

Regulatory Improvement Workplan



Regulatory Improvement Code Amendment Package 6 (RICAP 6)

The Planning and Sustainability Commission public hearing will be held **April 22, 2014**. See the inside cover for more information on how to submit your testimony.

Proposed Draft

March 2014



Bureau of Planning and Sustainability
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City of Portland, Oregon
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Regulatory Improvement Code Amendment Package 6

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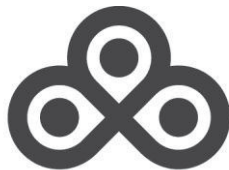
How to submit testimony on the RICAP 6 Proposed Draft:

Testify in person at the Planning and Sustainability Commission hearing. The hearing, on Tuesday April 22 at 6:00 p.m., will be on the second floor at 1900 SW Fourth Ave. (at SW 4th Avenue and Hall Street). Tips for providing effective testimony can be found here: <http://www.portlandoregon.gov/bps/article/383906> Please call 503-823-7700 a week before the hearing for the scheduled time of this agenda item. Metered and pay parking is available in the vicinity. MAX, the Portland Streetcar and many buses serve this building; call Tri-Met at 503-238-7433 or go to their web site at <http://www.trimet.org> for routes and times.

Write to the Planning and Sustainability Commission. Send written testimony to the Planning and Sustainability Commission at 1900 SW Fourth Ave., Suite 7100, Portland, OR 97201; FAX comments to 503-823-7800; or send an email to psc@portlandoregon.gov with "RICAP6" in the subject line. Written testimony must be received by the time of the hearing and must include your name and address.

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- 1st and 3rd Tuesday of each month at 7:30 p.m.
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I. Introduction

Project Summary

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

The workplan for RICAP 6 was adopted by the Planning and Sustainability Commission at a public hearing on August 13, 2013. The workplan initially included 42 items; two items, Public Art for Ground Floor Windows, and Application of the Zoning Code to the Right-Of-Way, were added after the adoption of the workplan at the request of the Bureau of Development Services. A third item, Comprehensive Plan Map Amendments, was added by the Bureau of Planning and Sustainability to address compliance with Oregon land use planning regulations.

The 45 items include a number of issues that have been organized into bundles. Bundles are groups of related items that focus on similar policy issues and may mix items that scored high in the ranking process along with related, but lower-scoring items. Bundling helps realize economies of scale in research, code drafting, and public outreach. The five bundles in RICAP 6 are:

Mechanical Equipment

Clarify application of setback requirements for mechanical equipment.

Fence Height

Clarify the fence height limit in setbacks in some multi-dwelling zones. Correct figure showing fence options for corner lots in single dwelling zones.

Short-term Rental / B&B

Update and clarify the regulations relating to short-term rentals, including allowing smaller overnight guest rentals with a permit in residential zones.

Temporary Activities

Provide regulations for additional temporary activities including filming, construction staging, and warming/cooling emergency shelters. Update and clarify the time limitations for other activities.

Columbia South Shore Plan District

Clarify and correct provisions in the Columbia South Shore Plan District regulations related to outdoor truck storage and limitations on retail sales in the EG2 zone.

After research and analysis, Zoning Code amendments proposed to address 37 of the 45 items. The table below includes brief descriptions of each item, and more detail on each is in Section III of this report. Section V of this report provides more detail about the items where no amendment is proposed.

RICAP 6 Workplan Items

Item #	Item Name	Proposed Amendment	Zoning Code Section
1	Attached Houses on Corner Lots	Clarify lot dimension requirements cannot be adjusted.	33.110.240
2	Transitional Sites	Clarify applicable setback standard for duplex/attached house development on transitional sites.	33.110.200; 33.110.240
3	Setbacks for Wall-mounted Mechanical Equipment	Clarify that mechanical units cannot be located in setbacks.	33.110.220; 33.120.220
4	Base Zone Design Standards - Garage Wall	Clarify 50% garage limitation for different house types.	33.110.253
5, 6, 7, 9	Fence Bundle	Correct Figure 110-15 to accurately reflect regulation. Clarify fence height requirement in multidwelling zones. No amendment to 3½' fence height proposed.	Figure 110-15 33.120.285 Also see section V
8	Maximum Height in RH zones	Clarify applicability of the various RH heights.	33.120.215
10	Mechanical Equipment Screening	No amendment proposed. This issue needs additional research and analysis, beyond RICAP scope.	See section V
11	Accessory Home Occupations	Limit activities occurring in the right-of-way.	33.203.040 Title 16 - 16.20.160
12, 13, 14	Short-Term Rental / Bed and Breakfast Bundle	Establish a permit (similar to Type B home occupation) to allow 2-room short-term rentals. Continue to allow 3-5 room short-term rentals with CU process.	Chapter 33.212 33.110.100; 33.110.110; 33.120.100; 33.120.110 33.920.110 Title 3 - 3.30.040
15	Community Design Standards cross-reference	Clarify applicable standards for residential projects in RH, RX, C, E zones. Make exterior finish material regs consistent throughout code	Chapter 33.218; 33.110.213; 33.460.110; 33.460.310; 33.561.310
16	Convenience Stores	Clarify responsible party, notification procedures, and address changes in ownership. Make Neighborhood Contact requirements more consistent.	Chapter 33.219; 33.700.025; 33.910.030
17	Interior Parking Lot Landscaping configuration	Revise figure for better clarity.	33.266.130 Figure 266-6

Item #	Item Name	Proposed Amendment	Zoning Code Section
18	Radio Frequency (RF) Transmission Facilities	Address Federal Communications Commission (FCC) preemption on RF emissions, replace Effective Radiated Power thresholds with new wireless service thresholds. Clarify application of height limits. Address noise compliance for accessory equipment. Ensure modifications generally adhere to original facility approval.	33.110.215; 33.110.250; 33.120.215; 33.120.280; 33.130.210; 33.130.265; 33.140.210; 33.140.270; 33.266.110; Chapter 33.274; 33.296.030; 33.410.040; 33.420.045; 33.510.205; 33.533.050; 33.533.080; 33.536.290; 33.555.230; 33.815.223; 33.815.225; 33.910.030; 33.920.540
19	Recreational Fields for Organized Sports, Conditional Use Threshold	Clarify that spectator seating is calculated separate from exterior improvements for purposes of Conditional Use thresholds, restructure chapter.	Chapter 33.279
20, 21, 22, 23, 24	Temporary Uses Bundle	Address building relocation, construction staging, commercial filming. Clarify applicability of time limits and restructure chapter.	Chapter 33.296
25	Environmental zone development standards for MCDD projects	Extend Airport Plan District resource enhancement development standards to drainage district projects that occur outside the Airport Plan District.	33.430.080; 33.430.140; 33.430.170; 33.508.310 - 330; 33.508.350 - 380; 33.565.310 - 330; 33.565.330 - 380
26	Allowing the placement of large wood in resource enhancement projects that meet environmental development standards.	No amendment proposed. The variability of circumstances for each project necessitates review on a case-by-case basis.	See section V
27	Use of Community Design Standards in Conservation Districts	No amendment proposed. State law permits the city to apply design review to large residential and mixed use projects in conservation districts.	See section V
28	Main street corridor overlay - retail uses	No amendment proposed. Requested clarification is not necessary.	See section V
29	Plan Districts and Overlay Zones with Design Overlay Zone	Provide a consistent method for referencing when design review is required in the various plan districts and overlay zones.	33.455.250; 33.460.240; 33.521.310; 33.526.350; 33.534.240; 33.536.310; 33.538.260; 33.550.290; 33.555.300; 33.561.320; 33.562.310; 33.580.030; 33.583.290
30	Columbia South Shore - retail sales	Clarify limits for retail sales in EG2/IG2 zones.	33.515.130
31	Columbia South Shore - truck parking in setback	Clarify that the Airport Way setback applies to heavy truck parking.	33.515.205

Item #	Item Name	Proposed Amendment	Zoning Code Section
32	Johnson Creek Density Transfer	No amendment proposed. The code has been affirmed by the Land Use Board of Appeals and meets the original intent of the regulation as adopted.	See section V
33	Land Division Approval Criteria in Potential Landslide Hazard Areas	Clarify that development on sites be located on areas rendered suitable to limit landslide risk. Clarify the circumstances under which a final plat can be voided.	33.632.010; 33.632.100; 33.663.110; 33.730.060
34	Regulations in Effect at Application	Clarify that the section applies to all applications and addresses how newly adopted regulations are applied.	33.700.080
35, 36	Revocable Permits	Establish a process to allow revocable permits that do not expire to continue as non-conforming uses.	33.700.120
37	Historic Landmarks Commission and Design Commission membership	Correct membership number to reflect current membership.	33.710.050; 33.710.060
38	Land Use Review Comment Periods	No amendment proposed. The code provides a window of time for comments, informational handouts will be clarified.	See section V
39	Type IIx Appeal - Hearing's Officer decision time	No amendment proposed. The difference between Type II and IIx reviews accounts for the increased bureau coordination while ensuring that the state-mandated 120-rule can be met.	See section V
40	Missing information in Notice of Type III Decision	Add consistent notification requirements for Type III decisions.	33.730.014; 33.730.015; 33.730.020; 33.730.025; 33.730.030; 33.730.070
41	Conditional Uses - change within use category	Clarify what constitutes a change of use within the use category.	33.815.040
42	Clarify Guest House vs. Accessory Dwelling Unit	No amendment proposed. Both terms are necessary to include in the zoning code.	See section V
43 Add	Public Art for Ground Floor Windows	Remove requirement for adjustment review for Regional Arts and Culture Council approved public art in lieu of meeting ground floor windows.	33.130.230; 33.140.230; 33.510.220
44 Add	Application of Zoning Code in right-of-way	Apply zoning code to the public right-of-way in the historic resources overlay zone.	33.10.030; 33.420.041; 33.445.320; 33.445.420
45 Add	Comprehensive Plan Map Amendments	Add an approval criterion that requires the proposed amendment be in conformance with Statewide Land Use Planning Goals	33.810.050

Legislative Process



II. RICAP 6 Process

Background

Portland's current Zoning Code was originally adopted in 1990. Changing needs, new laws and court rulings, new technology and innovations, and shifting perceptions necessitate that the City's regulations be updated and improved on an ongoing basis. Since 1990 there have been several programs to update the Zoning Code. The most recent of these programs is the Regulatory Improvement Program, which was initiated in 2002 as a way to "update and improve City building and land use regulations that hinder desirable development."

One component of the program - Regulatory Improvement Code Amendment Package (RICAP) - was designed to provide an ongoing and rapid vehicle for technical and minor policy amendments to the City's regulations. From 2005 to 2010 City Council adopted five packages of amendments (RICAP 1 through 5), which resulted in many amendments to city regulations. Most of the changes were to Zoning Code regulations. Due to budgetary constraints, the program was suspended in 2010. As part of the fiscal year 2013-2014 budget process, City Council funded a RICAP project.

The process used to develop the workplan for RICAP 6 consisted of:

- Cataloguing potential amendments through an **online database**. These are items suggested by City staff, community members, and others;
- **Ranking each item** to evaluate the impacts of and the ability to improve the regulation, the variety of stakeholders affected, and the geographic range of the issue;
- **Holding a hearing** before the Planning and Sustainability Commission on August 13, 2013.

For more information on selection of items for the workplan, see the *RICAP 6 Proposed Workplan*, dated July 24, 2013.

Staff Analysis

Staff's analysis of each item is described in Sections III, IV and V of this report. In general, staff conducted an assessment to identify and evaluate positive and negative impacts of possible changes. Staff also reviewed the origin and legislative intent of the existing regulation, identified what sorts of circumstances may have changed since the regulation was first adopted, and evaluated potential code language from both the desired outcome as well as for unintended consequences. This assessment also identifies when the regulations do not need to change or when a non-regulatory approach may be a better solution. When a regulatory approach is determined to be appropriate, the regulations are crafted to be simple, clear, and feasible to implement and enforce.

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

1. Research indicates that the solution is not worth the costs or added complexity; or that the existing regulation is achieving the desired result;
2. Research shows that the issue is important, but the solution should be decided as part of a more comprehensive project; and/or
3. More information and public input is needed before a solid recommendation can be made.

Community Involvement

This *Proposed Draft* includes staff's proposed code amendments and reflects comments from members of the public, agencies and other interested stakeholders. These comments have helped to refine the proposal for the Planning and Sustainability Commission (PSC).

The initial workplan for RICAP 6 was adopted by the PSC at a hearing on August 13, 2013. Notice of the hearing was sent to members of the public interested in regulatory improvement and the city's legislative process and the hearing was open for testimony. Staff began meeting with some stakeholders including neighborhood land use chairs, the Regional Arts and Culture Commission (RACC) and the Development Review Advisory Council (DRAC) during the development of the workplan and initial research into the issues.

A public Discussion Draft was published on January 6, 2014 with a comment period that ran through February 21st. Public notice was sent to over 750 recipients, and emails were sent to more than 360 people. Over the seven week period, staff met with the Design Commission, Historic Landmarks Commission, the Planning and Sustainability Commission, six neighborhood district coalitions, and two individual neighborhood associations. In addition, staff held a public open house on February 11, 2014 to present more detailed information and respond to specific questions. Approximately 75 people attended the open house and subsequent question and answer session. In total, staff met with nearly 350 members of the public.

During the *Discussion Draft* comment period, staff received over 100 written comments. Some comments addressed the proposed regulations affecting recreation fields, wireless facilities, accessory home occupations and some technical requests for clarification. A few comments were on issues outside the scope of RICAP 6 and were more related to larger issues being considered with the Comprehensive Plan Update. However, the majority of the comments received centered around items #12-14, the Short-Term Rental/Bed and Breakfast bundle.

As a result of comments and questions staff received during the Discussion Draft outreach, staff has reviewed and evaluated the proposed amendments and made additional clarifications to the explanatory commentary and in some cases has revised the proposed code language.

Notice of the *Proposed Draft* and PSC public hearing was sent to 771 recipients 30 days prior to the public hearing date to provide the public sufficient opportunity to review the proposal and to deliver testimony on the proposed code amendments to the PSC.

The community will have an additional opportunity to review the proposal after the PSC formulates a Recommended Draft that the City Council will consider at a subsequent public hearing.

III. Amendments to the Zoning Code

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

Items are arranged in this section following the order they appear in the zoning code. For example, items amending portions of the base zone requirements will come before items amending portions of overlay zones or plan districts. However, some of the workplan items include amendments that span several areas of the zoning code. To follow the amendments being proposed for a particular item, refer to the table of workplan items in the Introduction, which will include references to the code sections that are being amended. There is also an index located on the inside back cover that cross references the amended zoning code section to each RICAP 6 item.

For more information about items where no amendment is proposed, see Section V, Items without Amendments.

Item #44 - Application of the Zoning Code in the Right of Way

33.10.030 When the Zoning Code applies

B. Clarification for rights-of-way

This section describes when the zoning code applies, and subsection B describes under what circumstances the zoning code applies to development in public rights-of-way. With a few exceptions, land within public rights-of-way is not regulated by Title 33 (other City Codes—16 and 17 most notably—regulate activities and improvements in the public right-of-way).

When the zoning code went into effect in January 1991 one of the exceptions to this rule was "development within design districts when specified in 33.825, Design Review" (1991 code Paragraph 33.10.030.B.2). At the time, 33.825 specified that design review was required in the design overlay zone, for all historic landmarks, and when City Council required design review. In addition, all of the area within the design overlay zone was in a design district in 1991. Therefore, in effect, 33.10.030.B.2 specified that Title 33 applied to development in the public right-of-way when the development was in a design overlay zone, and when the development affected a historic landmark in the public right-of-way.

In 1996, historic resources (districts and landmarks) were pulled out of the design overlay zone and given their own overlay zone and land use review (33.445, Historic Resource Protection overly zone, and 33.846, Historic Reviews). When this occurred, 33.10.030 was not amended to reflect the new organization of the code. To be consistent, 33.10.030.B should have been amended to ensure that Title 33 continued to apply to development in public rights-of-way within historic and conservation districts, and that Title 33 continued to apply to historic and conservation landmarks in public rights-of-way, as was the case prior to 1996. This amendment corrects that oversight.

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CHAPTER 33.10
LEGAL FRAMEWORK AND RELATIONSHIPS

33.10.030 When the Zoning Code Applies

- A. All land and water.** The zoning code applies to all land and water within the City of Portland except as provided in Subsections B., C., and D. below. All land divisions, uses and development must comply with all of the requirements specified in the zoning code for that location.
- B. Clarification for rights-of-way.** Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land~~[MTI]~~ within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:
1. Rights-of-way in the greenway, environmental, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;
 2. The act of creating or dedicating public rights-of-way through a land division;
 3. Development within the design overlay zone or historic resources protection overlay zone ~~districts when specified in Chapter 33.420, Design Overlay Zone;~~
 4. Structures that project from private property over rights-of way, such as oriel windows; and
 5. Proposals for park-and-ride facilities for mass transit.
- C. Clarification for waterbodies.** The siting of fills or structures on or over waterbodies is subject to the zoning code provisions. The zoning code does not regulate shipping, dredging, boating, and other similar uses on or in water bodies.
- D. Private rights-of-way.** The creation of private rights-of-way is regulated by Title 33, Planning and Zoning. Street improvements in private rights-of-way are allowed by right in all zones.

Items #12, 13, 14: Short-Term Rentals

33.110.100 Primary Uses

33.110.110 Accessory Uses

These amendments replace references to bed and breakfast facilities with *Accessory Short-Term Rentals* and directs reader to the regulations in chapter 33.207 *Accessory Short-Term Rentals*.

Item #2: Attached Houses/Duplexes on Transitional Sites

33.110.200 Housing Types Allowed

Table 110-2 identifies housing types that are allowed in the different single-dwelling zones. Attached housing is allowed in all but the RF zones through three separate provisions of Chapter 33.110. Currently, Table 110-2 only identifies two of these provisions. This amendment updates the table to indicate that using 33.110.240.H is another option for providing attached housing.

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**CHAPTER 33.110
 SINGLE-DWELLING ZONES**

33.110.100 Primary Uses

A.-B. [No change]

C. Conditional uses.

1. [No change]
2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as that may require a conditional use reviews.~~ See Chapter 33.~~207~~212.

D. [No change]

33.110.110 Accessory Uses

Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.~~212~~207 respectively.

33.110.200 Housing Types Allowed

Table 110-2 Housing Types Allowed In The Single-Dwelling Zones						
Housing Type	RF	R20	R10	R7	R5	R2.5
House	Yes	Yes	Yes	Yes	Yes	Yes
Attached house (See 33.110.240.C, & E, & H)	No	Yes	Yes	Yes	Yes	Yes
Accessory dwelling unit (See 33.205)	Yes	Yes	Yes	Yes	Yes	Yes
Duplexes: On corners (See 33.110.240.E)	No	Yes	Yes	Yes	Yes	Yes
On transitional lots (See 33.110.240.H)	No	Yes	Yes	Yes	Yes	Yes
Other situations (See 33.110.240.D)	No	No	No	No	No	Yes
Manufactured home (See Chapter 33.251)	Yes	Yes	Yes	Yes	Yes	Yes
Manufactured Dwelling park	No	No	No	No	No	No
Houseboat (See Chapter 33.236)	Yes	Yes	Yes	Yes	Yes	Yes
Single Room Occupancy (SRO) units	No	No	No	No	No	No
Attached Duplexes	Only in Planned Developments, See Chapter 33.638.					
Group structure	Only when in conjunction with an approved conditional use.					
Multi-dwelling structure	Only in Planned Developments, See Chapter 33.638					

Yes = allowed; No = prohibited.

Item #15: Community Design Standards Cross Reference

33.110.213 Additional Development Standards for Lots and Lots of Record Created Before July 26, 1979

These regulations apply to lots that are substandard in width or area, to increase compatibility of new houses in single dwelling zones. The regulations include specific requirements for height, building coverage, main entrance and garage door design, parking, eaves, trim, and exterior finish materials.

C. Standards

6. Exterior finish materials.

These requirements largely mirror the community design standard exterior finish material requirements that apply to single dwelling zones (33.218.100). Changes to this paragraph ensure consistent wording and structure with those requirements. The regulation restricting covering required trim is also added for consistency as well as to reinforce Paragraph 7, Trim.

Item #18: Radio Frequency (RF) Transmission Facilities

33.110.215 Height

C. Exceptions to the maximum height

3. height limit exemptions

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The exemption is intended to apply to all antennas that send or receive radio or television signals (the radio spectrum covers the 3KHz to 300GHz frequency range). Stating only "antennas" makes this intent more clear. Note that while antennas are exempt from height limits, the mounting hardware is subject to either C.1 of this section, or for RF facilities, the requirements in 33.274.

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 Language to be **deleted** is shown in ~~strike through~~

33.110.213 Additional Development Standards for Lots and Lots of Record Created Before July 26, 1979

A.-B. [No change]

C. Standards. Modifications to the standards of this subsection may be requested through Design Review. Adjustments are prohibited. The standards are:

- 1.-5. [No change]
6. Exterior finish materials. The ~~following~~ standards of this paragraph must be met on all building facades:
 - a. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard may not be used ~~are not allowed~~ as exterior finish material, except as secondary finishes if they cover no more than 10 percent of each façade ~~the surface area of each façade~~.
 - b. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide;
 - ~~c.b.~~ Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes;
 - ~~d.e.~~ Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of ~~3 to 6 inches~~ or less, or vinyl or aluminum siding which is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width;
 - e. Siding material may not cover required window and door trim.

