, increased runoff can occur, potentially harming the water table if agricultural chemicals are used.
- **Air quality** – Fumes associated with farm machinery, delivery trucks, compost and backyard animals can escape into the open air, thus compromising air quality.
- **Agricultural chemicals** – Chemicals such as fertilizers, herbicides, or pesticides that are applied to crops can be hazardous if improperly used, stored or disposed. This creates the potential for adversely affecting air, water and soil quality as well as the surrounding flora and fauna.
- **Energy use** - Some activities related to urban food production affect a city’s carbon ‘footprint’. Greenhouses are one example, as they utilize heat and light during the winter months to keep plants alive, yet they require electricity, thus increasing energy consumption tied to the burning of fossil fuels.

Appendix C: Definitions and Related Planning Efforts

The following are definitions of terms found in the Discussion Draft that some readers may not be familiar with. They have been divided into three sections: planning and zoning definitions, health/equity definitions, and related reports and planning efforts.

1. Planning and Zoning Definitions

Accessory Home Occupation

Accessory home occupations are activities that are accessory to a house, apartment, or condominium. They have special regulations that apply to ensure that they will not be a detriment to the character and livability of the surrounding neighborhood. These regulations address issues such as number of clients, employees, and/or deliveries coming to the site, modifications to the appearance of the site, and adverse impacts to the neighborhood such as noise and hazardous substances.

Accessory Use

An accessory use is an activity that is subordinate, or secondary, to the primary, or main, use on a site. For example, in residential zones where the primary use is household living, common accessory uses include raising pets, parking of owners' vehicles, and gardening. A garden may be accessory to any primary use such as a household living, commercial or institutional.

Allowed Use

An allowed use can happen on a site without a land use review, it however, may still be subject to additional requirements or conditions depending on the regulations in the base zone it is located. These uses may also be referred to as "permitted" or "allowed by right".

Base Zone Categories (Use and Development Regulations)

There are twenty-seven different base zones in the Zoning Code that fall into the following six general categories: Open Space, Single-Dwelling Residential, Multi-Dwelling Residential, Commercial, and Employment/Industrial. Each base zone includes a set of land use and site/building development regulations, also called "standards". The use regulations dictate what uses are allowed by right, with limitations, or through a conditional use review as well as those uses that are prohibited. The development regulations address site and building design (i.e. property line setbacks, building height, parking placement).

Appendix C: Definitions and Related Planning Efforts

Conditional Use Review

Certain uses are conditional uses instead of being allowed outright, although they may be beneficial to the neighborhood and serve an important public interest, such as a school or religious institution. These uses are subject to a conditional use review because they may have significant adverse effects—either individually or cumulatively—on the surrounding area. A conditional use, which includes notification to the neighborhood, provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions that address identified concerns, or to deny the use if the concerns cannot be resolved.

Land Use Review

A land use review is a process conducted by the Bureau of Development Services (BDS) to determine if a particular activity, land use, or building may be allowed on a site. There are many different types of land use reviews, including those related to protecting the environment, considering special conditions and impacts, ensuring appropriate architectural designs for buildings, or appropriately subdividing plots of land.

Primary Use

A primary use is the main activity on a site. A site may have more than one primary use. Each base zone includes a list of primary uses that are allowed, not allowed, or allowed with limits or require some type of land use review.

Prohibited Use

A prohibited use is not allowed in a particular zone under any circumstances because it inherently conflicts with other allowed uses in the zone or produces substantial negative impacts on the surrounding community.

Site

For most purposes in the Zoning Code “site” is defined as the ownership of the property. For example, some people own “double lots”, two lots side by side, the site of this property would include both lots even if the development (e.g. market garden, community garden) was only on one of the lots.

Appendix C: Definitions and Related Planning Efforts

Temporary Activities (Uses)

Temporary activities (uses) are characterized by their short-term or seasonal nature and by the fact that permanent improvements are not made to the site. There are special regulations to ensure they are truly temporary, will not adversely impact the surrounding areas and can be terminated and removed immediately. For example, a garage sale in a single dwelling zone is allowed as a temporary activity in a zone that typically does not allow retail sales.

Urban Growth Boundary

Oregon has a system of state-wide planning goals and regulations that guide land use policies and regulations in Portland. One of the most significant elements of this system is the Urban Growth Boundary (UGB). Each city or metropolitan area must draw a UGB, and different regulations apply inside and outside the UGB. The major purpose of the UGB is to preserve agricultural and forest lands from urban development, and to focus urban development where infrastructure (sewers, water, etc.) either already exist or can reasonably be provided.