7.-10. [No change]

33.110.215 Height

A.-B. [no change]

C. Exceptions to the maximum height.

1. Chimneys, flag poles, satellite receiving dishes and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.
2. [No change]
3. ~~Radio and television a~~Antennas, utility power poles, and public safety facilities are exempt from the height limit.
- 4.-5. [No change]

Item #3: Setbacks for Wall-Mounted Mechanical Equipment

Recently, there has been an increase in the installation of mechanical equipment such as radon mitigation systems, and smaller heat pumps on the sides of buildings. This is occurring on single-dwelling houses as well as multi-dwelling structures and commercial businesses. There has been some confusion how setback requirements are applied to this equipment in the residential zones. Is attached mechanical equipment considered an accessory structure (required to meet setbacks) or a minor projection (allowed to project 20% into setbacks)? Issues related to the screening of this equipment needs to be addressed through further research and will need to be part of a future project (see Section V of this report for additional information).

33.110.220 Setbacks

C. Extensions into required building setbacks.

2. Accessory structures.

This amendment clarifies that mechanical equipment is not considered an allowed minor projection and is instead subject to the accessory structures setback standards of 33.110.250.C.1 that states: "*Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.*" Mechanical equipment tends to generate noise, unlike the minor features (eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies) that are allowed to project into setbacks. It should be noted that items such as gutters & downspouts and overhead electrical service lines or meters are not considered projections or accessory structures, and are not reviewed under either the projection or accessory structures regulations.

The reference to signs is also deleted as a housekeeping measure, as this Chapter no longer exists, and all sign regulations are contained in a separate title.

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33.110.220 Setbacks

A.-B. [No change]

C. Extensions into required building setbacks.

1. **[No change]**
2. Accessory structures. The setback standards for accessory structures including mechanical equipment are stated in 33.110.250, below. Fences are addressed in 33.110.255, below. Detached accessory dwelling units are addressed in Chapter 33.205. ~~Signs are addressed in Chapter 33.286.~~

D. [No change]

Item #1: Attached Houses on Corner Lots- minimum lot size

33.110.240 Alternative Development Options

E. Duplexes and attached house on corners.

3. Lot dimension standards.

Subsection E allows an additional dwelling unit on corner lots when constructing a duplex or attached houses. In order to take advantage of this allowance, the lot must meet certain lot dimension standards. The reason for this is to ensure that there is adequate room for the development and the development gives the overall appearance of a house. Adjustments were not intended to be allowed to make the lots smaller, when these minimums were put in place with RICAP 4. They were intended to be consistent with the land division regulations from 2002. This amendment clarifies the intent that the lot standards are not adjustable. The added text for sub-subparagraph (2) under subparagraphs a and b is intended to clarify where the applicable R2.5 lot dimension standards are found. The deleted text in subparagraphs a-c removes redundant language.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.110.240 Alternative Development Options

A.-D. [No change]

E. Duplexes and attached houses on corners. This provision allows new duplexes and attached houses in locations where their appearance and impact will be compatible with the surrounding houses. Duplexes and attached houses on corner lots can be designed so each unit is oriented towards a different street. This gives the structure the overall appearance of a house when viewed from either street.

1. Qualifying situations. This provision applies to corner lots in the R20 through R2.5 zones.
2. Density. One extra dwelling unit is allowed up to a maximum of two units.
3. Lot dimension ~~standards-regulations.~~ Lots in the R20 through R2.5 zones must meet the lot dimension regulations of this section. Adjustments are prohibited.
 - a. ~~Lot dimensions in R20 through R7 zones.~~ In the R20 through R7 zones:
 - (1) Duplexes. Lots for duplexes must meet the minimum lot dimension standards for new lots in the base zone.
 - (2) Attached houses. Where attached houses are proposed, the original lot, before division for the attached house proposal, must meet the minimum lot dimension standards for new lots in the base zone. The new lots created for the attached houses must meet the minimum lot dimension standards stated in Chapter 33.611, Lots for new lots in the R2.5 ~~Zone~~.
 - (3) Attached houses as a result of a Property Line Adjustment. Attached houses are allowed on adjusted lots that are a result of a Property Line Adjustment.
 - b. ~~Lot dimensions in R5 zone.~~ In the R5 zone;
 - (1) Duplexes. Lots for duplexes must be at least 4,500 square feet in area.
 - (2) Attached houses as a result of a land division. Where attached houses are proposed, the original lot, before division for the attached house proposal, must be at least 4,500 square feet. The new lots created for the attached houses must meet the minimum lot dimension standards stated in Chapter 33.611, Lots for new lots in the R2.5 ~~Zone~~.
 - (3) Attached houses as a result of a Property Line Adjustment. Attached houses are allowed on adjusted lots that are a result of a Property Line Adjustment.
 - c. ~~Lot dimensions in R2.5 zone.~~ In the R2.5 zone:
 - (1)-(3) [No change]
4. Development standards. [No change]

Item #2: Attached Houses/Duplexes on Transitional Sites

33.110.240 Alternative Development Options

H. Transitional sites.

4. Housing types allowed.

Subsection 33.110.240.H. allows for an additional dwelling unit on sites that have a side lot line that abuts a commercial, employment or industrial zone. The increased density provides a transition between the single-dwelling zone and non residential zone. Development can take the form of attached housing or a duplex. If the site is developed with attached housing, the regulation currently says the "site development regulations for attached houses apply." It is unclear which attached house site development standards apply. This amendment identifies the standards of the R2.5 zone apply as they are the most relevant and appropriately transition between the non-residential zones and the single dwelling zones.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

F.–G. [No change]

H. Transitional sites. The transitional site standards allow for a transition of development intensities between nonresidential and single-dwelling zones. A stepped increase in density is allowed on single-dwelling zoned lots that are adjacent to most commercial, employment or industrial zones. The transition site provisions promote additional housing opportunities in a way that has minimal impacts on built-up single-dwelling neighborhoods.

1. Qualifying situations. The transitional site regulations apply only to lots in the R20 through R2.5 zones which have a side lot line that abuts a lot in the C, E, or I zones, except for the CN and CO zones. The side lot line of the residential lot must abut the lot in a nonresidential zone for more than 50 percent of the residential lot's length. If the lot is part of an attached housing project, the extra unit allowed by this subsection applies to the attached housing project, rather than just to the lot adjacent to the nonresidential zone.
2. Density. [No change]
3. Lot dimensions. [No change]
4. Housing types allowed. The lot may contain a duplex or be divided for attached houses. If the development is in the form of an attached house, the site development regulations for attached houses in the R2.5 zone apply.

I.–J. [No change]

Item #18: Radio Frequency (RF) Transmission Facilities

33.110.250 Accessory Structures

C. Setbacks

2. Vertical structures

a. Description

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The regulation is intended to apply to all antennas that send or receive radio or television signals. Stating only "antennas" makes this intent more clear.

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.110.250 Accessory Structures

A.-B [No change]

C. Setbacks.

1. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.
2. Vertical structures.
 - a. Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, ~~radio~~ antennas, satellite receiving dishes, and lamp posts. Fences are addressed in 33.110.255 below. ~~Sign regulations are in Title 32, Signs and Related Regulations.~~
 - b.-c. [No change]
- 3.-4. [No change]

D. [No change]

Item #4: Base Zone Design Standards and Garage Walls

33.110.253 Garages

E. Length of Street Facing Wall.

3. Standards.

Originally, the intent of the garage wall standards was to limit the impact of the garage on the front façade of the house, while providing an alternative way to measure the frontage limitation for attached housing projects and duplexes. Subsequent code amendments have further limited the amount of garage frontage by creating a minimum standard width that is required in order to allow a garage. That code amendment was not entirely consistent with the original code and created some confusion regarding how the standard should apply to attached houses and duplexes. This amendment simplifies the standard by clarifying how the garage wall standard should be measured for duplexes versus for houses and attached houses. For duplexes, where the dwelling units may be "stacked" on each other or one behind another, this means that the 50% frontage limitation applies to the width of the entire structure and is not measured by unit. For houses and attached houses, where each dwelling unit is located on its own lot, this means that the limitation applies to each individual dwelling unit.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.110.253 Garages

A-D. [No change]

E. Length of street-facing garage wall.

1. Where these regulations apply. Unless exempted by Paragraph E.2, below, the regulations of this subsection apply to garages accessory to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones.
2. Exemptions.
 - a. Garages that are accessory to development on flag lots, or development on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from the standards of this subsection.
 - b. Garages in subdivisions and PUDs that received Preliminary Plan approval between September 9, 1990, and September 9, 1995, are exempt from the standards of this subsection.
 - c. On corner lots, only one street-facing garage wall must meet the standards of this subsection.
3. Standards.
 - a. The length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building façade. See Figure 110-11. For ~~duplexes-attached houses on new narrow lots~~, this standard applies to the total ~~combined~~ length of the street-facing façades ~~of each unit~~. For all other lots and structures, the standards apply to the street-facing façade of each unit.
 - b. Where the street-facing façade ~~of a unit~~ is less than 22 feet long, an attached garage is not allowed as part of that façade.
- 4.-5. [No change]

F. [No change]

Items #5, 6, 7: Fence Height Requirements in Front Setbacks

Figure 110-15.

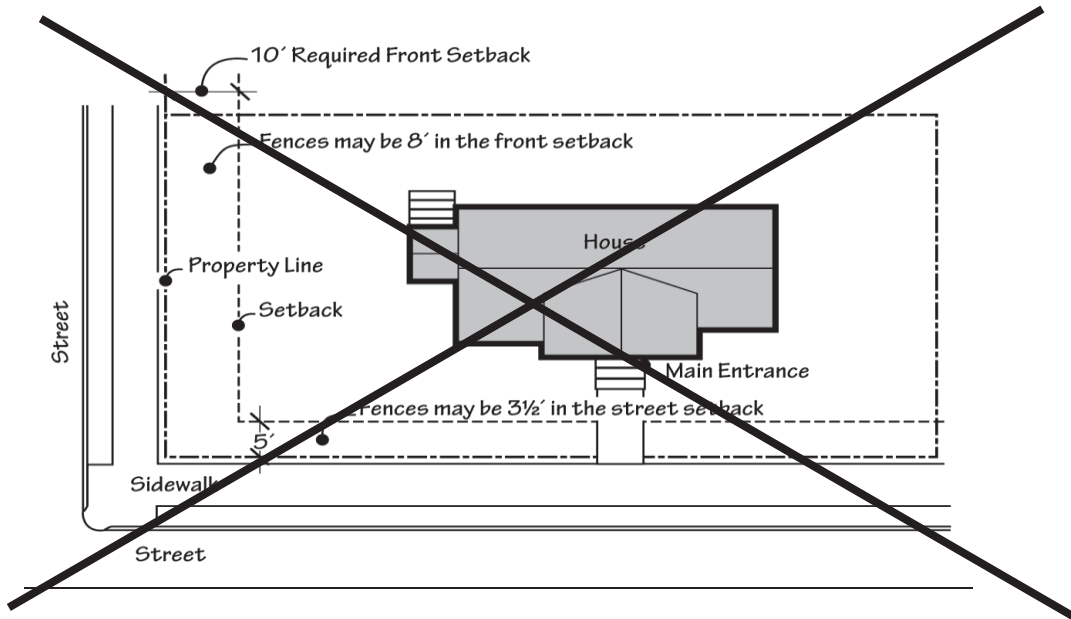
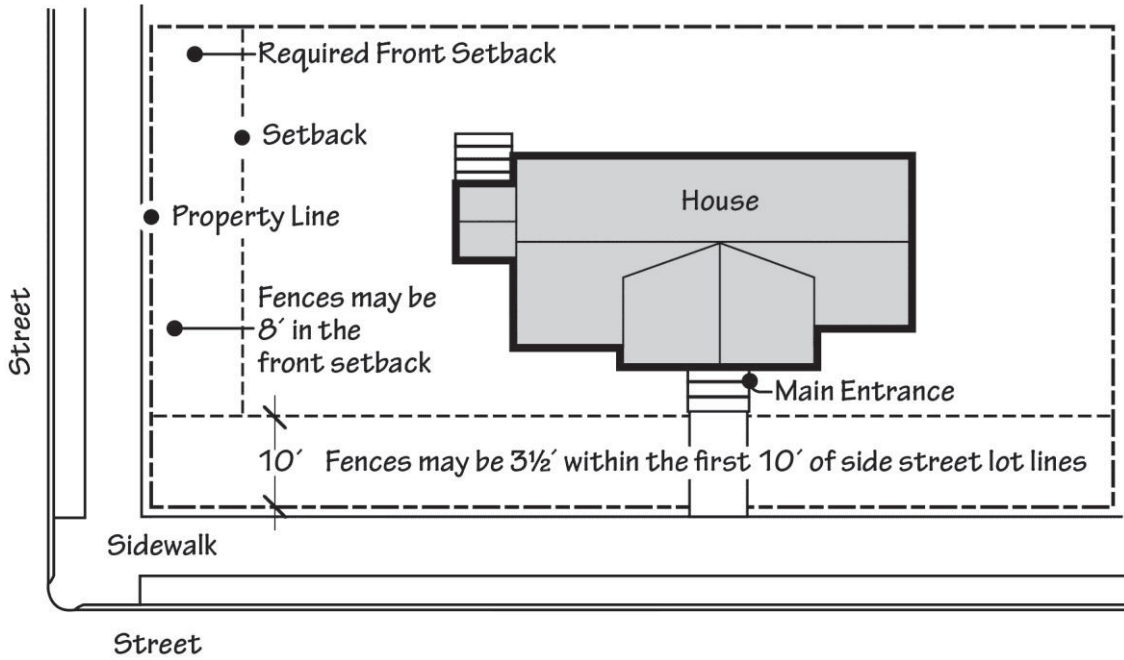
This amendment fixes the discrepancy in Figure 110-15 which does not match the code provisions of 33.110.255.C for corner lots. This regulation states:

3. Exceptions for corner lots. On corner lots, if the main entrance is on the façade facing the side street lot line, the applicant may elect to meet the following instead of C.1 and C.2. See Figure 110-15.
 - a. Fences up to 3-1/2 feet high are allowed within the first 10 feet of the side street lot line. (The figure shows 5')
 - b. Fences up to 3-1/2 feet high are allowed in required setbacks that abut a pedestrian connection if the pedestrian connection is part of a right-of-way that is less than 30 feet wide;
 - c. Fences up to 8 feet high are allowed in the required front building setback, outside of the area subject to 3a. (the figure does not accurately depict this area that is "outside" the area described in 3a)
 - d. Fences up to 8 feet high are allowed in all other side or rear building setbacks.

(The figure also depicts a 10' front yard setback, which is not accurate for the RF-R7 zones)

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

Figure 110-15
Fence Height Option on Corner Lots
[Replace Figure 110-15]



Items #12, 13, 14: Short-Term Rentals

33.120.100 Primary Uses

33.120.110 Accessory Uses

These amendments replace references to bed and breakfast facilities with Accessory Short-Term Rentals and directs reader to the regulations in chapter 33.207 Accessory Short-term Rentals.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.120
 MULTI-DWELLING ZONES**

33.120.100 Primary Uses

A.-B. [No change]

C. Conditional uses.

1. [No change]

2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as that may require a conditional use reviews.~~ Some exceptions may apply in the RX zone. See Chapter 33.~~207~~212.

D. Prohibited uses. [No change]

33.120.110 Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all regulations for that use and all applicable development standards. In addition, some specific accessory uses have additional requirements as indicated below.

A. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals. Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.~~207~~12 respectively.

B.-C. [No change]

Item #8: Maximum Height in RH zones

33.120.215 Height

B. Maximum Height.

Table 120-3 identifies specific maximum heights in the RH zone. However, the text in 33.120.215.B.2 does not clearly state where the various height limits apply. This amendment clarifies the text for maximum height in the RH zone. It also amends the provision in the R1 zone to make the sentence structure consistent. Similar clarification is also made for sites in the IR zone. In this case, the 100 foot height is only applied where the site is within 1,000 feet of a transit station AND the allowed FAR is 4:1.

Table 120-3

This table is amended to make the two distinct RH height situations described in 33.120.215.B.2 more apparent, by separating them into two lines, and removing the "slash" between them.

Item #18: Radio Frequency (RF) Transmission Facilities

33.120.215 Height

C. Exceptions to the maximum height 3. height limit exemptions

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The exemption is intended to apply to all antennas that send or receive radio or television signals (the radio spectrum covers the 3KHz to 300GHz frequency range). Stating only "antennas" makes this intent more clear. Note that while antennas are exempt from height limits, the mounting hardware is subject to either C.1 of this section, or for RF facilities, the requirements in 33.274.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.120.215 Height

A. Purpose. [No Change]

B. Maximum height. The maximum heights allowed in the multi-dwelling zones are stated in Table 120-3. The maximum height standard for institutional uses is stated in 33.120.275, Development Standards for Institutions, below.

1. In the R1 zone, the maximum height is 45 feet, except on ~~25-foot height limit~~ applies only to the portion of a ~~site~~structure within 10 feet of a front property line, where the maximum height is 25 feet.
2. In the RH zone, the following maximum height limits apply:
 - a. Where the FAR is 2 to 1, the maximum height is ~~625~~ feet, except on ~~On those sites, the 25-foot height limit applies only to the portion of a~~ ~~site~~structure within 10 feet of a front property line, where the maximum height is 25 feet.
 - b. Where the FAR is 4 to 1, the maximum height is 75 feet, except on sites within 1,000 feet of a transit station, where the maximum height is 100 feet.
3. In the IR zone, ~~where the FAR is 4 to 1,~~ the maximum height is 75 feet, except on sites within 1,000 feet of a transit station and the FAR is 4 to 1, where the maximum height is 100 feet.

Table 120-3 Summary of Development Standards in Multi-Dwelling Zones						
Standard	R3	R2	R1	RH	RX	IR
Maximum Height (See 33.120.215)	35 ft.	40 ft.	25/45 ft.	25/65 ft. / 75/100 ft.	100 ft.	75/100 ft.
[No changes to remainder of Table 120-3]						

C. Exceptions to maximum height

1. Chimneys, flag poles, satellite receiving dishes, and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.
2. [No change]
3. ~~Radio and television a~~Antennas, utility power poles, and public safety facilities are exempt from the height limit.
- 4.-5. [No change]

Item #3: Wall-Mounted Mechanical Equipment

33.120.220 Setbacks

D. Extensions into required building setbacks.

2. Accessory structures

This amendment clarifies that mechanical equipment is not considered an allowed minor projection and is instead subject to the accessory structures setback standards of 33.120.280.C.1 that states: "*Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.*" Mechanical equipment tends to generate noise, unlike the minor features (eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies) that are allowed to project into setbacks. It should be noted that items such as gutters & downspouts and overhead electrical service lines or meters are not considered projections or accessory structures, and are not reviewed under either the projection or accessory structures regulations.

The reference to signs is also deleted as a housekeeping measure, as this Chapter no longer exists, and all sign regulations are in a separate title.

Item #18: Radio Frequency (RF) Transmission Facilities

33.120.280 Accessory Structures

C. Setbacks

2. Vertical structures

a. Description

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The regulation is intended to apply to all antennas that send or receive radio or television signals. Stating only "antennas" makes this intent more clear.

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.120.220 Setbacks

A.-C. [No change]

D. Extensions into required building setbacks.

1. [No change.]
2. Accessory structures. The setback standards for accessory structures including mechanical equipment are stated in 33.120.280 below. Fences are addressed in 33.120.285, below. Detached accessory dwelling units are addressed in Chapter 33.205. ~~Signs are addressed in Chapter 33.286.~~

E. [No change]

33.120.280 Accessory Structures

A.-B. [No change]

C. Setbacks.

1. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.
2. Vertical structures.
 - a. Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, ~~radio~~ antennas, satellite receiving dishes, and lamp posts. Fences are addressed in Section 33.120.285 below. ~~Sign regulations are in Title 32, Signs and Related Regulations.~~
 - b.-c. [No change]
- 3.-4. [No change]

D. [No change]

Item #9: Fence Height in Multi-Dwelling Street or Front Setbacks

33.120.285 Fences

C. Location and height

1. Front building setbacks

The current code regulates the fence height based on the street setback, distinguishing between the front and side street setback. However, the R3 and R2 zones do not have a street setback, which has created confusion in interpreting how to apply the fence regulations in those zones. This amendment removes the references to the street building setback, and organizes the code similar to the single-dwelling zones.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.120.285 Fences

- A. Purpose.** The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.
- B. Types of fences.** The standards apply to walls, fences, and screens of all types whether open, solid, wood, metal, wire, masonry, or other material.
- C. Location and height.**
 - 1. Front~~Street~~ building setbacks. ~~a. Measured from front lot line.~~ Fences up to 3-1/2 feet high are allowed in a required front street ~~street~~ building setback, or within the first 5 feet of the front lot line, whichever is greater, ~~measured from a front lot line.~~
 - ~~b. Measured from a side lot line. Fences up to 8 feet high are allowed in a required street building setback that is measured from a side lot line.~~
 - 2.-4. [No change]
- D. [No change]**

Item #18: Radio Frequency (RF) Transmission Facilities

33.130.210 Height

B. Height standard

3. height limit exemptions

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The exemption is intended to apply to all antennas that send or receive radio or television signals (the radio spectrum covers the 3KHz to 300GHz frequency range). Stating only "antennas" makes this intent more clear. Note that while antennas are exempt from height limits, the mounting hardware is subject to either B.1. of this section, or for RF facilities, the requirements in 33.274.

Item #43: Regional Arts and Culture Commission - Options for Public Art

33.130.230 Ground Floor Windows

Currently the zoning code includes a clause for commercial zones and the EX zone that allows public art approved by the Regional Arts and Culture Commission (RACC) to be considered in order to gain approval of an adjustment to the ground floor window requirement. The intent is to provide an opportunity for public art in lieu of ground floor windows. BDS generally defers to RACCs expertise when reviewing this type of an adjustment and approves RACC-approved installations.

This amendment is intended to reduce the procedural steps required to provide public art by waiving the requirement for an adjustment and instead relying on the property owner/developer and RACC to come to an agreement on public art in place of ground floor windows. This amendment provides an incentive for the use of public art in situations where meeting the ground floor window requirements may be impractical. This exception will not apply inside the Central City plan district (CCPD), where the existing requirements to obtain adjustments or modifications will continue to apply. Exterior development or alterations in the CCPD are generally required to go through the Design Review process. Modifications can be requested through that process and don't add time to the review. So in the CCPD, the requirement remains so that the design review can contemplate the proposal more holistically.

The amendment also removes language that is directly related to the RACC approval process, since the zoning code does not regulate the process. However the RACC approval process for public art is fairly extensive, including reviewing the appropriateness of the request, and requiring a series of three meetings in front of the Public Art Advisory Council (PAAC) to discuss the proposal, funding needs and maintenance. For public murals, RACC sends notice of these meetings to the neighborhood association. RACC also considers equity issues when reviewing proposals for public art and has an equity and outreach plan.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.130 COMMERCIAL ZONES

33.130.210 Height

A. [No change]

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

1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other items similar with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
2. [No change]
3. ~~Radio and television antennas~~ Antennas, utility power poles, and public safety facilities are exempt from the height limit.
- 4.-5. [No change]

33.130.230 Ground Floor Windows

A. Purpose. In the C zones, blank walls on the ground level of buildings are limited in order to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas, or allowing public art at the ground level;
- Encourage continuity of retail and service uses;
- Encourage surveillance opportunities by restricting fortress-like facades at street level; and
- Avoid a monotonous pedestrian environment.

B. Required amounts of window area.

1. In CN1 & 2, CO1 & 2, CM, CS, and CG zones, street-facing facades on the ground level which are 20 feet or closer to the street lot line must meet the general window standard in Paragraph 3. below. However, on lots with more than one street frontage, the general standard must be met on one street frontage only. The general standard must be met on the frontage of the street that has the highest transit street classification according to the Transportation Element of the Comprehensive Plan. If two or more streets have the same highest transit street classification, then the applicant may choose on which street to meet the general standard. On all other streets, the requirement is 1/2 of the general standard.
2. In CX zone, all exterior walls on the ground level which face a street lot line, sidewalk, plaza, or other public open space or right-of-way must meet the general window standard in Paragraph 3., below.
3. General standard. The windows must be at least 50 percent of the length and 25 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 9 feet above the finished grade. The requirement does not apply to the walls of residential units, and does not apply to the walls of parking structures when set back at least 5 feet and landscaped to at least the L2 standard.

Item #43: Regional Arts and Culture Commission - Options for Public Art

33.130.230 Ground Floor Windows (contd)

See commentary on previous page

Item #18: Radio Frequency (RF) Transmission Facilities

33.130.265 Uncovered Accessory Structures

C. Setbacks

1. Uncovered accessory structures

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas " and "radio and television antennas" could lead to confusion. The regulation is intended to apply to all antennas that send or receive radio or television signals. Stating only "antennas" makes this intent more clear.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- C. Qualifying window features.** Required window areas must be either windows that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall. Display cases attached to the outside wall do not qualify. The bottom of the windows must be no more than 4 feet above the adjacent exterior grade.
- D. Exceptions for Public Art Adjustments.** Outside of the Central City plan district, public art is allowed instead of meeting may be considered for adjustments to the ground floor window provision. In all cases, the Regional Arts and Culture Council will review the application to determine whether public art is appropriate at the location, taking into account the scale and character of the building and area. The budget, selection process, final artwork, and installation must follow the guidelines of the Regional Arts and Culture Council and must be approved by the Regional Arts and Culture Council. Covenants for the public art will be required, following the regulations of Section 33.700.060, Covenants with the City, to ensure the installation, preservation, maintenance, and replacement of the public art. To qualify for this exception, documentation of approval by the Regional Arts and Culture Council must be provided prior to approval of the building permit.

33.130.265 Detached Accessory Structures

A.-B. [No change]

C. Setbacks.

1. Uncovered accessory structures. Uncovered accessory structures such as flag poles, lamp posts, signs, ~~radio~~ antennas and dishes, mechanical equipment, uncovered decks, play structures, and tennis courts are allowed in a street setback, but not in a required setback from an abutting residential zone.
2. [No change]

Item #18: Radio Frequency (RF) Transmission Facilities

33.140.210 Height

B. The height standard

3. height limit exemptions

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas" and "radio and television antennas" could lead to confusion. The exemption is intended to apply to all antennas that send or receive radio or television signals (the radio spectrum covers the 3KHz to 300GHz frequency range). Stating only "antennas" makes this intent more clear. Note that while antennas are exempt from height limits, the mounting hardware is subject to either B.1 of this section, or for RF facilities, the requirements in 33.274.

Item #43: Regional Arts and Culture Commission - Options for Public Art

33.140.230 Ground Floor Windows.

See commentary for 33.130.230

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES

33.140.210 Height

A. [No change]

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

1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other items similar with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
2. [No change]
3. ~~Radio and television~~ Antennas, utility power poles, and public safety facilities are exempt from the height limit.
- 4.-5. [No change]

33.140.230 Ground Floor Windows in the EX Zone

A. Purpose. In the EX zone, blank walls on the ground level of buildings are limited in order to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas, or allowing public art at the ground level;
- Encourage continuity of retail and service uses;
- Encourage surveillance opportunities by restricting fortress-like facades at street level; and
- Avoid a monotonous pedestrian environment.

B.-C. [No change]

D. Exceptions for Public Art Adjustments. Outside of the Central City plan district, public art is allowed instead of meeting may be considered for adjustments to the ground floor window provision. In all cases, the Regional Arts and Culture Council will review the application to determine whether public art is appropriate at the location, taking into account the scale and character of the building and area. The budget, selection process, final artwork, and installation must follow the guidelines of the Regional Arts and Culture Council and must be approved by the Regional Arts and Culture Council. Covenants for the public art will be required, following the regulations of Section 33.700.060, Covenants with the City, to ensure the installation, preservation, maintenance, and replacement of the public art. To qualify for this exception, documentation of approval by the Regional Arts and Culture Council must be provided prior to approval of the building permit.

Item #18: Radio Frequency (RF) Transmission Facilities

33.140.270 Detached Accessory Structures

C. Setbacks

1. Uncovered accessory structures

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas " and "radio and television antennas" could lead to confusion. The regulation is intended to apply to all antennas that send or receive radio or television signals. Stating only "antennas" makes this intent more clear.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.140.270 Detached Accessory Structures

A.-B. [No change]

C. Setbacks.

1. Uncovered accessory structures. Uncovered accessory structures, such as flag poles, lamp posts, signs, ~~radio~~ antennas and dishes, mechanical equipment, uncovered decks, play structures, and tennis courts, are allowed in a street setback, but not in a required setback from an abutting residential zone.
2. [No change]

Items #12, 13, 14: Short-Term Rentals

33.203.020 Description of Type A and Type B Accessory Home Occupations

Technical amendments to Chapter 33.203, Accessory Home Occupations replace references to bed and breakfast facilities and directs reader to the regulations in chapter 33.207 Accessory Short-Term Rentals.

33.203.030 Use-Related Regulations

Type B home occupations allow up to 8 customers a day or a nonresident employee. The amendment adds an additional prohibition from having both a Type B home occupation permit and an accessory short-term rental. In essence, a household must choose between having a home occupation OR renting out rooms on a less than monthly basis in order to limit the activity and impacts associated with a single household.

This restriction is intended to apply to both Accessory Short Term Rentals and what were formerly referred to as Bed and Breakfast Facilities. Note that bed and breakfast facilities/Type B accessory short term rentals may request employees as part of their conditional use review.

Item #11: Accessory Home Occupations

BDS Code Compliance receives complaints about activities associated with home occupation activities occurring in the public right-of-way. Code Compliance staff have requested that the home occupation regulations of Title 33 be amended so that these types of activities can be more readily enforced^[MT2].

Additional amendments to Title 16, Vehicles and Traffic, are also being made in order to reinforce the regulations in 33.203.050 which limits the number of vehicles used in association with a home occupation to one.

33.203.040.A.1. Outdoor activities

Currently the regulations require all outdoor activities to be in completely enclosed structures. This change clarifies that all associated activities must be on the site where the home occupation has been established. This will reduce problems with activities occurring outside on the site or in the right-of-way adjacent to the site. However, some accessory home occupations activities necessarily must take place off site (e.g. landscape maintenance, house painting, dog walking, or chauffeuring). The amended language includes an exception for these types of outdoor activities.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.203 ACCESSORY HOME OCCUPATIONS

33.203.020 Description of Type A and Type B Accessory Home Occupations

There are two types of home occupations, Type A and Type B. Uses are allowed as home occupations only if they comply with all of the requirements of this chapter.

- A. Type A.** A Type A home occupation is one where the residents use their home as a place of work; however, no employees or customers come to the site. Examples include artists, crafts people, writers, and consultants. Type A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work.
- B. Type B.** A Type B home occupation is one where the residents use their home as a place of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.
- C. ~~Bed and breakfast facility~~ **Accessory short-term rentals.** ~~Bed and breakfast facilities are exempt from the regulations of this chapter. The regulations for bed and breakfast facilities~~ accessory short-term rentals are stated in Chapter 33.212207.**
- D. Family daycare.** Family daycare for up to 16 children, including the children of the provider, is exempt from the regulations of this chapter as required by ORS 657A.440.

33.203.030 Use-Related Regulations

- A. Allowed uses.** [No change]
- B. Prohibited uses.**
 - 1.-2. [No change]
 - 3. A Type B accessory home occupation is prohibited in a residence with an accessory dwelling unit
 - 4. A Type B accessory home occupation is prohibited in a dwelling unit with an accessory short-term rental.
- C. Additional Type B home occupation regulations.** [No change]

33.203.040 Site-Related Standards

- A. Outdoor activities.**
 - 1. All activities associated with an accessory home occupation must be in completely enclosed structures on the site, excluding activities or services that, by their nature, must be conducted off site. Examples of accessory home occupations where activities or services must be conducted off site include house painting, landscape maintenance, or chauffeuring services.
 - 2. Exterior storage or display of goods or equipment is prohibited.
- B. Appearance of structure and site.** [No change]

Items #12, 13, 14: Short-Term Rentals

33.205.030 Design Standards

Technical amendments to Chapter 33.205, Accessory Dwelling Units replaces the reference to "bed and breakfast facilities" with "accessory short-term rentals".

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.205 ACCESSORY DWELLING UNITS

33.205.030 Design Standards

A.-B. [No change]

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

1.-2. [No change]

3. Other uses.

a. An accessory dwelling unit is prohibited on a site with a Type B home occupation.

b. An accessory dwelling unit is allowed on a site with an ~~approved Bed and Breakfast facility~~ accessory short-term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.

4.-11. [No change]

D. [No change]

Items #12, 13, 14: Short Term Rentals

CHAPTER 33.207

ACCESSORY SHORT-TERM RENTALS

Recently, there has been a dramatic increase in the number of residences being rented informally on a short-term basis through internet sites such as Airbnb and Home Away. In Portland, for example, Airbnb lists over 1,550 today, up from 107 in January 2011. The most common listings are from hosts who live on their property and offer a bedroom for rent on a nightly basis in their residence. This is a new way of providing visitor lodging accommodations and many cities are determining how to regulate these short-term rentals.

In Portland, rentals of less than 30 days are considered short-term and renting up to five bedrooms is allowed through the Bed and Breakfast Facility chapter of the Zoning Code. The process requires a Type II Conditional Use Review approval, which is a discretionary decision, costs \$4130, takes approximately eight to ten weeks to process, includes a public notice, and provides the ability to appeal staff's decision to Portland's Hearings Officer.

This proposal offers smaller scale short-term rentals a less expensive and faster process, while ensuring that adjacent neighbors are notified of the activity. The key features of this proposal are:

- Move the regulations in Chapter 33.212, Bed and Breakfast (B&B) Facilities to a new chapter: Chapter 33.207, Accessory Short-Term Rentals.
- Define Accessory Short-Term Rentals as one where "an individual or family resides in a dwelling unit and rents bedrooms to overnight guests."
- Allow Accessory Short-Term Rentals in houses, attached houses, duplexes, manufactured homes, and Accessory Dwelling Units (ADUs) in any zone.
- Distinguish Type A Accessory Short-Term Rentals (one- and two-bedroom rentals) from Type B Accessory Short-Term Rentals (three to five bedrooms).
- Provide a new by-right (non-discretionary) process and set of standards for Type A Accessory Short-Term Rentals, while retaining the existing Bed and Breakfast (B&B) Facilities process (Type II Conditional Use) and regulations for the Type B Accessory Short-Term Rentals.

33.207.010 Purpose

Revisions to the purpose statement reflect that the regulations of this chapter have been expanded to address, in addition to traditional bed and breakfast facilities, the increased number of smaller accessory short-term rentals where overnight guests are hosted in individual residences. Therefore, references to "large" and "older" houses have been deleted.

"Proprietor"—one who owns the business—has been replaced with "operator," which means the business owner, property owner, or day-to-day manager. This change is made throughout this chapter.

Commentary continues on next commentary page

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

CHAPTER 33.212207
BED AND BREAKFAST FACILITIES ACCESSORY SHORT-TERM RENTALS

Sections:

- 33.212207.010 Purpose
- 33.212207.020 Description
- 33.212207.030 Where These Regulations Apply
- 33.212207.040 Type A Accessory Short-Term Rentals
- 33.212.040~~207.050~~ ~~Use Related Regulations~~ Type B Accessory Short-Term Rentals
- 33.212.050 ~~Site Related Regulations~~
- 33.212207.060 Conditional Use Review
- 33.212207.070 Monitoring
- 33.212207.080 Pre-Established Bed and Breakfast Facilities

33.212207.010 Purpose

This chapter provides standards for the establishment of ~~bed and breakfast facilities~~ accessory short-term rentals. The regulations are intended to allow for a more efficient use of ~~large, older houses, certain types of residential structures in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience, and the bed and breakfast experience.~~ These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses without detracting from neighborhood character. In some situations, the proprietor operator can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

33.212207.020 Description

An accessory short-term rental is one where an individual or family resides in a house, attached house, duplex, or manufactured home and rents bedrooms to overnight guests. There are two types of accessory short-term rentals.

- A. Type A.** A Type A accessory short-term rental is one where the operator is renting no more than 2 bedrooms to overnight guests. ~~Bed and breakfast facility.~~ A bed and breakfast facility is one where an individual or family resides in a house and rents bedrooms to overnight guests. A bed and breakfast facility may also have visitors and non-resident employees.
- B. Type B.** A Type B accessory short-term rental is one where the operator is renting between 3 and 5 bedrooms to overnight guests.
- ~~B. Retail Sales And Service use.~~** ~~In zones where Retail Sales And Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales And Service category.~~

33.212207.030 Where These Regulations Apply

The regulations of this chapter Sections 33.212.040 through 33.212.080 apply to ~~bed and breakfast facilities~~ accessory short-term rentals in the R-all zones. In the ~~RX and RH~~ zones, where Retail Sales And Services uses a limited amount of commercial uses are allowed, limited by right or by conditional uses, ~~a bed and breakfast facility~~ accessory short-term rentals may be regulated either as a Retail Sales And Service use, or as ~~a bed and breakfast facility~~ an accessory short-term rental under the regulations of this chapter. The decision is up to the applicant.

Items #12, 13, 14: Short-Term Rentals

33.207.020 Description

Accessory short-term rentals have been divided into two types based on the number of bedrooms that are being rented: Type A (one and two bedrooms) and Type B (3 to 5 bedrooms). The description has also been expanded to encapsulate houses as well as attached homes, manufactured homes, duplexes, and accessory dwelling units.

33.207.030 Where These Regulations Apply

This section provides guidance on what regulations apply to a short-term rental. To address homes located in commercial and employment zones where retail sales uses are allowed, an applicant may choose whether to abide by the regulations of this chapter (a use accessory to household living) or alternatively meet requirements for a retail sales and service primary use.

33.207.040 Type A Accessory Short-Term Rentals

These regulations list the use and development standards that apply to the accessory short-term rentals with up to two bedrooms rented to overnight guests. It should be noted that although the section is shown as all new, many of the standards are taken directly from the existing Bed and Breakfast Facilities chapter. Strike thru and underline begins again at 33.207.050 Type B Accessory Short Term Rentals.

1. Accessory use.

This standard ensures that the short-term rental is accessory to the Household Living use. In the case of a duplex, the operator must live in the unit in which the bedrooms are rented to overnight guests.

2. Accessory dwelling units.

This standard gives the operator the option of living in an accessory dwelling unit (ADU) on site. Currently operators are only allowed to live in the house. ADUs are only allowed on sites containing a house, attached house or manufactured house.

5. Number of residents and guests.

Setting a maximum number of combined residents and guests based on the Zoning Code's definition of household ensures that Type A accessory short-term rentals will not have any more people staying overnight than what is allowed for any household. The household definition is: "one or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit."

7. Serving food and alcohol to guests.

The reference to the OLCC has been removed and replaced with more generic language that refers to other county or state requirements that may apply to accessory short-term rentals. Compliance with these other regulations is the responsibility of the operator, and typically not a zoning code requirement.

8. Commercial meetings.

Commercial meetings are allowed with some Type B accessory short-term rentals. This paragraph clarifies that they are prohibited with Type A accessory short-term rentals.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.207.040 Type A Accessory Short-Term Rentals

A. Standards. The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:

1. Accessory use. A Type A accessory short-term rental must be accessory to a Household Living use on a site. This means that the individual or family who operates the short-term rental must occupy the house, attached house, duplex, or manufactured home on the site as their primary residence, and unless allowed by 040.A.2, the bedrooms rented to guests must be within the dwelling unit in which the operator resides.
2. Accessory dwelling units. The operator of an accessory short-term rental on a site with an accessory dwelling unit may reside in the house, attached house or manufactured home and rent bedrooms in the accessory dwelling unit, or may reside in the accessory dwelling unit and rent bedrooms in the house, attached house or manufactured home.
3. Maximum size. A Type A accessory short-term rental is limited to renting a maximum of 2 bedrooms to overnight guests.
4. Legal bedrooms. The operator of an accessory short-term rental can only rent legal bedrooms.
5. Number of residents and guest. The total number of residents and guests occupying a dwelling unit with a Type A accessory short-term rental may not exceed the number allowed for a household.
6. Employees. Nonresident employees are prohibited. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed.
7. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements.
8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. Type A short-term rentals in a historic landmark that receive a special assessment from the State, may be open to the public for 4 hours one day each year. This is not considered a commercial meeting.

Items #12, 13, 14: Short Term Rentals

B. Type A accessory short-term rental permit.

This new subsection describes the process for obtaining a 2-year permit for a Type A accessory short-term rental. The subsection is modeled on the Type B Home Occupation permit (33.203.060), because the impacts to the surrounding neighborhood of a 1 or 2 bedroom short-term rental are similar to the impacts allowed with a Type B accessory home occupation, which allows up to eight customers to come to the site a day.

The permit procedure includes a requirement that a notice announcing the operator's intent to establish a Type A short-term rental be mailed or delivered to all recognized organizations whose boundaries include the site of the proposed facility, the property owner if not the applicant, and all owners of property abutting or across the street from the proposed facility. The operator's contact information must also be provided so that surrounding neighbors can contact the operator if there are subsequent concerns once the operator starts renting out bedrooms to overnight guests. Requiring a semi-annual renewal is consistent with the Home occupation permit, and ensures that as new neighbors move in, they will be notified on a regular basis and will have current operator contact information

Figure 207-1 indicates what surrounding properties need to be notified as part of the required notice.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

B. Type A accessory short-term rental permit. The operator of a Type A accessory short-term rental must obtain a permit from BDS. It is the responsibility of the operator to obtain the permit every two years. The permit requires the operator to agree to abide by the requirements of this section and document that the following notification requirements have been met:

1. Notification. The operator must:
 - a. Prepare a notification letter that:
 - (1) Describes the operation and the number of bedrooms that will be rented to overnight guests;
 - (2) Includes information on how to contact the operator by phone; and
 - (3) Describes how the standards in Subsection .040.A are met.
 - b. Mail or deliver the notification letter to all recognized organizations whose boundaries include the accessory short-term rental, the property owner if not the operator, and all owners of property abutting or across the street from the accessory short-term rental. See Figure 286-1.
2. Required information for permit. In order to apply for a Type A accessory short-term rental permit, the operator must submit to BDS:
 - a. Two copies of the completed application form bearing tax account number(s) and the location of the property, the name, address, and telephone number of the operator, the signature of the operator; and
 - b. A copy of the notification letter and a list, with names and addresses, of all the property owners and recognized organizations that received the notification.

Figure 207-1
Type A Accessory Short-Term Rental Permit Notice Area



Items #12, 13, 14: Short Term-Rentals

C. Revocation.

The Zoning Code gives the City the authority to impose fees or penalties for non-compliance. This standard extends the power of the Director of the Bureau of Development Services to revoke the permit if operators do not comply with the regulations in this chapter. See amendment to Title 3 (3.30.040.B.5) in Section IV of this report for specific language.