Under this scheme, land inside the UGB should be developed, not used for farming. The state goals and regulations do not strictly prohibit agriculture within the UGB, but see it more as an interim use of land until the land is developed. In recent years, there has been much discussion about allowing more opportunities for growing food inside the UGB, taking into consideration the many benefits of doing so. At this point, it is reasonable to see that growing food within the UGB does not conflict with State goals when it is done in a manner significantly different from traditional agriculture. The elements to be considered in differentiating agriculture outside the UGB from growing food inside the UGB include:

- Scale—Sites used to grow food in urban areas are generally small—an acre or less.
- Techniques—Use of large mechanized equipment on these small sites is rare; hand tools and smaller equipment is more typical.
- Consumers—Food grown on these sites is usually consumed by people who live in the same city or metropolitan area. Most often, the food is eaten by those who grow it, but if it is sold, it is sold locally.

2. Health/Equity Definitions

Diverse Communities

Diverse communities often experience social and economic discrimination based on race, income, education, and employment. These communities also often suffer disproportionate disparities in health outcomes and are at a greater risk for developing chronic diseases such as obesity, type II diabetes, hypertension, and some cancers. Diverse communities often experience limited employment opportunities, few safe places for physical activity, and inadequate healthful food options. *From “Health Disparities and Inequalities Report – United States, 2011.” Centers for Disease Control and Prevention. Morbidity and Mortality Weekly Report. January 14, 2011.*

Healthful Food

Healthful foods include whole and minimally processed fruits, vegetables, whole grains, legumes, nuts, seeds, eggs, dairy, meats, fish, and poultry. They are produced without added hormones or antibiotics, without artificial colors or unnecessary preservations. Healthful foods are equitably accessible in residential neighborhoods, worksites, and schools. They are also reflective of the cultural traditions of consumers. Healthful foods are also produced, processed, and transported in a way that protects farmers, farm workers, and natural resources. *From “Setting the Record Straight: Nutrition and Health Professionals Define Healthful Food.” Prevention Institute. August 2009.*

3. Related Reports and Planning Efforts

Portland Multnomah Food Policy Council Guiding Principles

The Food Policy Council was established by City and County Resolution in 2002. The organization’s Guiding Principles include the following:

- Every City and County resident has the right to an adequate supply of nutritious, affordable and culturally appropriate food (food security).
- Food security contributes to the health and well-being of residents while reducing the need for medical care and social services.
- Food brings people together in celebrations of community and diversity and is an important part of the City and County’s culture.
- Support an economically viable and environmentally and socially sustainable local food system;
- Ensure ready access to quality grocery stores, food service operations and other food delivery systems; and
- Promote the availability of a variety of foods at a reasonable cost.

Appendix C: Definitions and Related Planning Efforts

Climate Action Plan

The Climate Action Plan was approved by the City of Portland and Multnomah County in 2009 to provide an innovative framework for the region’s transition to a more prosperous, sustainable and climate-stable future. The goals and strategies outlined in the plan will guide future efforts by the City and County as well as encourage businesses and citizens to take actions that support this desired outcome.

Peak Oil Task Force

In May 2006, Portland City Council created the Peak Oil Task Force to develop recommendations on appropriate responses to uncertainties in the supply and affordability of oil. This group identified key short-term and long-term vulnerabilities and developed recommendations for addressing these issues.

Portland Comprehensive Plan

The Portland Comprehensive Plan—also referred to as the ‘Comp Plan’—provides a coordinated set of guidelines for decision-making to guide the future growth and development of the city. The State required all cities to have comprehensive plans and to periodically update them. Comprehensive Plans are intended to be dynamic, flexible documents able to respond to changing circumstances, technology, and community values. Since adoption in 1980 the Portland Comprehensive Plan has been revised many times. The Bureau of Planning and Sustainability is currently developing the work plan for the Comprehensive Plan Update.

Portland Plan

The Portland Plan is a strategic plan to make Portland a thriving and sustainable city – a city that is prosperous, healthy, educated, and equitable. Through it, Portlanders defined community priorities, set the course for the city and partner agencies for the next 25 years, and identified a five year action plan. The Portland Plan is built on a foundation of equity. The plan includes a framework for equity; three integrated strategies: Thriving Educated Youth, Economic Prosperity and Affordability, and Healthy Connected City; and twelve citywide measures of success. Most food related policies and actions can be found in Healthy Connected City.

The Bureau of Planning and Sustainability is leading this effort with the help of many regional and local community and business partners. The Portland Plan will be accomplished over time through a variety of efforts including intergovernmental agreements, legislative advocacy, programs, city internal practices, budget instructions, and the updated of the Portland Comprehensive Plan.

Portland City Council is scheduled to hold public hearings on the Portland Plan this spring. (See www.pdxplan.com for more information)