33.207.050 Type B Accessory Short Term Rentals

These regulations apply to accessory short-term rentals with 3 to 5 bedrooms. The content changes to these regulations from the existing regulations for bed and breakfast facilities include:

- The requirement that the house be at least 5 years old has been deleted. This addresses RICAP 6 Item #14.
- An accessory dwelling unit standard has been added to provide the operator the flexibility to live in either the main house, attached house, manufactured house or an accessory dwelling unit (ADU) on site. This amendment addresses RICAP Item #13.
- The requirement limiting private social gatherings has been deleted (see private social gathering commentary next page)

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

C. Revoking a Type A accessory short-term rental permit. A Type A accessory short-term rental permit can be revoked for failure to comply with the regulations of this Chapter, through the procedures identified in Paragraph 3.30.040.B.5 of Title 3, Administration. When a Type A accessory short-term rental permit has been revoked, a new Type A accessory short-term rental permit will not be issued to the operator or other persons residing with the operator for 2 years.

33.212.040 207.050 Use-Related Regulations Type B Accessory Short-Term Rentals

A. Standards. The following standards apply to Type B accessory short-term rentals.

1. A Type B accessory short-term rental is allowed in a house, attached house, duplex, manufactured home or accessory dwelling unit if approved through a conditional use review.

~~A.2.~~ Accessory use. A bed and breakfast facility ~~An Type B accessory short-term rental~~ must be accessory to a Household Living use on a site. This means that the individual or family who operate the ~~facility~~ accessory short-term rental must occupy the house, attached house, duplex, manufactured home or accessory dwelling unit as their primary residence, and unless allowed by 050.A.3, the bedrooms rented to guests must be within the dwelling unit in which the operator resides. ~~The house must be at least 5 years old before a bed and breakfast facility is allowed.~~

3. Accessory dwelling units. The operator of an accessory short term rental on a site with an accessory dwelling unit may reside in the house, attached house or manufactured home and rent bedrooms to overnight guests in the accessory dwelling unit, or may reside in the accessory dwelling unit and rent bedrooms to overnight guests in the house, attached house, or manufactured home.

~~B.4.~~ Maximum size. A Type B accessory short-term rental ~~Bed and breakfast facilities are~~ is limited to renting a maximum of 5 bedrooms for to overnight guests. In the single-dwelling zones, a Type B accessory short-term rental ~~bed and breakfast facility~~ over this size limit is prohibited.

5. Legal bedrooms. The operator of an accessory short-term rental can only rent legal bedrooms.

6. Number of residents and guests. The total number of residents and guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

~~C.7.~~ Employees. Bed and breakfast facilities may have a ~~Nonresident employees for such activities such as booking rooms and food preparation, if may be approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, may also be approved is allowed.~~ The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

~~D.8.~~ Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements. ~~The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.~~

Items #12, 13, 14: Short-Term Rentals

9. Commercial meetings

a. Commercial meetings.

No substantive changes have been made. Amendments to these regulations are grammatical only.

2. Private social gatherings (deleted)

This restriction has been deleted. Household Living nor other accessory activities in residential zones (e.g. home occupations, food buying clubs, community supported agriculture distribution sites, daycare) have this limitation on private social gatherings.

b. Historic landmarks

No substantive changes have been made. Amendments to these regulations are grammatical only.

c. Meeting log

Language is added that allows city staff to inspect the log of commercial meetings. This will improve code enforcement.

33.212.050 Site related Standards (deleted)

A. Development Standards (deleted)

This standard is part of the general requirements listed at the beginning of the zoning code, so its inclusion here is unnecessary and redundant.

B. Appearance

No content changes. This standard has been renumbered to be included within the development standards above.

C. Signs (deleted).

The sign regulations continue to apply. References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these [regulations](#)^{WS3}.

D. Accessory dwelling units (delete)

This is unnecessary and redundant, all ADUs must comply with Chapter 33.205.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

~~E.9. Commercial m~~Meetings and social gatherings.

- ~~1~~a. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are regulated as follows:
 - ~~a.~~(1) In single-dwelling zones, commercial meetings are prohibited in a short term rental;
 - ~~b.~~(2) In multi-dwelling zones, the operator may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.
- ~~2.~~ Private social gatherings. ~~The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be are hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.~~
- ~~3~~b. Historical landmarks. A bed and breakfast facility ~~which is~~ located in a historical landmark ~~and which that~~ receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as ~~either a commercial meeting. or a private social gathering.~~
- ~~4~~c. Meeting log. ~~The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.~~

33.212.050 Site-Related Standards

- ~~A.~~ **Development standards.** Short term rentals must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- ~~B.~~10. Appearance. Residential structures may be remodeled to accommodate short term rentals. However, structural alterations may not be made that prevent the structure from being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.
- ~~C.~~ **Signs.** ~~The sign standards are stated in Title 32, Signs and Related Regulations.~~
- ~~D.~~ **Accessory dwelling units.** ~~Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.~~

Items #12, 13, 14: Short Term Rentals

33.212.060 Conditional Use Review

No content change. This process applies to Type B short-term rentals. These amendments replace the term "Bed and Breakfast facility" with "Type B accessory short-term rental". A sentence has also been revised to clarify that apart from proposals that include commercial meetings, all Type B rentals are processed through a Type II conditional use procedure.

33.212.070 Monitoring

No content changes. The monitoring requirement applies to all accessory short term rentals for purposes of demonstrating compliance with the requirements of this chapter.

33.212.080 Pre-Established Bed and Breakfast Facilities

The term "Bed and Breakfast Facilities" is retained for those facilities that were approved prior to the change in terminology to "Accessory Short-Term Rentals". This ensures that those facilities may continue under the terms of their prior approvals, and do not need to obtain a new approval through a conditional use or permit.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.~~212~~207.060 Conditional Use Review

~~Bed and breakfast facilities~~ All Type B accessory short-term rentals require a conditional use review. A ~~facility~~ Type B accessory short-term rental that proposes commercial meetings ~~as provided in 33.212.040.E.1.b~~ is processed through a Type III procedure. All other Type B accessory short-term rental are processed through a Type II procedure. ~~The review for all other facilities is processed through a Type II procedure.~~ The approval criteria for Type B accessory short-term rentals are stated in 33.815.105, Institutional and other uses in R Zones.

33.~~212~~207.070 Monitoring

~~All bed and breakfast facilities~~ Type A and Type B accessory short term rentals must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room ~~number of~~ assigned to each guest. The log must be available for inspection by City staff upon request.

33.~~212~~207.080 Pre-Established Bed and Breakfast Facilities

- A. Facilities without a revocable permit.** Bed and breakfast facilities that were operating before May 24, 1988 and which did not receive a revocable permit, may continue to operate as an approved conditional use if the operator can show proof that the operation was established through City licensing. The requirements for verification are listed below.
1. The facility was operating with a City business license or was granted exemption from the business license requirement;
 2. City transient lodging taxes were paid part or all of the tax period preceding May 24, 1988; and
 3. The owner or operator can document that the Portland Bureaus of Planning or Buildings approved the site for a bed and breakfast facility prior to purchase, construction, or remodeling of the facility.
- B. Alterations and Expansions.** The approved conditional use status provided for in Subsection .080.A ~~above~~ applies only to the number of bedrooms, and size of facility that existed on January 1, 1991. Any expansions of building area or alterations, that increase the intensity of the facility, are not allowed unless approved through a conditional use review as provided in Section 33.207~~212~~.060.
- C. Facilities with a revocable permit.** Bed and breakfast facilities operating under approved revocable permits are subject to the regulations for revocable permits in 33.700.120, Status of Prior Revocable Permits.

Item #15: Community Design Standards Cross Reference

The amendments to Chapter 33.218 address two issues:

First, residential projects in RH, RX, C, and E zones may alternatively apply the design standards that are applicable to multi-dwelling (R3, R2, R1) residential zones. However, those sections include standards that are specific to proposals in particular residential zones, and don't include references for residential projects located in the C or E zones that have opted to use the multi-dwelling design standards.

Second, there are regulations for exterior finish materials located throughout this chapter and in several other places in the zoning code. The regulations often use slightly different wording, and the inconsistency creates confusion.

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

G. Foundation material.

There are no changes proposed to this subsection, it has been included for reference to indicate that consistent language for foundation material is repeated throughout the chapter.

H. Exterior finish materials.

Changes to make the language in this section consistent include:

- Reorganizing the subsection with separate paragraphs to address 1) materials that are not allowed, 2) exceptions for composite materials, 3) requirements for wood materials, and 4) requirements for horizontal siding.
- Added "composite materials manufactured from wood or other products" to the list of materials that are not allowed. These materials include fibrous cement, metal, and simulated stucco. This reinforces the allowance for use of composite boards which may be used when the material is less than 6 inches wide.
- Added the requirement that siding may not cover trim, required by subsection K.
- A minor revision that allows greater variation of board reveal, consistent with what is allowed for vinyl and aluminum siding.
- Replace the phrase "not allowed" to "may not be used" consistent with other paragraphs in this section

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

Additional language is included in this section in order to inform users that either this section or Section 33.218.140 may be used for residential-only projects in RH, RX, C, and E zones. This is intended to clarify why references to these zones appear in a section regulating R3, R2, and R1 zones.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.218 COMMUNITY DESIGN STANDARDS

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

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

A.-F. [No change]

G. Foundation material. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.

H. Exterior finish materials. The standards of this subsection must be met on all building facades.:

1. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard ~~are not allowed~~ may not be used as exterior finish material.
2. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide.
- ~~3.~~ Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes.
- ~~4.~~ Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of ~~3 to 6~~ 3 to 6 inches or less, or vinyl or aluminum siding that is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width.
5. Siding material may not cover required window and door trim.

I.-P. [No change]

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

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

The standards of this section can also apply to development of new structures in the RH, RX, C and E zones on sites where all the uses are residential. In this case, the applicant can choose to meet all the standards in this section or all the standards in Section 33.218.140, Standards for all Structures in the RH, RX, C and E Zones.

A.-B. [No change]

Item #15: Community Design Standards Cross Reference

C. Residential buffer.

Three changes are included in this subsection:

- 1) for greater consistency with other parts of the code, the listing of zones follows a lower intensity to higher intensity hierarchy. In other words "RX, RH, or R1" is listed backwards and has been corrected.
- 2) To ensure that the buffer requirements are applied to projects in the RH, RX, C and E zoned sites located across the street from or abutting an RF through R2 zone, these higher intensity zones are listed in this section. Note that the RH and RX zones were already noted, but the C and E zones had been previously omitted.
- 3) Comparing the residential buffer requirements of 33.218.110.C. (multidwelling zones) and 33.218.140.D (RH, RX, commercial and employment zones) which are exactly the same, the Hollywood plan district, and Main Street Corridor and Main Street Node overlay zones are exempted in the latter standards but not the former set of standards. This change resolves this by making both sets of standards consistent.

D. Building height.

This provision adds employment (E) zones to match what is currently prescribed in 33.218.140.E. which sets the maximum height for RH, RX, and E zones at 55 feet.

I. Foundation material.

There are no changes proposed to this subsection, it has been included for reference to indicate that consistent language for foundation material is repeated in the chapter.

J. Exterior finish materials.

Changes to make this section consistent include:

- Organized the subsection with separate paragraphs to address 1) materials that are not allowed, 2) exceptions for composite materials, 3) requirements for wood materials, 4) requirements for horizontal siding, and 5) not covering trim
- Replaced the phrase "not allowed" with "may not be used" consistent with other paragraphs in this section.
- Added "composite materials manufactured from wood or other products" to the list of materials that are not allowed, except as secondary finishes. This complements the regulation allowing use of composite boards when the material is less than 6 inches wide.
- Made the allowed board reveal consistent with what is allowed for vinyl and aluminum siding.
- Added the requirement that siding may not cover trim required by Subsection L.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

C. Residential buffer. Where a site zoned R1, RH, RX, C, or E ~~RX, RH, or R1~~ abuts or is across a street from an RF through R2 zone, the following is required. Proposals in the Hollywood and Kenton plan districts, the Main Street Corridor Overlay Zone, and the Main Street Node Overlay Zone are exempt from this standard:

1. On sites that abut an RF through R2 zone the following must be met:
 - a. In the portion of the site within 25 feet of the lower density residential zone, the building height limits are those of the adjacent residential zone; and
 - b. A 10 foot deep area landscaped to at least the L3 standard must be provided along any lot line that abuts the lower density residential zone.
2. On sites across the street from an RF through R2 zone the following must be met:
 - a. On the portion of the site within 15 feet of the intervening street, the height limits are those of the lower density residential zone across the street; and
 - b. If the site is across a local service street from an RF through R2 zone, a 5-foot deep area landscaped to at least the L2 standard must be provided along the property line across the local service street from the lower density residential zone. Vehicle access is not allowed through the landscaped area unless the site has frontage only on that local service street. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

D. Building height. Except as provided in Subsection C, above, structures in the RH₁ ~~and RX, and E~~ zones may be up to 55 feet in height.

E. - H. [No change]

I. Foundation material. Plain concrete block or plain concrete may be used as foundation material if ~~the~~ foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.

J. Exterior finishes materials. The standards of this subsection must be met on all building facades.:

1. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard ~~are not allowed~~ may not be used as exterior finish material, except as secondary finishes if they cover no more than 10 percent of ~~the surface area of~~ each facade.
2. Composite boards manufactured from wood or other products, such as hardboard or hard plank, may be used when the board product is less than 6 inches wide.

Item #15: Community Design Standards Cross Reference

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

A. Foundation material.

Added a subsection that incorporates existing foundation material requirements from the exterior finish materials subsection for greater code structure consistency with other sections in this chapter.

B. Exterior finish materials.

Changes to make this section consistent include:

- Organized the subsection with separate paragraphs to address 1) materials that are not allowed, 2) exceptions for composite materials, 3) requirements for wood materials, 4) requirements for horizontal siding, 5) not covering trim and 6) compatible materials.
- Added "composite materials manufactured from wood or other products" to the list of materials that are not allowed. This complements the regulation allowing the use of composite boards when the material is less than 6 inches wide.
- Added the allowance to use composite board material when less than 6 inches in width, as well as the restriction on wood siding (must be shingles or horizontal siding) to be consistent with the requirements that apply to primary structures in the single dwelling, R3, R2, and R1 zones. This consistency is also helpful when applying the "compatible exterior finish material" requirement (requires that materials match the primary structure).
- Relocated the requirement that siding may not cover required trim.
- Made the board reveal consistent with what is allowed for vinyl and aluminum siding.
- Incorporated the provisions of Subsection B, compatible exterior finish materials, into the general requirements for exterior finish materials.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- ~~3.2.~~ Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes.
- ~~4.3.~~ Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of ~~3 to 6~~ inches or less, or vinyl or aluminum siding which is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width.
- 5. Siding material may not cover required window and door trim.

K. - R. [No change]

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

The standards of this section are applicable to development of new detached accessory structures in single dwelling, R3, R2, and R1 zones.

A. Foundation material. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.

~~B.A.~~ Exterior finish materials. The standards of this subsection must be met on all building facades.

- 1. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard may not be used as exterior finish materials. ~~Sheet pressboard is pressboard that is more than 6 inches wide. Foundation material may be plain concrete or plain concrete block when the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.~~
- 2. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide.
- 3. Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes.
- 4. Where ~~h~~Horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of ~~3 to 6~~ inches or less, or vinyl or aluminum siding that is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width.
- 5. Siding material may not cover required window and door trim.

~~6.B.~~ Compatible exterior finish materials. Exterior material type, size and placement on detached accessory structures must be the same as or visually match that of the primary structure. However, if the exterior finishes and materials on the primary structure do not meet the standards above ~~for exterior finish materials~~, then any material that meets the ~~above~~ standards above may be used. ~~The siding material may not cover the window and door trim.~~

C. - J. [No change]

Item #15: Community Design Standards Cross Reference

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

Additional language is included in this section in order to inform users that either this section or Section 33.218.140 may be used for residential-only structures proposed in RH, RX, C, and E zones. This is intended to clarify why references to these zones appear in a section regulating Single dwelling and the R3, R2, R1 zones.

A. Foundation material.

There are no changes proposed to this subsection, it has been included for reference to indicate that consistent language for foundation material is repeated in the chapter.

B. Exterior finish materials.

Changes to make this section consistent include:

- Incorporated the provisions of Subsection C, compatible exterior finish materials, into the general requirements for exterior finish materials.
- Organized the subsection with separate paragraphs to address 1) materials that are not allowed, 2) exceptions for composite materials, 3) requirements for wood materials, 4) requirements for horizontal siding, and 5) not covering trim
- Replaced the phrase "not allowed" with "may not be used" consistent with other paragraphs in this section
- Added "composite materials manufactured from wood or other products" to the list of materials that are not allowed. This complements the regulation allowing use of composite boards when the material is less than 6 inches wide.
- Added siding requirements (B.3.), consistent with requirements in 33.218.100, 110, and requirements added to .120 that also apply to single dwelling, R3, R2, R1 zones.
- Made the allowed board reveal consistent with what is allowed for vinyl and aluminum siding.
- Relocated the requirement that siding may not cover required trim.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

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

The standards of this section apply to exterior alterations of primary structures and both attached and detached accessory structures in residential zones. These standards apply to proposals where there will be only residential uses on the site.

The standards of this section can also apply to exterior alterations in the RH, RX, C and E zones on sites where all the uses are residential. In this case, the applicant can choose to meet all the standards in this section or all the standards in Section 33.218.140, Standards for all Structures in the RH, RX, C and E Zones.

- A. Foundation material.** Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.
- B. Exterior finish materials.** The standards of this subsection must be met on all building facades. The exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. However, if the existing exterior finish materials do not meet the following standards, then they must be replaced on the portion being altered or added with materials that meet the following standards.
 - 1. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard are not allowed may not be used as exterior finish material.
 - 2. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide.
 - 3. Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes.
 - 4. Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of 3 to 6 inches or less, or vinyl or aluminum siding that is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width.
 - 5. Siding material may not cover required window and door trim.
- ~~**C. Compatible exterior finish materials.**~~
 - ~~1. If the existing exterior finish materials meet the standards above for exterior finish materials, they must be retained or visually matched on the portion being altered or added; or~~
 - ~~2. If the existing exterior finish materials do not meet the standards above for exterior finish materials, they must be replaced on the portion being altered or added with horizontal boards, shingles, or brick that meet the above standards; and~~
 - ~~3. The siding material may not cover the window and door trim.~~
- D. - H.** [renumber C. - G.]

Item #15: Community Design Standards Cross Reference

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

The language has been revised for greater clarity and better consistency with code construction in Sections 33.218.110 and 33.218.130.

D. Residential Buffer

For greater consistency with other parts of the code, the listing of zones follows a lower intensity to higher intensity hierarchy. In other words "E, C, RX or RH" is listed backwards and has been corrected.

The remainder of this section is included for reference and comparison with changes shown in 33.218.110.C.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

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

The standards of this section apply to development of all structures in RH, RX, C, and E zones. These standards also apply to exterior alterations in these zones.

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

A. - C. [No change]

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

1. On sites that abut an RF through R2 zone the following must be met:
 - a. In the portion of the site within 25 feet of the lower density residential zone, the building height limits are those of the adjacent residential zone; and
 - b. A 10-foot deep area landscaped to at least the L3 standard must be provided along any lot line that abuts the lower density residential zone.
2. On sites across the street from an RF through R2 zone the following must be met:
 - a. On the portion of the site within 15 feet of the intervening street, the height limits are those of the lower density residential zone across the street; and
 - b. If the site is across a local service street from an RF through R2 zone, a 5-foot deep area landscaped to at least the L2 standard must be provided along the property line across the local service street from the lower density residential zone. Vehicle access is not allowed through the landscaped area unless the site has frontage only on that local service street. Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.

Item #15: Community Design Standards Cross Reference

33.218.140 Standards for All Structures in the RH, RX, C, and E Zones. (cont'd)

E. Building Height

1.b. Maximum height in RH, RX and E zones.

For greater consistency with other parts of the code, the listing of zones follows a lower intensity to higher intensity hierarchy. In other words "RX, RH, or E" is listed backwards and has been corrected. Also, the phrase "the height may be reduced" could be read as a permissive option, as opposed to a mandatory limitation.

F. Signs.

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

H. Foundation material.

Added a subsection that incorporates existing foundation material requirements from the exterior finish materials subsection for greater format consistency with other sections in this chapter.

The exemption for foundation material for sites in the EX zone of the St. Johns Plan District maintains the existing exemption in I.1.b. which allows unrestricted use of plain concrete and plain concrete block for these sites.

I. Exterior finish materials.

Changes to make this section consistent include:

- Organized the subsection with separate paragraphs to address 1) materials that are not allowed, with exceptions for sites in the St. John's EX zones, and 2) compatible exterior finish materials
- In zones that allow larger scale buildings, regulations are included to allow for some materials to be used as secondary finishes. The list of allowable materials in the RH, RX, C and E zones has been amended to limit the use of composite panels such as those produced by Hardie or Nichiha to secondary finish materials. These panels offer a wide variety of style and color options but may not be appropriate over a larger portion of the building.
- Similarly, horizontal shiplap and clapboard siding are not appropriate when used over a large portion of a large scale building. These materials have been added to the list of materials subject to the secondary finish requirement.
- Unlike other sections that have required trim, 33.218.140 does not. Therefore the restriction on covering required trim is not included here.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

E. Building height.

1. Maximum height in RH, RX, and E zones.
 - a. Generally. Structures in the RH, RX and E zones may be up to 55 feet in height;
 - b. Where a site zoned ~~RX~~, RH, RX or E abuts or is across a street from an RF through R2 zone, the maximum height is ~~may be~~ reduced as specified in Subsection D, above;
 - c. New and replacement antennas are exempt from this standard if the antennas are located on an existing monopole, and the antennas do not project above the height of the monopole.
2. Minimum height. In C and E zones, primary buildings must be at least 16 feet in height.

~~**F. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.~~

G. - H. [renumber **F.- G.**]

H. Foundation material. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall. This subsection does not apply to sites in the EX zone within the St. Johns plan district.

I. Exterior finish materials.

1. The standards of this paragraph must be met on all building facades.
 - a. ~~Exterior finish materials not allowed.~~ Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard, and horizontal shiplap or clapboard siding may not be used as exterior finish materials except as secondary finishes if they cover no more than 10 percent of the each facade surface area. Sheet pressboard is pressboard that is more than 6 inches wide. Foundation material may be plain concrete or plain concrete block when the foundation material is not revealed for more than 3 feet.
 - b. Exception for sites in the EX zone within the St. Johns plan district. Plain concrete block, plain concrete, and corrugated metal are permitted as exterior finish materials in the EX zone in the St. Johns plan district.
2. Compatible exterior finish materials. Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. However, if the exterior finishes ~~and~~ materials on the existing building do not meet the standards of Paragraph I.1, ~~above~~, any material that meets the standards of Paragraph I.1 may be used.

J. - Q. [No change]

Item #15: Community Design Standards Cross Reference

33.218.150 Standards for I Zones.

C. Signs.

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

F. Foundation material.

Added a subsection that incorporates existing foundation material requirements from the exterior finish materials subsection for greater format consistency with other sections in this chapter.

G. Exterior finish materials.

Changes to make this section consistent include:

- Organized the subsection with separate paragraphs to address 1) materials that are not allowed and 2) compatible exterior finish materials
- In zones that allow larger scale buildings, regulations are included to allow for some materials to be used as secondary finishes. The list of allowable materials in the I zones has been amended to limit the use of composite panels such as those produced by Hardie or Nichiha to secondary finish materials. These panels offer a wide variety of style and color options but may not be appropriate over a larger portion of the building.
- Similarly, horizontal shiplap and clapboard siding are not appropriate when used over a large portion of a large scale building. These materials have been added to the list of materials subject to the secondary finish requirement.
- Unlike other sections that have required trim, 33.218.150 does not. Therefore the requirement to not cover required trim is not included here.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.218.150 Standards for I Zones

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

A. - B. [No change]

~~**C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.~~

D.-F. [renumber C.-E.]

F. Foundation material. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.

G. Exterior finish materials. The standards of this subsection must be met on all building facades:

1. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard, and horizontal shiplap or clapboard siding may not be used ~~as exterior finish materials~~ except as secondary finishes if they cover no more than 10 percent of ~~the each facade surface area. Sheet pressboard is pressboard that is more than 6 inches wide. Foundation material may be plain concrete or plain concrete block when the foundation is not revealed for more than 3 feet.~~
2. Compatible exterior finish materials. Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. However, if the exterior finishes ~~and~~ materials on the existing building do not meet the standards of Paragraph G.1, ~~above~~, any material that meets the standards of Paragraph G.1 may be used.

H. - I. [no change]

Item #16: Convenience Stores

The current requirements for establishing a convenience store include a number of provisions that are confusing.

- Chapter 33.219 uses the terms "applicant", "owner", "operator", "manager", and "local representative of the parent company" inconsistently and often interchangeably.
- The term "Good Neighbor Plan" is often confused with the more rigorous "Good Neighbor Agreement" process.
- The chapter lacks guidance for what requirements apply when there is a change of owner.
- The neighborhood contact requirements are not clear and are inconsistent with the neighborhood contact requirements in 33.700.025.

33.219.010 Purpose

The purpose statement has been amended to clarify that the regulations provide a process for identifying and addressing issues and concerns presented by the proposed convenience store. Good Neighbor Plan has been replaced throughout the chapter with Implementation Program to better differentiate it from Good Neighbor Agreements.

33.219.020 Where the Regulations Apply

These changes address how the regulations apply when the convenience store is transferred to a new owner.

33.219.025 Procedure

Convenience stores are not reviewed with a zoning permit. Instead BDS processes applications for convenience stores in new developments with a building permit and convenience stores in existing buildings with a Zoning Confirmation. This section adds a requirement that when a convenience store has a new operator, he/she may continue to operate under the terms of the previous implementation program, or may seek to update the implementation program by completing the requirements of this chapter (including holding a neighbor meeting and filing a new implementation program)

33.219.030 Preliminary Steps Before Submitting an Application

This section lists the steps required to complete the implementation program including neighborhood contact requirements. The term "operator" has replaced "applicant" and "owner" for greater clarity on who is responsible for completing the requirements of this chapter.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.219 CONVENIENCE STORES

Sections:

- 33.219.010 Purpose
- 33.219.020 Where the Regulations Apply
- 33.219.025 Procedure
- 33.219.030 Preliminary Steps Before Submitting an Application
- 33.219.060 ~~Other~~ Implementation Program Requirements
- 33.219.070 Record of Good Faith

33.219.010 Purpose

The convenience store requirements provide regulations and procedures to allow convenience stores while reducing the negative impacts on nearby residents and businesses. ~~This is achieved by requiring convenience store owners or operators to meet with interested parties both before and after the development process and by requiring the formulation of a written implementation program, referred to as a "Good Neighbor Plan".~~ This chapter provides a ~~consistent~~ method for identifying and of addressing issues and areas of concerns that neighbors and the convenience store owner or operator may have regarding the operations and potential impacts of the convenience store. to the convenience store owner/operators and nearby residents and businesses. The outcome will be a written Implementation Program.

33.219.020 Where the Regulations Apply

All convenience stores proposing to locate in a new ~~building~~ or ~~in an~~ existing building are subject to the regulations of this chapter. The regulations also apply when the operator of a convenience store changes.

33.219.025 Procedure

Compliance with standards of this chapter is determined as part of a building permit application or zoning approval permit application. When the operator of a convenience store changes, the operator must adhere to the existing Implementation Program or must follow the requirements of this chapter to create a new Implementation Program.

33.219.030 Preliminary Steps Before Submitting an Application

Prior to submitting a building permit ~~or zoning permit~~ application ~~or requesting zoning approval~~ for a convenience store, the ~~applicant~~ operator must complete all of the steps listed below.

- A. Develop an Implementation Program Good Neighbor Plan and site plan.** The ~~applicant~~ operator must develop a draft Implementation Program Good Neighbor Plan and site plan, ~~that which~~ meet all of the requirements of 33.219.060 below.

Item #16: Convenience Stores

33.219.030 Preliminary Steps Before Submitting an Application (cont'd)

B. Contact Neighborhood Association

This subsection was revised to incorporate neighborhood contact notification requirements similar to those in Section 33.700.025. That section includes timelines, procedures and purpose for the neighborhood meetings that are applicable to a broad suite of proposal types. This revision also stipulates that the neighborhood association must respond to the meeting request within 14 days, which mirrors the general neighborhood contact requirement.

BDS is developing a neighborhood contact form, that will include a consistent format for applicants to use, and will give neighborhood associations better instructions for how to respond to these and other neighborhood contact requests.

C. Neighborhood Notice.

Added the requirement that mail be sent registered or certified. This ensures sufficient documentation is available for completing the record of good faith in section 33.219.060, and is consistent with requirements established for other types of neighborhood contact in the zoning code.

Removed requirement that copy of the notice be sent to BDS. Copies of these notices are already required to be filed with the record of good faith with the zoning confirmation request/building permit.

This subsection was also modified to address situations when the neighborhood association does not hold a meeting. The purpose of this notice is to provide recipients with contact information for any pending or future concerns related to the convenience store operations.

E. Application for a building permit/zoning confirmation.

This subsection is amended to reflect that BDS uses zoning confirmation letters as opposed to zoning permit procedures, and clarifies that the final version of the Implementation Program be submitted. Changes to the Implementation Program requirements have folded in the lighting report, and therefore a separate reference to that report here is unnecessary.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- B. Contact neighborhood association.** Upon completion~~ing~~ of the draft Implementation Program ~~Good Neighbor Plan~~ and site plan, the operator must contact owner or operator of the proposed convenience store must notify the local neighborhood association to request a meeting. The operator must also send a copy of the neighborhood association meeting request to the affected district neighborhood coalition; however, the operator is not required to offer to meet with the district neighborhood coalition. ~~[MT4] in writing of the desire to set up a formal meeting.~~

The meeting request must be sent by registered mail and must contain the ~~A copy of the proposed draft Implementation Program, Good Neighbor Plan and the draft site plan, and a description of any~~ must accompany the letter. The letter must mention permits, land use reviews, or licenses that will be requested, and associated timelines. A copy of the letter, the proposed Good Neighbor Plan, and the site plan must be sent to the affected district neighborhood coalition. The neighborhood association must set a meeting date within 45 days of the initial contact, or the applicant will be allowed to proceed to the application stage discussed in Subsection E. below. The request letter must also summarize the purpose of the meeting and describe the following timelines.

The neighborhood association should reply to the operator within 14 days and hold a meeting within 45 days of the date the letter was mailed. If the neighborhood association does not reply to the operator's letter within 14 days, or hold a meeting within 45 days, the operator may request a building permit or zoning approval without further delay. If the neighborhood holds the meeting within the time frame, the operator must attend the meeting. The operator may attend additional meetings on a voluntary basis. The neighborhood may schedule the meeting with its board, the general membership, or a committee.

- C. Neighborhood notice. Notice of meeting.** Upon receiving notice of the time and place of the meeting, the applicant In addition to contacting the neighborhood association, the operator must send notice by registered or certified mail to ~~must~~ notify in writing all property owners within 150 feet of the proposed store site, BDS, and to all any other recognized organizations within 400 feet of the proposed store site. The notice must include the contact information required by paragraph 33.291.060.G, and the date, time and place of the neighborhood meeting where the convenience store will be discussed. If the neighborhood association did not respond to the operator's request for a meeting within 14 days, then the information about the date, time, and location of a meeting is not required. The notice form and the location of neighborhood association boundaries are available from the Office of Neighborhood Involvement.

- D. Convenience store meeting.** The purpose of the meeting is to provide the opportunity for all interested parties to voice their concerns regarding the proposed convenience store. The anticipated outcome of the meeting is an agreement among the local residents, businesses, and the applicant as to the content of the Implementation Program ~~Good Neighbor Plan~~ and the site plan. However, a consensus is not required. The meeting may be continued at a later date if all parties agree.

- E. Application for a building permit/zoning approval permit.** The next step is the application for a building permit or zoning approval permit. The application must be accompanied by the site plan, the final version of the Implementation Program and Good Neighbor Plan the record of good faith, ~~and the lighting report, as discussed~~ described in 33.219.070 60 below.

Item #16: Convenience Stores

33.219.060 Implementation Program Requirements

This section is being renamed to reflect that the prior section was describing steps in the application process, while this section describes the Implementation Program application submittal requirements.

This section has been reorganized to specifically address the requirements of the Implementation Program. Clarification of the responsible party (the operator) has been made throughout this section.

F. Lighting Certification

This subsection simply incorporates 33.219.060 C into the Implementation Program as opposed to having it as a separate application item. It follows the other aspects of the Implementation Program that are related to site operations and ensuring nuisances are prevented.

G. Communication Agreement

This subsection has been revised to reflect the intent that a contact person be identified for on-going communication with the neighborhood. In this case, the operator may designate a contact person that is someone other than the operator. This subsection is also amended to give direction when there are changes to the designated contact person or their contact information.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.219.060 ~~Other~~ Implementation Program Requirements

An application for proposals to locate a convenience store in a new or existing building must be accompanied by ~~the following information:~~ **A. ~~Good Neighbor Plan.~~ A a written ~~Implementation p~~Program, referred to as a "Good Neighbor Plan" The Program must be signed by the operator and ~~which~~ contain ~~s~~ all of the items listed below:**

- ~~A.1.~~ Crime prevention and awareness training program. [No change]
- ~~B.2.~~ Alcohol awareness and employee training program. [No change]
- ~~C.3.~~ Litter control program. The operator must provide a litter control program that includes:
 1. The installation of at ~~At~~ least two trash receptacles ~~must be provided~~ on-site for customer use. The trash receptacles ~~must be~~, located next to the on-site pedestrian circulation system.
 2. The operator must ensure that litter is picked up at least once a day from the site and from the sidewalks adjacent to the site. ~~Written verification must be provided that the owner, operator, manager, or a local representative of the parent company will conduct at a minimum a daily on-site litter pickup and an off-site litter pick-up along sidewalks adjacent to the site.~~
- ~~D.4.~~ Loitering control program. The operator must provide a loitering control program that ~~Written verification must be provided by the owner, operator, manager, or a local representative of the parent company that a loitering control program will be enforced.~~ The loitering control program must, at a minimum, address limiting limits the hours of operation of electronic video games, and ~~locating~~ locates telephone booths, benches, tables, and other customer activity areas where they can be viewed by store employees.
- ~~E.5.~~ Landscape maintenance awareness. The operator must provide written verification that ~~he or she~~ Written verification must be provided from the owner, operator, manager, or a local representative of the parent company acknowledging in writing that they understand the provisions of Chapter 33.248, Landscaping and Screening, and in particular 33.248.030, Plant Materials and 33.248.040, Installation and Maintenance.
- ~~F.~~ Lighting Certification. The operator must document that the proposed lighting will meet the glare standards of Chapter 33.262, Off-Site Impacts. In addition to meeting the requirements of 33.262.100, Documentation in Advance, the operator must identify on the site plan the location of all exterior lighting.
- ~~G.6.~~ Communication agreement. ~~Written verification must be provided that the owner, The operator, manager, or a local representative of the parent company must designate and include contact information for a person responsible for on-going communication will correspond on a long-term informal basis with the local recognized organizations and other concerned individuals regarding any problems they may have with current business practices or impacts on the neighborhood. All responses to concerns raised by recognized organizations or concerned individuals should be written within 30 days of receiving the initial letter, and be from the designated contact person-owner, operator, manager, or a local representative of the parent company. A file of all letters received and written is to~~

Item #16: Convenience Stores

33.219.060 Application Requirements (cont'd)

H. Participation in Neighborhood Mediation Program

A slight revision has been made to make the mediation program more generalized, should the city no longer be able to provide its neighborhood mediation program.

33.219.070 Record of Good Faith

A new section has been created to better distinguish the Implementation Program from the Record of Good Faith. Additional clarification has been included regarding what specific material must be included, including copies of registered or certified mail receipts (required as part of the notice requirements in 33.219.030.B). Additionally, this section was amended to more clearly distinguish the *draft* Implementation Program which is sent ahead of the neighborhood meeting, and the *final* Implementation Program which should reflect any changes agreed to as part of the neighbor meeting.

Finally, a new requirement has been added that the operator provide the neighborhood association with a copy of the final Implementation Program. This is to ensure that the neighborhood association has the final version of the Implementation Program readily available.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

be maintained by the ~~owner, operator, manager, or a local representative of the parent company~~ and be available to the public upon request. The operator should notify the local recognized organizations and property owners within 150 feet of the store site of changes to the designated contact person or contact information within 30 days of the change.

H.7. Participation in Neighborhood Mediation Program. The operator must agree to ~~Written verification must be provided that the owner, operator, manager, or a local representative of the parent company will participate in a~~ the City's Neighborhood Mediation Program should that process be initiated.

33.219.070 B-Record of good faith.

~~The operator must document that he or she~~A written verification must be provided that the owner, operator, manager, or a local representative of the parent company met with or attempted in good faith to meet with the neighborhood association local recognized organization(s), and adjacent property owners in advance of submitting the building permit or development permit application or request for zoning approval. The documentation ~~written verification~~ must include all of the following:

- ~~A.1-~~ A copy of the neighborhood meeting request notice and registered or certified mail receipts ~~the names and addresses of those notified of the applicant's desire to meet;~~
- B.** The names and addresses of property owners and organizations that received notice of the Implementation Program contact information as required by Subsection 33.219.030.C.
- ~~C.2-~~ A copy of t~~The time, date, and location of any neighborhood the meeting(s), and the names, addresses, and phone numbers of those who attended participated in the meeting(s);~~
- ~~D.3-~~ A copy of the draft Implementation Program Good Neighbor Plan and site plan sent to the neighborhood association;
- E.** and~~A copy of the final Implementation Program and site plan as presented at the meeting(s), if different from the draft plan. The final Implementation Program must identify; and Identification of those components of the Good Neighbor Plan Implementation Program that which were agreed upon and those that which were unresolved, plus any additional items discussed during the meeting(s); and~~
- F.** Documentation that the operator has sent the neighborhood association both a mailed and electronic copy of the final Implementation Program.
- C. Lighting Certification.** ~~The applicant must document in advance that the proposed lighting meets the glare standards of Chapter 33.262, Off Site Impacts. In addition to meeting the requirements of 33.262.100, Documentation in Advance, the applicant must identify on a site plan the location of exterior lighting.~~

Item #18: Radio Frequency (RF) Transmission Facilities

33.266.110 Minimum Required Parking Spaces

These changes replace references to Effective Radiated Power (ERP) with "personal wireless service facilities" and "radio or television broadcast facilities" to align with the changes in Chapter 33.274.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.266
 PARKING AND LOADING**

33.266.110 Minimum Required Parking Spaces

[No change to remainder of Table 266-2]

Table 266-2 Parking Spaces by Use (Refer to Table 266-1 to determine which standard applies.)			
Use Categories	Specific Uses	Standard A	Standard B
Other Categories			
Radio Frequency Transmission Facilities	<u>Personal wireless service and other non-broadcast facilities</u> Unmanned facilities operating at or below 1000 watts ERP	None	None
	<u>Radio or television broadcast</u> All Other F facilities	2 per site	None

Item #17: Interior Parking Lot Landscaping

Section 33.266.130 includes the parking lot landscaping and screening requirements. For interior parking lot landscaping, two arrangement options are offered to applicants. A 3-part diagram is currently included to help illustrate the Option 2 requirements; however this diagram has led to confusion.

The revised diagram (Figure 266-6) more clearly differentiates required perimeter landscaping from allowed interior landscaping arrangements. Of note is that areas with wide perimeter landscape areas (shown on the top of the site diagram) cannot count the extra width as interior landscaping, as it abuts and runs parallel to required perimeter landscaping. The diagram also shows that interior landscaping cannot substitute for perimeter landscaping if there is no other development between a parking lot and the site boundary (as shown in the area below the building).

33.266.130 Development Standards for All Other Uses

G. Parking Area Setbacks and Landscaping

3. Interior landscaping

f. Layout of interior landscaped areas

The individual references to Figures 266-5 and 266-6 have been consolidated.

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

33.266.130 Development Standards for All Other Uses

A. - F. [No change]

G. Parking area setbacks and landscaping.

1. - 2. [No change]

3. Interior landscaping. The regulations of this paragraph apply to all surface parking areas except stacked parking areas. For stacked parking areas, see Section 33.266.140 below.

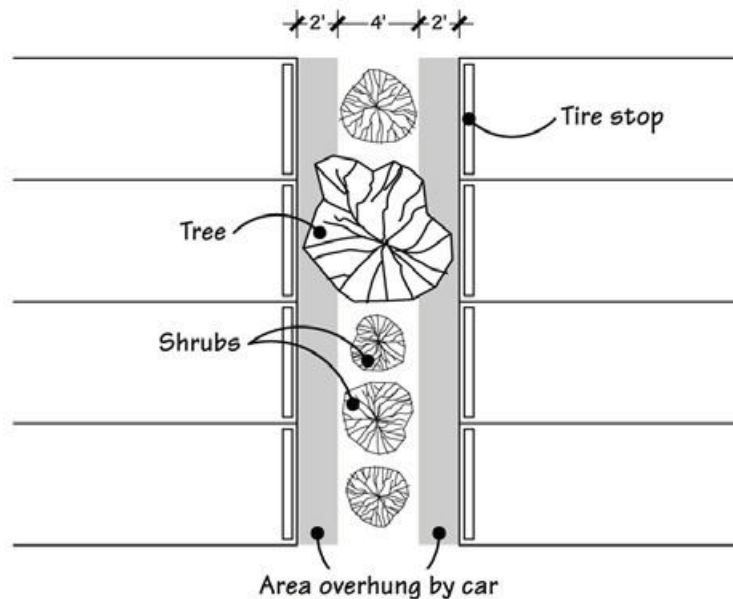
a. - e. [No change]

f. Layout of interior landscaped areas. The layout of the interior landscaped areas must meet either one or a combination of the standards of this subparagraph:

(1) Option 1: Landscape strips. See Figure 266-5.

- Interior landscaping must be arranged in landscape strips at least four feet wide between rows of parking stalls, ~~as shown in Figure 266-5.~~
- Where the front portions of parking stalls are landscaped as allowed by Paragraph F.4, the landscaped portion of the parking stall must be adjacent to the four-foot landscape strip, ~~as shown in Figure 266-5.~~

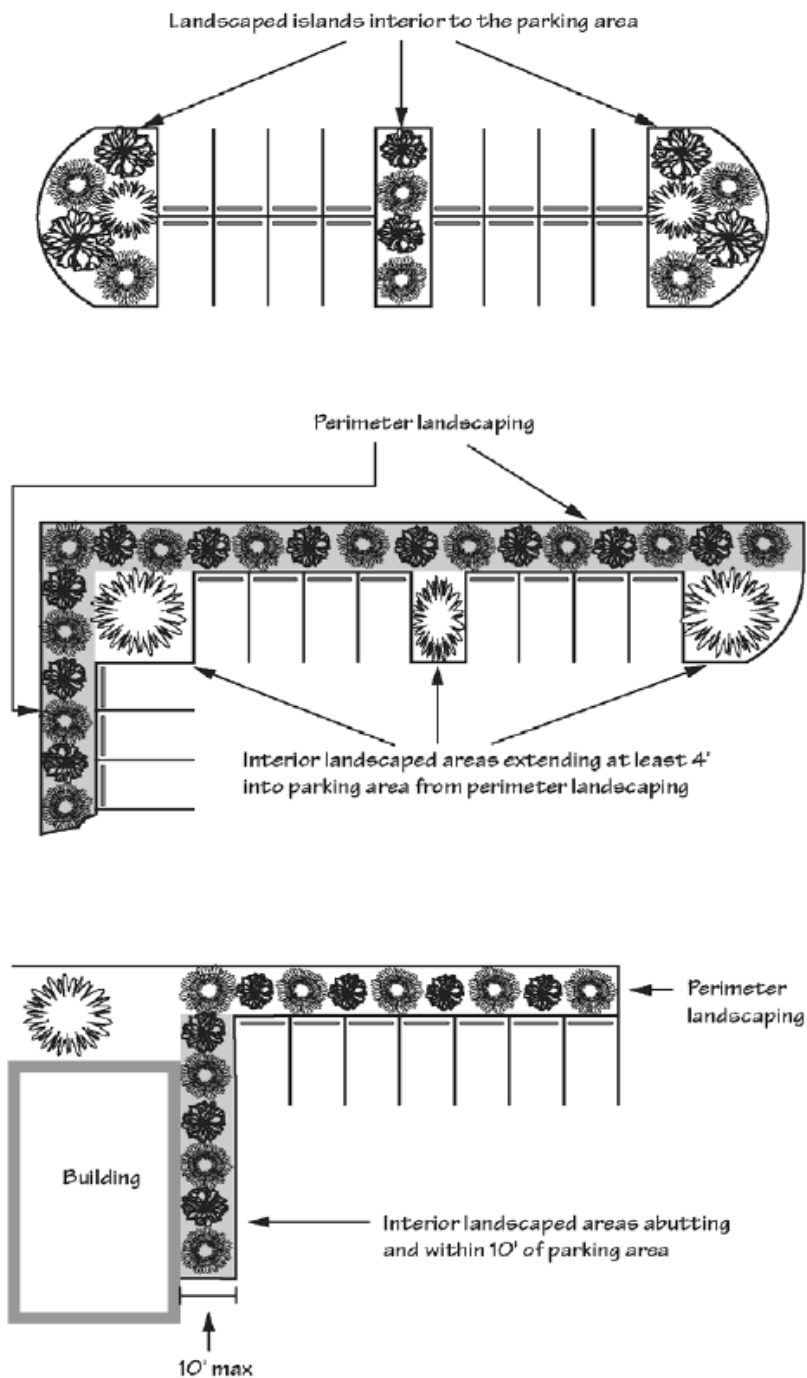
Figure 266-5 [No change]
Landscape Strips



Item #17: Interior Parking Lot Landscaping

Figure 266-6 currently includes three separate drawing to convey the different landscape configurations. The revised graphic shows these configurations all incorporated into a single parking lot/site layout.

The existing figure is shown below for reference:



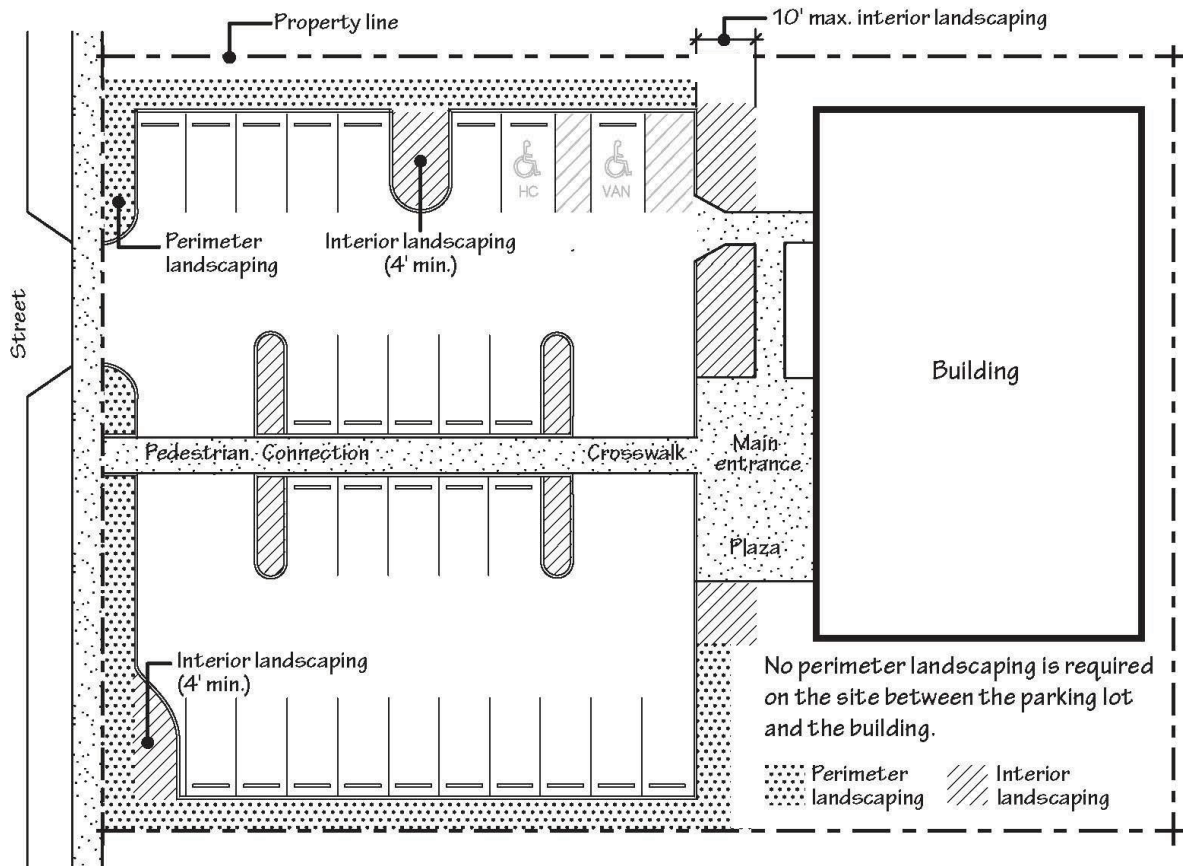
Language to be **added** is underlined>
 Language to be **deleted** is shown in ~~strike through~~

(2) Option 2: Other landscape patterns. See Figure 266-6.

- Interior landscaping must be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking. ~~See Figure 266-6.~~
- Interior landscaping may join perimeter landscaping as long as the interior landscape area extends at least 4 feet into the parking area from the perimeter landscape line. ~~See Figure 266-6.~~
- Landscaping that abuts, but does not extend into, the parking area may be included as interior landscaping if all of the following are met:
 - The abutting landscaped area must be in addition to required perimeter landscaping;
 - Only the first 10 feet of the abutting landscaped area, measured from the edge of the parking area, may be included as interior landscaping. ~~See Figure 266-6;~~ and
 - The landscaped area is not abutting and parallel to required perimeter landscaping. ~~See Figure 266-6.~~

[replace existing figure 266-6 with following:]

**Figure 266-6
Other Landscape Patterns**



Item #18: Radio Frequency (RF) Transmission Facilities

Regulations pertaining to radio frequency transmission facilities (RFTF) were initially adopted by the City in 1987, and included a number of provisions from Multnomah County's "Radio and Television Transmission Towers" regulations. In 1996, the federal government enacted the Telecommunications Act, which was the first major update to the Federal Communication Commission's regulations since 1934. The 1996 Telecom Act included a number of provisions specifically targeted to streamline the deployment of wireless phone service technologies, and restrict local jurisdictions' ability to regulate the placement of wireless sites. One provision in particular states *"No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations contained in this chapter concerning the environmental effects of such emissions."* (CFR Title 47, Section 1.1307 (e))

There are two provisions in the current Chapter 33.274 that specifically regulate the placement and construction of facilities based on radio frequency emissions, and may potentially conflict with federal law.

In addition, in 2012, the City faced an appeal of a RFTF approval (*Hill v. City of Portland*; LUBA No. 2012-036). In this case, the petitioners argued that the City's method for calculating the Effective Radiated Power (ERP) was incorrect, and that the ERP was instead supposed to be a calculated sum of all power emitted from "the facility". In other words, the code is unclear whether the ERP threshold is calculated for each individual transmitter, for all of the antennas of a particular carrier, or for all carriers operating on the site. The city argued and LUBA affirmed that based on the legislative intent, the ERP threshold was measured "per channel" or each transmitter, consistent with the FCC regulations.

With changes in technology, these ERP thresholds are less meaningful. The amendments replace the ERP thresholds with two broad classes of radio frequency transmission facility services: Personal Wireless Services and Radio/TV Broadcast Services. New definitions of these services are included in 33.910. These terms are consistent with the Telecom Act and FCC language and avoid inadvertent conflict with another provision of the 1996 telecom act which states that local governments may not "unreasonably discriminate among providers of functionally equivalent services". The current ERP thresholds could create situations where one carrier is exempt, while another requires a conditional use review, based solely on transmitter power output.

33.274.010 Purpose

The purpose statement has been revised to acknowledge the City's obligation to adhere to the Telecom Act and other subsequent federal rulemaking. It has been updated to reflect the preference for co-locations and utility pole replacement versus constructing new towers in OS and R zones. It also now references the City's adopted broadband strategic plan goals which include "Eliminat[ing] broadband capacity, equity, access, and affordability gaps so Portland achieves near universal adoption of broadband services for all residents, small businesses, and community-based organizations."

Commentary continues on next commentary page

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.274
 RADIO FREQUENCY TRANSMISSION FACILITIES**

Sections:

- 33.274.010 Purpose
- 33.274.020 When the Regulations Apply
- 33.274.025 When a Conditional Use Review is Required
- 33.274.030 Facilities Exempt from This Chapter
- 33.274.035 Facilities Allowed Without a Conditional Use Review
- 33.274.040 Development Standards
- 33.274.050 Procedures for Conditional Use Review
- 33.274.060 Registration of Existing Facilities
- 33.274.070 Measurements
- 33.274.080 Review of Radio Frequency Transmission Facility Regulations

33.274.010 Purpose

Radio Frequency Transmission Facilities are regulated to:

- Ensure City zoning regulations are applied consistently with federal telecommunication legislation and rules.
- ~~Protect the health and safety of citizens from the adverse impacts of radio frequency emissions;~~
- Reduce the ~~number of potential need for additional~~ towers that are built in or near residential and open space zones by encouraging that Radio Frequency Transmission Facilities be located on buildings, existing towers, or utility poles in public rights of way;
- Ensure that towers in or near residential or open space zones are only sited when alternative facility locations ~~or building mounts~~ are not feasible;
- Preserve the quality of living in residential areas which are in close proximity to Radio Frequency Transmission Facilities; ~~and~~
- Preserve the opportunity for continued and growing service from the radio frequency transmission industries; and
- Support the goals of the City's Broadband Strategic Plan.

33.274.020 When the Regulations Apply

Except as exempted in 33.274.030 below, this chapter applies to all radio frequency ~~emitting devices with a frequency range between 100 Kilohertz (KHz) and 300 Gigahertz (GHz),~~ transmission facilities and to all associated accessory structures and equipment, including transmitters, antennas, towers, masts, and poles. Facilities within the Healy Heights Plan District are also subject to the regulations of Chapter 33.533.

33.274.025 When a Conditional Use Review is Required

Unless exempted by 33.274.030 or allowed by 33.274.035 ~~below~~, all new Radio Frequency Transmission Facilities require a conditional use review. Approval criteria for these reviews are stated in Chapter 33.815, Conditional Uses.

Item #18: Radio Frequency (RF) Transmission Facilities

33.274.020 When the Regulations Apply

While accessory "structures" include objects like flag poles etc. the definition technically refers to things "constructed in or on the ground". The term "equipment" is more inclusive and can be applied to radio frequency facilities that are placed in buildings or on rooftops. The frequency information is deleted as it is repeated in the use category description, see 33.920.540.

33.274.025 When a Conditional Use Review is Required

This clarifies the sentence which, as currently written, implies that Section 33.274.035 includes exemptions. Section 33.274.035 includes facilities that are allowed without a conditional use.

33.274.030 Facilities Exempt from this Chapter

B. Moved these provisions to 33.274.035 (allowed without a conditional use review). To address concerns that application of the development standards could trigger upgrades to the entire site, provisions were added to .035 that limit application of the development standards to only those elements being modified. For example accessory equipment that is replaced in a residential zone would need to meet setbacks and document conformance with noise standards.

D. Added "multipoint" facilities to reflect current technologies.

G. Added more examples of hand-held devices to reflect newer technologies.

I. Reworded "transmitter power output" to be consistent with previous subsection. Also made exemption explicit that it does not apply to personal wireless services.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.274.030 Facilities Exempt from this Chapter

All of the following are allowed without a conditional use and are exempt from the regulations of this chapter:

- A.** Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities;
- ~~**B.** Replacement of transmitters, antennas, or other components of previously approved facilities, provided that these actions:~~
 - ~~1. Do not create a significant change in visual impact;~~
 - ~~2. Do not result in an increase in radio frequency emission levels above 1,000 watts ERP; and~~
 - ~~3. Do not cause the facility to go out of conformance with the standards of 33.274.040.C.5 and C.6;~~
- ~~**B.C.**~~ Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the Federal Communications Commission;
- ~~**C.D.**~~ Military and civilian radars, operating within the regulated frequency ranges, for the purpose of defense or aircraft safety;
- ~~**D.E.**~~ Point-to-point and multipoint microwave facilities, provided that:
 - 1. Any new tower meets the height requirements of the base zone or is less than 50 feet in height, whichever is less; and
 - 2. Any new tower is more than 2,000 feet from any other Radio Frequency Transmission Facility that is supported by a tower;
- ~~**E.F.**~~ Amateur and citizen band transmitters and antennas;
- ~~**F.G.**~~ Two-way communication transmitters used on a temporary basis by "911" emergency services, including fire, police, and emergency aid or ambulance service;
- ~~**G.H.**~~ Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones, smart tablets, navigation systems, laptop computers and consumer signal boosters;
- ~~**H.I.**~~ Towers, masts, poles, or other supporting structures accessory to a residential use, with a transmitter output power of 1,500 watts or less;
- ~~**I.J.**~~ Transmitters, when not used in conjunction with personal wireless service facilities, operating at a frequency less than 1 GHz and a transmitter output power of at less than 7 watts transmitter power output, provided that any new tower, pole, or mast meets the height requirements of the base zone or is less than 50 feet in height, whichever is less; and^[MT5]

Item #18: Radio Frequency (RF) Transmission Facilities

J. Removed reference to ERP. These machines are generally regulated under Part 15 of CFR Title 47, separate from personal wireless services or radio broadcast facilities.

L. This provision (co-locations on transmission towers) has been combined with Subsection B (replacement of transmitters, antennas, and other equipment) and moved to 33.274.035, Facilities Allowed Without a Conditional Use Review. This will ensure that the modified elements of the facility conform to all applicable development standards in 33.274.040.

33.274.035 Facilities Allowed Without a Conditional Use Review

A. This amendment replaces the ERP threshold with a reference to personal wireless service facilities. This change also clarifies that all aspects of the facility must be located more than 50 feet from an R zone, not just the antennas or equipment.

B. This amendment replaces the ERP threshold with a reference to personal wireless service facilities. This change also clarifies that all aspects of the facility must be located more than 50 feet from an R zone, not just the tower. B.3. requires a 2,000 foot separation from other towers "operated by the applicant". This regulation is to encourage collocation. Many towers are operated by a number of carriers, or third party owners, making it impractical to apply this standard as written. The revised language clarifies that a new tower cannot be constructed unless the carrier has no other collocation options *apart from their own facility sites* within the 2,000 foot separation distance.

C. Collocations on existing towers is currently exempt from the regulations of this chapter. However there are several concerns with this current exemption including:

- Landscape screening is often not maintained following initial construction.
- There are often conditions of approval associated with the facilities and if these actions are exempt, then those conditions of approval do not get applied. This can result in co-located facilities that are not visually integrated.

New language in the development standards section (33.274.040.B.2) will require landscaping be restored to the original approved condition, and any other relevant conditions of approval must also be met. Moving the language in 33.274.030.L. also ensures that other applicable development standards are applied.

The modification language allows for some expansions measured per the dimensions of the original approval. Multiple increases beyond that threshold are not permitted under this standard.

Tower replacements are allowed (to address structural safety requirements), and are not subject to the setback standards in 33.274.040.C.6, since this would require removing and replacing the tower foundation for a maximum increased setback of 4' (20% of a 20 foot height extension is 4').

A 1,500 square foot expansion is allowed for the equipment area as this is consistent with the Conditional Use threshold trigger. Any expanded area will need to comply with the landscape and screening requirements.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

~~J.K.~~ Radio frequency machines ~~that~~which:

- ~~1.~~ Have an effective radiated power (ERP) of 7 watts or less; or
- ~~1.2.~~ Are designated and marketed as consumer products, such as microwave ovens and remote control toys; or
- ~~2.3.~~ Are in storage, shipment, or on display for sale, provided such machines are not operated; ~~and.~~

~~L.~~ Facilities operating at 1,000 watts ERP or less, locating on any existing radio transmission tower that has been approved as a conditional use or allowed under Section 33.274.035, below. Triangular “top hat” style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, or within a unice cell style top cylinder.

33.274.035 Facilities Allowed Without a Conditional Use Review

All of the following are allowed without a conditional use but are subject to the development standards in this chapter:

- A.** New and modified personal wireless service facilities in C, E, or I zones ~~operating at 1,000 watts ERP or less~~, mounted on an existing building or other non-broadcast structure provided that the entire facility is more than 50 feet from an R zone.
- B.** New and modified personal wireless service facilities in C, E, or I zones ~~operating at 1,000 watts ERP or less~~, supported by a new tower provided that:
 1. The tower is more than 50 feet from an R zone;
 2. The tower meets the height requirement for buildings in the base zone; and
 3. The tower is more than 2,000 feet from ~~any other towers. This requirement does not apply to towers that are supporting a personal wireless service facility operating in the same licensed frequencies.~~ facility that is supported by a tower not operated by the applicant.
- C.** Other modifications of facilities that were originally approved through a conditional use, including the addition or replacement of antennas and accessory equipment, provided all modifications made over time:
 1. Do not increase the footprint of equipment enclosures on the ground by more than 1,500 square feet; and
 2. To the extent practicable, antennas and equipment reasonably maintain the appearance of the original facility including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

Item #18: Radio Frequency (RF) Transmission Facilities

33.274.040 Development Standards

The development standards in this section apply to Radio Frequency Facility requests that are not exempt from the chapter. For facilities that do not go through a conditional use review, the standards are met during the building permit review. For facilities that require conditional use review, the standards are reviewed during that process.

A. Purpose.

Since the FCC restricts local governments from regulating on the basis of radio frequency emissions levels, the previous regulations that specified particular emissions levels have been removed and replaced by a requirement that the applicant document compliance with the FCC emissions levels. The overall purpose statement for the chapter has also been amended to state that the regulations "ensure federal requirements are met with regard to radio frequency emissions levels".

B. When these standards apply.

The development standards of this chapter apply to new facilities and modifications to existing facilities. Currently, only a subset of the standards apply to modifications (C.3, Tower finish; C.4, Tower illumination; C.5, RF emission levels; C.9, Landscaping and screening). This omitted several development standards that, in hind sight, should have applied such as setbacks and mounting device standards. Without the application of these standards, additions to existing facilities can be made that bring the facility closer to residential zones or exceed the height allowed for new facilities. This amendment will ensure that modifications continue to meet development standards that apply to the portions of the facility being modified. In addition, this amendment clarifies that 33.274.035.C.1.a allows for a limited tower height increase.

C. General requirements

1. Tower sharing.

The phrase "technically feasible" is subjective and does not provide adequate guidance to what parameters must be evaluated to meet the standard. This amendment provides further clarification.

2. Tower grouping.

Towers supporting antennas with higher power output are encouraged to be grouped. This amendment replaces the ERP threshold and applies the requirement to towers for radio and TV broadcasts.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.274.040 Development Standards

A. Purpose. The development standards:

- Ensure that Radio Frequency Transmission Facilities will be compatible with adjacent uses;
- Reduce the visual impact of towers and accessory equipment in residential and open space zones whenever possible; and
- ~~Protect adjacent populated areas from excessive radio frequency emission levels; and~~
- Protect adjacent property from tower failure, falling ice, and other safety hazards.

B. When these standards apply.

1. Unless exempted by 33.274.030, above, the development standards of this section apply to all Radio Frequency Transmission Facilities.
2. Applications to modify existing facilities regulated by this chapter are required to meet the development standards and conditions of approval only for elements of the facility that are being modified. In addition, any elements of the original approval that have moved out of compliance from the original approval, such as landscape materials or applicable conditions of a prior land use approval, must be restored. ~~only required to meet the standards of Paragraphs C.3, C.4, C.5, C.6, and C.9, below, in addition to any previous conditions of approval.~~ Increasing the height of a tower is not considered modification of an existing facility.

C. General requirements

1. Tower sharing. ~~Where technically feasible, n~~New facilities must co-locate on existing towers or other structures to avoid construction of new towers, unless precluded by structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. Requests for a new tower must be accompanied by evidence that application was made to locate on existing towers or other structures, with no success; or that location on an existing tower or other structure is infeasible.
2. Grouping of towers. The grouping of towers that support radio or television broadcast facilities operating at 1,000 watts ERP or more on a site is encouraged where technically feasible. ~~However, †~~Tower grouping may not result in radio frequency emission levels exceeding the standards stated in C.5, below ~~of this chapter.~~
3. Tower finish. [No change]
4. Tower illumination. [No change]

Item #18: Radio Frequency (RF) Transmission Facilities

C. General requirements (cont'd)

5. Radio frequency emission levels

These two provisions have been part of the Radio Frequency Chapter since its inception in 1987. In 1996, Congress passed the Telecommunication Act, which amended the 1934 Communications Act. The act included preempting local governments' ability to regulate based on environmental effects of radio frequency emissions if the applicant demonstrates compliance with FCC regulations. The current emissions standards in this chapter closely mirror the FCC requirements, but include several inconsistencies. There is no distinction for controlled vs. uncontrolled sites, the time of exposure is not specified, and it does not acknowledge certain exceptions to the standards.

More importantly, the FCC has regulatory authority over these requirements that supersede the city's regulatory authority.

These amendments require that the applicant certify the site will comply with FCC RF emission requirements through standard documentation. The City is therefore not regulating on the basis of RF emissions, but is ensuring that the applicant has performed the calculations necessary to show that the facility will comply with the federal requirements.

6. Antenna Requirements.

The previous antenna requirements have been deleted for the reasons expressed above. However, concerns have been raised regarding antennas that are mounted in areas with uncontrolled access. To reduce the risk of tampering and vandalism, new security requirements have been added.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

5. Radio frequency emission levels and exposure limits. All ~~existing and proposed~~ Radio Frequency Transmission Facilities must operate within the radio frequency emissions levels and comply with the exposure limits established by the Federal Communications Commission (FCC). Applicants must certify that the proposed facility will be in compliance with FCC emissions standards with the permit application. ~~are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified in Table 274-1, except as superseded by Part 1, Practice and Procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits.~~

Table 274-1 Radio Frequency Emission Standards [1]			
Frequency Range	Mean Squared Electric (E ²) Field Strength (V ² /m ²) [2]	Mean Squared Magnetic (H ²) Field Strength (A ² /m ²) [3]	Equivalent Plane Wave Power Density (mW/cm ²) [4]
	100 KHz – 3 MHz	80,000	0.5
3 MHz – 30 MHz	4,000 (180/f ²) [5]	0.025 (180/f ²)	180/f ²
30 MHz – 300 MHz	800	0.005	0.2
300 MHz – 1500 MHz	4,000 (f/1500)	0.025 (f/1500)	f/1500
1500 MHz – 300 GHz	4,000	0.025	1.0

Notes:

- [1] All standards refer to root mean square (rms) measurements gathered by an approved method.
- [2] V²/m² = Volts squared per meter squared.
- [3] A²/m² = Amperes squared per meter squared.
- [4] mW/cm² = Milliwatts per centimeter squared.
- [5] f = Frequency in megahertz (MHz).

6. Antenna requirements. Antennas must be secured from public access, either by vertical or horizontal separation, fencing, locked access, or other measures as appropriate.
 - a. ~~Generally. The antenna on any tower or support structure must meet the minimum siting distances to habitable areas of structures shown in Table 274-2. Measurements are made from points A and B on the antenna to the nearest habitable area of a structure. Point A is measured from the highest point of the antenna (not the tower) to the structure, and Point B is measured from the closest point of the antenna to the structure.~~
 - b. ~~Exceptions. The antenna on any tower or support structure does not have to meet the minimum siting distance from Point A to the habitable areas of structures shown in Table 274-2 if the applicant submits a letter from a qualified licensed engineer showing that the placement of the antennas will not cause any habitable area of a structure to exceed the Federal Communication Commission’s (FCC’s) limits for human exposure to radio frequency electromagnetic fields.~~

Item #18: Radio Frequency (RF) Transmission Facilities

7. Setbacks.

These amendments consolidate paragraphs 7 (setbacks) and 8 (guy anchor setbacks) into a single paragraph.

Table 274-2.

This table is used in conjunction with the requirements in Paragraph C.6. to determine the minimum separation distance between antennas from habitable space. As these requirements regulate the construction, placement, or modification of personal wireless services on the basis of RF emissions, they would not be compatible with the 1996 Telecom Act, and are therefore deleted.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

7. Setbacks.

- a. All towers must be set back at least a distance equal to 20 percent of the height of the tower or 15 feet, whichever is greater, from all abutting R and OS zoned property and public streets.
- b. Accessory equipment or structures must meet the base zone setback standards that apply to accessory structures.
- c. ~~8. Guy anchor setback.~~ Tower guy anchors must meet the base zone setback standards that apply to buildings. ~~main building setback requirements of the base zone.~~

Table 274-2			
Distance Between Antenna and Habitable Area of Structure			
(Where f is frequency in megahertz.)			
Effective Radiated Power	Frequency (MHz)	Point A:	Point B:
		Minimum Distance From Highest Point of Antenna To Habitable Area of Structure (feet)	Minimum Distance From Closest Portion Of Antenna To Habitable Area of Structure (feet)
< 100 watts		10	3
100 watts to 999 watts		15	6
1,000 watts to 9,999 Kw	< 7	11	5
	7 - 30	$f/0.67$	$f/1.5$
	30 - 300	45	20
	300 - 1500	$780/\sqrt{f}$	$364/\sqrt{f}$
	> 1500	20	10
10 Kw plus	< 7	17.5	8
	7 - 30	$f/0.4$	$f/0.91$
	30 - 300	75	33
	300 - 1500	$1300/\sqrt{f}$	$572/\sqrt{f}$
	1500	34	15

~~8.9.~~ Landscaping and screening. The base of a tower and all accessory equipment or structures located at grade must be fully screened from the street and any abutting sites as follows:

- a. In C, E or I zones more than 50 feet from an R zone. A tower and all accessory equipment or structures located in the C, E, or I zones more than 50 feet from an R zone must meet the following landscape standard:
 - (1) Generally. Except as provided in (2), below, a landscaped area that is at least 5 feet deep and meets the L3 standard must be provided around the base of a tower and all accessory equipment or structures.

Item #18: Radio Frequency (RF) Transmission Facilities

8. Landscaping

This standard remains largely unchanged except that a requirement is added for situations where screening already exists and required landscaping will be relocated to another part of the site. In these cases, to ensure that the applicant has authorization to plant and maintain this required landscaping, they will need to submit evidence that they have this authority under their lease terms.

9. Tower design

a. Future collocation

Replaced the 100,000 watt transmitter output threshold so that this standard is specific to radio or television broadcast facilities.

10. Mounting device.

Deleted the provision specific to facilities operating at less than 1,000W ERP. The mounting device limitation is more broadly applicable than just for Personal Wireless Facilities. Also, to allow antennas the ability to broadcast over rooftop obstacles, like parapet walls, the 10 foot limitation has been altered to include measuring from the top of parapet walls. Language has also been added to clarify that the mounting device may project above the height limit of the zone provided it is no taller than 10 feet.

11. Abandoned facilities

Radio frequency transmission facilities are located on towers and non-broadcast structures. When placed on a non-broadcast structure (like a rooftop or parking garage) there is often significant mounting structures required for the antennas. When the facility is decommissioned, sometimes the mounting devices remain. This amendment requires that facilities on non-broadcast structures, once abandoned, must remove the mounting devices.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- (2) Exception. If the base of the tower and any accessory equipment or structures are screened by an existing building or fence, then some or all of the required landscaping may be relocated subject to all of the following standards.
- The building or fence must be on the site;
 - The fence must be at least six feet in height and be totally sight-obscuring;
 - The relocated landscaping must meet the L2 standard. The relocated landscaping cannot substitute for any other landscaping required by this Title;
 - The applicant must demonstrate that the lease includes provisions for planting and ongoing maintenance of the substitute landscaped area; and
 - If any part of the base of the tower or accessory equipment is not screened by a building or fence, 5 feet of L3 landscaping must be provided.

b. – c. [No change]

~~9.10.~~Tower design.

- a. For a tower accommodating a ~~R~~radio or television broadcast ~~Frequency Transmission F~~facility of 100,000 watts or more, the tower must be designed to support at least two additional radio or television broadcast transmitter/antenna systems ~~of equal or greater power to that proposed by the applicant~~ and one microwave facility, and at least three two-way antennas for every 40 feet of tower over 200 feet of height above ground.

b. – c. [No change]

~~10.11.~~Mounting device. The mounting device or mounting structure used to mount facilities ~~operating at 1,000 watts ERP or less~~ to an existing building or other non-broadcast structure may exceed the height limit of the base zone but may not project more than 10 feet above the roof or parapet of the building or other non-broadcast structure.

~~11.12.~~Abandoned facilities. A tower or mounting device on a non-broadcast structure erected to support one or more Federal Communication Commission licensed Radio Frequency Transmission Facilities must be removed from a site if no facility on the tower or mounting device has been in use for more than six months.

Item #18: Radio Frequency (RF) Transmission Facilities

33.274.040 Development Standards

D. Additional requirements

This subsection is being modified to incorporate Subsection E (additional requirements in R zones), as well as to include additional noise requirements.

Subparagraph b. is being deleted because this regulation only applies when a conditional use review is required (facility located in OS/R or within 50 feet of R zone). This language replicates the criterion already found in 33.815.225.A.1 that states:

The visual impact of an antenna must be minimized. For instance, it can be hidden behind a compatible building feature such as a dormer, mounted flush to the facade of the building and painted to match, mounted on a structure designed with minimal bulk and painted to fade into the background, or mounted by other technique that equally minimizes the visual impact of the antenna;

Paragraph 3 is added to address issues with noise from accessory equipment. The City's noise control officer has identified that these units, when located near residential dwellings often violate the City's noise limits. This is in part due to the 24-hour nature of the unit's operation, tonal accentuation (humming), and that there is no one on-site to monitor equipment performance. Addressing noise issues after facilities are installed can result in increased costs, and in some cases noise attenuation solutions may affect compliance with design or historic resource approvals.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

D. ~~Additional requirements in OS, R, C, and EX zones and EG and I zones within 50 feet of an R zone.~~

- ~~1. Purpose. These additional regulations are intended to ensure that facilities operating at 1,000 watts ERP or less have few visual impacts. The requirements encourage facilities that look clean and uncluttered.~~
- ~~1.2. Standards. In addition to the regulations in Subsection C., above, Personal wireless service facilities operating at 1,000 watts ERP or less located in OS, R, C, or EX zones, or and personal wireless service facilities [BS6]located in EG or I zones within 50 feet of an R zone must meet all of the following standards:~~
 - a. Antennas mounted on towers. Triangular “top hat” style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, within a unicell style top cylinder, or other similar mounting technique that minimizes visual impact.
 - ~~b. Antennas mounted on existing buildings or other non-broadcast structures. This standard only applies to facilities located in OS or R zones or within 50 feet of an R zone. The visual impact of antennas that are mounted to existing buildings or other non-broadcast structures must be minimized. For instance, on a pitched roof, an antenna may be hidden behind a false dormer, mounted flush to the facade of the building and painted to match; mounted on a structure designed with minimal bulk and painted to fade into the background; or mounted by other technique that equally minimizes the visual impact of the antenna. The specific technique will be determined by the conditional use review.~~
 - ~~b.e. Lattice. Lattice towers are not allowed.~~
- ~~2. **E. Additional requirements in R zones.** The minimum site area required for a tower in an R zone is 40,000 square feet. ~~This regulation must be met in addition to the regulations in Subsections C. and D., above.~~~~
3. Accessory equipment [NP(7)][TM(P8)]located in or within 50 feet of an R zone must document in advance that the facility will meet the noise regulations in Chapter 33.262, Off-Site Impacts.

Item #18: Radio Frequency (RF) Transmission Facilities

33.274.050 Procedures for Conditional Use Review

This clarifies the sentence which, as currently written, implies that Section 33.274.035 includes exemptions. Section 33.274.035 includes facilities that are allowed without a conditional use.

B. Changed the threshold from "1000 watts ERP" to "personal wireless service facilities". Also corrected an omission for facilities located in industrial zones when closer than 50 feet from a residential zone. This is consistent with the construction of 33.274.035 (facilities allowed without conditional use review) that allows "facilities in C, E, and I zones...more than 50 feet from an R zone"

33.274.080 Review of Radio Frequency Transmission Facility Regulations

A. Review of City Regulations

This subsection is being deleted as it is out of date, and any new regulations could potentially conflict with federal restrictions on the city's ability to regulate the placement, construction, or modification of facilities based on the public health effects of RF emissions.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.274.050 Procedures for Conditional Use Review

Unless exempted by 33.274.030 or allowed by 33.274.035, above, all Radio Frequency Transmission Facilities are reviewed through the procedures stated below.

- A. Type Ix procedure.** In all zones, requests for equipment cabinets or shelters located on private property associated with Radio Frequency Transmission Facilities mounted in a right-of-way are processed through a Type Ix procedure.
- B. Type II procedure.** ~~Requests for Radio Frequency Transmission Facilities operating at 1,000 watts ERP or less to be located on an existing building or other non broadcast structure in an OS or R zone or C or E zone within 50 feet of an R zone are reviewed through a Type II procedure.~~ Requests to locate personal wireless service facilities on an existing building or other non-broadcast structure when the facility is in an OS or R zone, or the facility is within 50 feet of an R zone in C, E, or I zones are reviewed through a Type II procedure.
- C. Type III procedure.** All other requests for Radio Frequency Transmission Facilities are reviewed through a Type III procedure.

33.274.060 Registration of Existing Facilities [No change]

33.274.070 Measurements [No change]

33.274.080 Review of Radio Frequency Transmission Facility Regulations

- ~~**A. Review of City regulations.** The standards in this chapter and the Radio Frequency Transmission Facility conditional use requirements will be reviewed by the City of Portland in 2003 to determine their adequacy relative to public health.~~
- A.B. New federal or state standards.** [No change]
- B.C. Significant new information.** [No change]

Item #19: Conditional Use Threshold for Spectator Seating

Chapter 33.279 Recreational Fields for Organized Sports

33.279.025 Conditional Use Review

This section spells out that except for the situations where alterations to recreational fields are allowed, a conditional use review is required.

33.279.030 Alterations Allowed Without Conditional Use Review.

This section previously grouped alterations that are allowed (i.e. no CU review) with alterations that require a conditional use review. The chapter has been restructured to add a section (33.279.035) addressing alterations that require conditional use review. 33.279.030 now addresses only those alterations that are allowed without a conditional use. The types of alterations that are allowed without a conditional use review are not being amended; however, a clarification is proposed to distinguish the allowance for 210 linear feet of spectator seating separate from the allowance for 1,500 square feet of exterior improvements. See commentary below.

D. Exterior improvement area threshold

This amendment incorporates the addition of spectator seating allowed per Subsection G as exterior improvements that are not counted against the 1,500 square foot area limit. As part of the Schools and Parks Conditional Use Code Refinement Project (Ord. No. 183750), spectator seating was identified as an alteration that should be allowed, provided it did not add more than 210 linear feet of seating (approximate capacity for 70 people). Exterior improvements were likewise allowed without conditional use review provided the area did not exceed 1,500 square feet. When the standards were listed in the chapter, it was not intended that the exterior seating (measured in linear feet) would be deducted from the exterior improvement threshold (measured in square feet). This resulted in confusion since the previous review thresholds indicated that the 1,500 square foot exterior improvement area does not include "fences, handicap access ramps, on-site pedestrian circulation systems, Community Gardens, Market Gardens, and increases allowed by Subsections A.6 (parking) and A.8 (new sports field)" but did not list "spectator seating" in A.7. As such it is unclear whether the area encompassing the 210 linear feet of spectator seating should be included or excluded.

The amendment to Subsection D. clarifies that the limit on exterior improvement area does not include the area devoted to spectator seating

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.279
 RECREATIONAL FIELDS FOR ORGANIZED SPORTS**

Sections:

- 33.279.010 Purpose
- 33.279.020 Where These Regulations Apply
- 33.279.025 Conditional Use Review
- 33.279.030 Alterations Allowed Without Conditional Use Review ~~Thresholds for Development~~
- 33.279.035 Conditional Use Review Procedure Types
- 33.279.040 Development Standards
- ~~33.279.050 Loss of Conditional Use Status~~
- 33.279.060 Additional Regulations

33.279.010 [No change]

33.279.020 Where These Regulations Apply

The regulations of this chapter apply to ~~recreational fields~~ if all the following are met:

- ~~A. Organized sports.~~ If the recreational field is used for organized sports;
- ~~B. OS, R, or IR zone.~~ If the recreational field is in an OS, R, or IR zone; and
- ~~C. School, school site, or in a park.~~ If the recreational field is located on a school, school site, or in a park.

33.279.025 Conditional Use Review

Unless the proposal meets the thresholds of 33.279.030, development or alterations related to a recreational field for organized sports requires a conditional use review. Approval criteria for the review are stated in Chapter 33.815, Conditional Use Reviews.

33.279.030 Alterations Allowed Without Conditional Use 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 related to a recreational field for organized sports to the site that meet all of the following are allowed without a conditional use review provided the proposal meets all of the following thresholds.

- ~~A.1.~~ Complies with all previous conditions of approval;
- ~~B.2. Meets one of the following:~~ a-Complies with the development standards of this Title; or b. Does if the proposal does not comply with the development standards of this Title, the proposal has received approval through ~~but~~ an adjustment or modification to the development standards has been approved through a land use review;
- ~~C.3.~~ Does not increase the floor area by more than 1,500 square feet;
- ~~D.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 F. through HA.6 and A.8, below are exempt from this limitation;

Item #19: Conditional Use Threshold for Spectator Seating

33.279.030 Alterations Allowed Without Conditional Use Review (cont'd)

I. Reestablishing use (0-5 years)

This threshold incorporates the existing provision from the deleted section 33.279.050 Loss of Conditional Use status, which stated:

"If a recreational field is not used for organized sports for more than 5 continuous years, a new conditional use is required to resume the use..."

33.279.035 Conditional Use Review Procedure Types

This newly added section specifically addresses alterations and new development that require conditional use reviews and incorporates the current thresholds that distinguish Type II from Type III review levels. The threshold levels for Type II vs Type III reviews are not being amended; however an allowance for a 10% increase in spectator seating through a Type II CU is added. See commentary for 33.279.035.A.7 on the following page.

A. Type II

The requirement that any proposed alterations may not violate any conditions of approval has been incorporated from paragraph 2 (on the following page). This clarifies that in addition to proposals having to meet the thresholds in this subsection, any proposal that contradicts a condition of prior land use approval would not be eligible for a Type II CU review. The language regarding when to measure the alterations in A.4 through A.7. is existing regulation adapted from paragraph 8, shown on the following page.

2. Conditions of approval (deleted)

This paragraph is deleted as the language has been moved to the general subsection language of 33.279.035 A. This clarifies that any proposal in conflict with conditions of prior land use approval are not eligible for the Type II review process.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- E.5.** Will not result in a net gain or loss of site area;
- F.6.** Will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:
 - 1.a. On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; however, the removal of more than 5 spaces requires a conditional use review;
 - 2.b. Up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be added; however, the addition of more than 5 spaces requires a conditional use review; and
 - 3.e. Any cumulative loss or gain of parking allowed in F.1. 6.a or F.2. 6.b above is measured from the time the use became a conditional use, or the last conditional use review of the use, whichever is most recent, to the present.
- G..7.** Does not result in total spectator seating per field exceeding 210 lineal feet; or
- H.8.** Does not add more than one new field for organized sports. Up to one new field may be added once per site, after June 4, 2010, without a conditional use review. The new field must:
 - 1.a. Meet the development standards of Section 33.279.040;
 - 2.b. Not include lighting, a voice amplification system, or spectator seating in excess of 210 lineal feet;
 - 3.e. Be located within 300 feet of one or more existing on-site fields approved for organized sports; and
 - 4.d. Be approved under a Building or Zoning Permit that identifies the existing development and the new field that is being added, per this paragraph.
- I.** Does not reestablish use of a recreational field that has not been used for organized sports for a period of less than 5 continuous years.

33.279.035 Conditional Use Review Procedure Types

Unless allowed by 33.279.030, all recreational fields for organized sports are reviewed through the review procedures stated below.

- AB. Type II.** A Type II review is required for the following individual or cumulative alterations, provided the proposed alterations to the site do not violate any conditions of approval. The alterations in A.3 through A.7 are measured from the time the recreational field became a conditional use or from the last conditional use review of the use, whichever is most recent, to the present:
 - 1. When a ~~V~~voice amplification systems is being added to a ~~for~~ recreational fields that does not currently ~~do not~~ have an approved voice amplification system;
 - 2. When proposed alterations to the site will not violate any conditions of approval;

Item #19: Conditional Use Threshold for Spectator Seating

33.279.035 Procedures for Conditional Use Review (cont'd)

A. Type II Procedure.

7. Spectator seating increases

A new provision is added to allow for minor (10%) increase in the amount of spectator seating per field. This threshold is applied to the original approved amount of spectator seating, but doesn't include any increases up to the 210 linear feet which are allowed without a conditional use per 33.279.030.B.5. Allowing similar minor increases through a Type II Conditional Use review procedure is consistent with other thresholds in this subsection.

8. Measuring alterations (deleted)

This provision has been incorporated into the general subsection language.

8. Reestablishing use (5-10 years)

This threshold incorporates the existing provision from the deleted section 33.279.050 Loss of Conditional Use status.

B. Type III Procedure.

4. Reestablishing use (10+ years)

This threshold incorporates the existing provision from the deleted section 33.279.050 Loss of Conditional Use status.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- ~~2.3.~~ When there will be a net loss in site area that will not take the site out of conformance, or further out of conformance, with a site development standard;
- ~~3.4.~~ When there will be an increase or decrease in the net number of parking spaces by up to 2 spaces or up to 10 percent of the total number of parking spaces, whichever is greater;
- ~~4.5.~~ When the alterations will not increase the floor area on the site by more than 10 percent, up to a maximum of 25,000 square feet;
- ~~5.6.~~ When the alterations will not increase the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by 33.279.030.F ~~B.4~~ above are exempt from this limitation;
- ~~6.7.~~ When the alterations will not increase the floor area and the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by 33.279.030.F ~~B.4~~ above are exempt from this limitation; ~~or~~
- 7. When the alterations will not increase the linear footage of spectator seating per field by more than 10 percent; or
- ~~8. The increases in paragraphs B.4 through 7, above, are measured from the time the use became a conditional use or the last conditional use review of the use, whichever is most recent, to the present.~~
- 8. When the proposal will reestablish use of a recreational field that has not been used for organized sports for more than 5 years, but less than 10 years.

BC. Type III. A Type III review is required for the following proposals: The following are processed through a Type III procedure:

- 1. New recreational fields, except as allowed by 33.279.030.H ~~Subsection A.8~~ above;
- 2. Lighting for recreational fields that currently do not have approved lighting; ~~or~~
- 3. All other alterations to development related to recreational fields used for organized sports on the site, that are not otherwise allowed or reviewed through a Type II procedure, as described above; or including alterations not allowed by Subsections A. and B. above.
- 4. Resuming use of a recreational field that has not been used for organized sports for 10 years or more.

Item #19: Conditional Use Threshold for Spectator Seating

33.279.050 Loss of Conditional Use Status (deleted)

These regulations have been incorporated into the relevant parts of Sections 33.279.030, Alterations Allowed Without Conditional Use Review and 33.279.035, Conditional Use Review Procedure Types.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike~~through

33.279.040 (No change)

~~33.279.050 Loss of Conditional Use Status~~

~~If a recreational field is not used for organized sports for more than 5 continuous years, a new conditional use is required to resume the use for organized sports. Except as allowed by 33.279.030.A, the new conditional use is reviewed as follows:~~

- ~~**A.** If the organized sports use has been discontinued for less than 10 years, and the proposed new organized sports use does not add lighting or does not result in total spectator seating per field exceeding 210 lineal feet, it is reviewed through a Type II procedure.~~
- ~~**B.** All other new organized sports uses are reviewed through a Type III procedure.~~

33.279.060 (No change)

Items # 20, 21, 22, 23, 24: Temporary Activities

33.296 Temporary Activities

This chapter has been restructured so that the regulations are organized around specific temporary activities, as opposed to base zones. Typically, the public wants to know which rules apply to a particular activity rather than which rules apply in each zone. The reorganization will also reduce repetition and minor wording inconsistencies.

33.296.020 Description

Minor edits to this section include correcting the list of activity examples to not include structures (that are not in and of themselves activities). The statement that temporary activities are not primary or accessory uses was added, to reinforce that as permanent activities or development, they may not normally be allowed in a particular zone.

33.296.030 Temporary Activities Allowed

This section is largely recast from existing regulations in 33.296.030. Subsection cross-references have been provided to assist in comparing language.

A. Residential Sales Office

See deleted 33.296.030.A.2. To address concerns of larger subdivisions where some lots may remain undeveloped for an extended period of time, a maximum time limit tied to the plat vesting period (10 years) is included.

B. Show of Model Homes

See deleted 33.296.030.A.5.

C. Incidental Sales.

See deleted 33.296.030.A.3., B.1, B.2, B.4

Garage sales, parking lot sales, warehouse sales, and seasonal outdoor sales have been consolidated under the heading of "incidental sales". For these types of temporary sales, the former subsection 33.296.030.D. specified that there be a minimum break in between sales events equal to four times the duration of the last event. This provision is added here for clarity.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.296 TEMPORARY ACTIVITIES

Sections:

- 33.296.010 Purpose
- 33.296.020 Description
- 33.296.030 Zone and Duration Temporary Activities Allowed
- 33.296.040 General Regulations

33.296.010 Purpose

This chapter allows short-term and minor deviations from the requirements of the zoning code for uses that ~~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 staging 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~~. Temporary activities that meet the regulations described in this chapter are not considered primary or accessory uses. 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 Temporary Activities Allowed

- A. Residential sales offices.** Sales offices for major subdivisions or planned unit developments are allowed in the IR and RF through RH zones. Sales offices are allowed at the development site until all lots or houses are sold or for 10 years after the final plat is approved, whichever is less^[BS9]. Use of the sales office for sites outside of the project is prohibited.
- B. Show of model homes.** The viewing of model homes within a subdivision for a fee is allowed in the IR and RF through RH zones for a period not to exceed one month. Only one showing is allowed per phase of a subdivision.
- C. Incidental Sales.** Incidental sales of items are allowed based on the zone in which the site is located:
 - 1. Garage sales. Garage sales and other sales of items from the site may occur in the IR and RF through RH zones for no more than 3 consecutive days on 2 different occasions during a calendar year. The sale of products brought to the site for the sale is not allowed.

Items # 20, 21, 22, 23, 24: Temporary Activities

D. Farmers Markets.

See deleted 33.296.030.A.3.c, B.8, C.5

There are no proposed changes to the requirements for farmers markets. Due to an omission in updating the code following the Food Code Project (Ord. No. 185412), the former subsection 33.296.020.D. was not updated to exclude farmers markets from the minimum break in between events equal to four times the duration of the last event. Farmers Markets are instead subject to a maximum of 70 days in a calendar year limit.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

2. Parking lot sales. Parking lot sales in the RX, C, E, and I zones where outdoor display is not otherwise allowed, are allowed for up to 2 consecutive weeks at any one time. The time between parking lot sales events must be 4 times as long as the duration of the last event.
3. Warehouse sales. In Industrial zones, retail warehouse sales are allowed for up to 1 week at any one time. The time between warehouse sales events must be 4 times as long as the duration of the last event.
4. Seasonal outdoor sales.
 - a. In the RX, C, E, and I zones, sales events are allowed for up to 1 month at any one time. The time between seasonal outdoor sales events must be four times as long as the duration of the last event.
 - b. In the IR and RF through RH zones, Seasonal outdoor sales of plants and produce are allowed twice a year for up to 5 consecutive weeks each time.

D. Farmers Markets. Farmers Markets are allowed on a site with an institutional use, and on sites in the IR, R1, RH, RX, C, E, I, and OS zones as follows:

1. The market may be open up to 70 days per calendar year.
2. Vendors. Calculations are based on the number of vendors, rather than linear or square footage. Those who do not sell any products or services, such as community groups and music areas, are not included in these calculations.
 - Category One: Agricultural Producers. 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.
 - Category Two: Other Food. Up to 50 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.
 - Category Three: All Other. Up to 20 percent of market vendors are not required to be related to agriculture or food.

For example, a market may have 50 percent of vendors in Category One, 30 percent in Category Two, and 20 percent in Category Three. Another market may have 70 percent of vendors in Category One, 10 percent in Category Two, and 20 percent in Category Three. A third may have 60 percent of vendors in Category One, 35 percent in Category Two, and 5 percent in Category Three.

3. The market cannot obstruct a path that is part of a required pedestrian circulation system.
4. The market manager must retain organic certification information on site and must post a sign in a prominent location that reads "Questions about organic certification? Contact market manager," and that also includes a phone number for the market manager.

Items # 20, 21, 22, 23, 24: Temporary Activities

E. Fairs, carnivals, and other major public gatherings.

See deleted 33.296.030.A.4, B.3, C.1

There are two changes shown in this subsection. The first includes changes to wording for consistency. In the RX, C, E, and I zones, "other major gatherings were omitted" from the list. In the OS zone, "major gatherings" were called "special events". These differences in wording can lead to confusion.

The second change clarifies when the time limit for the event is applied. Essentially, this recognizes that some events may take several days to set up and break down, but the impacts of the event are typically from when the event is actually running. To address concerns of long-running set up or break down times, a total of 5 days (cumulative total for both set up and break down periods) has been allowed, the total period being two weeks. For events in the RX, C, E, and I zones, since there is no limit on the number of times the events may be held, the requirement that the time between events must be four times as long as the duration of the event has been added.

F. Construction activities

This heading groups regulations that are related to temporary construction activity.

1. Use of a house or manufactured dwelling.

See deleted 33.296.030.A.1.

No changes are proposed from the existing regulation.

2. Building relocation

This is a new regulation.

This provision allows buildings in the process of being moved to locate on a staging site, until the site has been prepared for the building. This is allowed in all but the OS zone, where structures are generally restricted, and temporary placement of buildings could result in impacts that are inconsistent with the purpose of the OS zone. Allowing temporary building moves in the other zones is intended to prevent unnecessary demolitions and provide alternatives when building moves are unavoidable. This provision suspends application of the development standards of this title (setbacks, building coverage, pedestrian access requirements, screening, ground floor windows, etc), however other requirements are still applied (fire separation, nuisance abatement, erosion control, etc). Requirements are in place to ensure that the building will be removed or meet all development requirements after the 6 month period.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

E. Fairs, carnivals and other major public gatherings.

1. In the RF through RH zones, fairs, carnivals and other major public gatherings are allowed for up to 9 consecutive days at a site with an existing institutional use. The 9 days does not include up to 5 total days to set up and breakdown the event. Two events are allowed per calendar year.
2. In the IR zone, fairs, carnivals and other major public gatherings are allowed for up to 9 consecutive days at a site with an existing institutional use. Temporary events must be listed in the institution's approved mission statement and impact mitigation plan. The 9 days does not include up to 5 total days to set up and breakdown the event. Two events are allowed per calendar year.
3. In the RX, C, E, and I zones, fairs and carnivals and other major public gatherings are allowed for up to 2 consecutive weeks at any one time. The 2 weeks does not include up to 5 total days to set up and breakdown the event. The time between events must be 4 times as long as the duration of the last event.
4. In the OS zone, fairs, carnivals, and other major public gatherings are allowed by right. A permit is required from the Bureau of Parks when such activities occur in public parks and open spaces.

F. Construction activities

1. Use of existing house or manufactured dwelling. In the IR and RF through RH zones, an existing house or a manufactured dwelling may be used temporarily for a residence while a permanent residence is being constructed. The existing house or manufactured dwelling may remain on the site until the completion of the construction, or for not more than 2 years, whichever time period is less. The existing house or manufactured dwelling must be removed within 1 month after approval of final occupancy for the new residence. A performance bond or other surety must be posted in conformance with 33.700.050, Performance Guarantees, to ensure removal of the existing house or manufactured dwelling.
2. Building relocation. In all zones except the OS zone, a site may be used once per year to store a building for up to 6 months while the building is awaiting permanent placement. Site development standards of this Title do not apply to the building while it is being stored; however other city requirements may still apply such as stormwater management and erosion control. A performance bond in conformance with 33.700.050, Performance Guarantees or other form acceptable to the Director of BDS must be posted to ensure removal of the building if is not permanently placed within 6 months.

Items # 20, 21, 22, 23, 24: Temporary Activities

3. Construction parking.

See deleted 33.296.040.B

This is existing language that was previously contained in a different section

4. Construction staging.

a. General construction projects

This is a new regulation.

In high density zones where sites are typically smaller and development more frequently covers the entire site, there is often inadequate room to stage construction materials within the site undergoing development. These provisions allow for off-site staging to occur, provided the staging area is located on a multidwelling, commercial, employment, or industrial zoned site near the development site (within 500 feet), and adheres to other requirements already applied to public utility project staging. Following completion of the development, the staging site must be restored with groundcover or gravel, except for portions of the site that were previously paved.

b. Public utility projects.

See deleted 33.296.030.A.7, B6, and C.3

This regulation was modified to include public utility repair, maintenance or infrastructure removal projects in addition to installation projects. Note that the regulations for these projects differ from the general construction requirements in that they may occur in any zone, and staging areas are not required to be within a set distance from the project.

The other change to these regulations from the existing requirements is the removal of the reference to compliance with Title 18, Noise. The noise regulations apply, as do Title 10 (erosion control), but since there were no additional or different noise requirements (as opposed to the dust, mud, and erosion control requirements), there is no need to include the reference. The remaining regulations are unchanged.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

3. Construction parking. In all zones, temporary parking areas are allowed only during construction on the site. They must be removed within 1 month of issuance of a certificate of occupancy for the construction. The land must be restored to the condition it was in before the development of the temporary parking area unless an alternative development has been approved for the location. A performance bond or other surety must be posted in conformance with 33.700.050, Performance Guarantees, to ensure removal.

4. Construction staging areas~~[TM(P10)]~~

a. General construction projects. Staging areas for construction projects in the RX, C and E zones are allowed subject to subparagraph .030.C.4.c. The staging area must be located within 500 feet of the construction site, however in no case can the staging area be located within an OS or single-dwelling zone.

b. Public utility projects. Staging areas for public utility improvement projects, such as the installation of sewer pipes, water pipes, and transportation improvements, are allowed in all zones ~~[BS11]~~ and are subject to the regulations below.

c. Staging area standards. Adjustments to the following standards are prohibited

(1) Staging areas that last more than one year require that a community relations representative is designated for the project. The community relations representative must be available ~~[BS12]~~ to respond to neighbors related to the operation of the staging area. The community relations representative must also be available ~~[BS13]~~ to meet on at least a quarterly basis with the affected neighborhood association and business association until the staging area is removed.

(2) Staging areas that last longer than 3 years are subject to the regulations for permanent uses, except for staging areas located within an Environmental or River Natural overlay zone, in which case the staging area is subject to the regulations for a permanent use regardless of the length of time the staging area will be in place. ~~[BS14]~~

(3) Dust, mud and erosion control. During the construction project, erosion control measures must be maintained in order to reduce dust on the site ~~[BS15]~~ and to reduce dust and mud on adjacent streets from vehicles entering and leaving the site. During the length of the project, the site must be enclosed or protected in a manner to prevent on-site erosion and to prevent sediment from leaving the site.

(4) Final condition. When the construction project is final, the staging area must be prepared and seeded with a mixture of 100 percent perennial rye grass to create a low maintenance vegetative ground cover. This requirements does not apply to portions of the staging area that were paved before the project started. In the RX,C, E, and I zones the staging area may be graveled instead of seeded; however

gravel is not allowed within 5 feet of lot lines. Seeding is required within 5 feet of the lot lines.^[BS16]

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

G. Natural disasters and emergencies.

See deleted 33.296.030.A.6, B.5, C.2

Due to the way the chapter was previously structured, Subsection D (time between activities) was erroneously applied to this regulation. Taken literally, this meant that activities to respond to natural disasters could not be repeated until a duration 4 times as long as the last emergency had transpired. Given the unforeseen nature of natural disasters and emergencies, this was not the intent of the requirement.

The language in this subsection is also updated to clarify that warming and cooling centers established during times of inclement weather are considered temporary activities to address emergencies. Other examples have also been added.

H. Radio Frequency Transmission Facilities

See deleted 33.296.030.A.8, B.7, C.4

These changes replace references to Effective Radiated Power (ERP) with "personal wireless service facilities" to align with the changes in Chapter 33.274 (Item #18).

The other change to this language modifies the time limits for how long a temporary radio frequency transmission facility can operate consecutively. Temporary facilities often run longer than 30 days during summer events and festivals, or when redevelopment affects an existing radio frequency site. The 30 day limitation required the facility to be turned off momentarily every 30 days. The maximum 120 day limit has been retained which ensures that the facility remains temporary and allows for any necessary land use reviews that may be needed to establish (or reestablish) a permanent facility. The requirement to obtain a zoning permit allows the City to more accurately track these time limits and enables other structural/ safety requirements to be considered (e.g. guy wire placement).

I. Commercial Filming.

This is a new regulation.

Temporary commercial filming is intended to capture advertising, as well as movie and television production that occurs in a specific location for a particular existing backdrop (as opposed to production in a studio or stage set). The Portland Film Office, within PDC, coordinates with location scouts and production staff for community relations matters and any required city permits for use of city facilities, including activities in the public right of way (which is not regulated by Title 33).

(5) Building permit. Prior to the start of the construction project, a building permit must be obtained from the City. The application for the building permit must contain evidence that the project will comply with the staging area standards. For public utility projects, if the project will be implemented through a contract with the City, then the evidence of compliance may be shown as specifications in the contract. If the public utility project does not involve a contract with the City evidence of compliance must include performance guarantees for the requirements in c.(3), Dust, mud, and erosion control, and c.(4), Final condition. Performance guarantees must comply with the provisions of Section 33.700.050, Performance Guarantees.[BS17]

G. Natural disasters and emergencies. Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency. Temporary activities include food, water, and equipment distribution centers, warming or cooling shelters, and triage stations.

H. Radio Frequency Transmission Facilities. Temporary facilities for personal wireless service facilities are allowed for up to 120 days in a calendar year. Meeting this regulation must be documented through a zoning permit.

I. Commercial filming. In all zones, commercial filming is allowed as a temporary activity. For all sites, except sites in the OS zone, the time between filming events must be four times as long as the duration of the last event.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

33.296.030 Zone and Duration (replaced)

This language has been incorporated into the changes on the previous pages. These regulations were previously organized into subsections grouped by base zone. This resulted in replicating the regulations in several places, and was less user-friendly.

Cross references have been included to help compare existing language with the amendments.

A. IR and RF through RH zones.

1. Use of existing house or manufactured dwelling during construction

See 33.296.030.F.1

2. Residential sales office

See 33.296.030.A

3. Sales

a. Garage Sales

b. Seasonal outdoor sales

See 33.296.030.C

c Farmers Markets

See 33.296.030.D

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. An existing house or a manufactured dwelling may be used temporarily for a residence while a permanent residence is being constructed. The existing house or manufactured dwelling may remain on the site until the completion of the construction, or for not more than 2 years, whichever time period is less. The existing house or manufactured dwelling must be removed within 1 month after approval of final occupancy for the new residence. A performance bond or other surety must be posted in conformance with 33.700.050, Performance Guarantees, to ensure removal of the existing house or manufactured dwelling.~~
2. ~~Residential sales offices. Sales offices for major subdivisions or planned unit developments are allowed at the development site until all lots or houses are sold. Use of the sales office for sites outside of the project is prohibited.~~
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.~~
 - (2) ~~Vendors. Calculations are based on the number of vendors, rather than linear or square footage. Those who do not sell any products or services, such as community groups and music areas, are not included in these calculations.

 - ~~Category One: Agricultural Producers. 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.~~
 - ~~Category Two: Other Food. Up to 50 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.~~
 - ~~Category Three: All Other. Up to 20 percent of market vendors are not required to be related to agriculture or food.~~~~~~~~

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

4. Fairs, carnivals and other major public gatherings.

See 33.296.030.E

5. Show of model homes

See 33.296.030.B

6. Natural disasters and emergencies

See 33.296.030.G

7. Staging areas for public utility installation

See 33.296.030.F.4.b.

For example, a market may have 50 percent of vendors in Category One, 30 percent in Category Two, and 20 percent in Category Three. Another market may have 70 percent of vendors in Category One, 10 percent in Category Two, and 20 percent in Category Three. A third may have 60 percent of vendors in Category One, 35 percent in Category Two, and 5 percent in Category Three.

- ~~(3) The market cannot obstruct a path that is part of a required pedestrian circulation system.~~
- ~~(4) The market manager must retain organic certification information on site and must post a sign in a prominent location that reads "Questions about organic certification? Contact market manager," and that also includes a phone number for the market manager.~~
- ~~4. Fairs, carnivals and other major public gatherings.~~
 - ~~a. Fairs, carnivals and other major public gatherings in the RF through RH zones. Fairs, carnivals and other major gatherings are allowed for up to nine consecutive days at a site with an existing institutional use. Two events are allowed per calendar year.~~
 - ~~b. Fairs, carnivals and other major public gatherings in IR zone. Fairs, carnivals and other major gatherings are allowed for up to nine consecutive days at a site with an existing institutional use. Two events are allowed per calendar year. Temporary events must be listed in the institution's approved mission statement and impact mitigation plan.~~
- ~~5. Show of model homes. The viewing of model homes within a subdivision for a fee is allowed for a period not to exceed one month. Only one showing is allowed per phase of a subdivision.~~
- ~~6. Natural disasters and emergencies. Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.~~
- ~~7. Staging areas for public utility installation. Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and transportation improvements, are subject to the regulations below.~~
 - ~~a. Length of project. Except as provided in subparagraph b. below, only projects that last three years or less are allowed as temporary activities. Projects that last over three years are subject to the regulations for permanent uses. Adjustments to the three year time period are prohibited.~~
 - ~~b. Overlay zones. Projects located within an Environmental or River Natural overlay zone are subject to the regulations for permanent uses regardless of the length of the project.~~
 - ~~c. Dust, mud and erosion control. During the project, operational procedures must include steps to reduce dust and mud on the site and to reduce dust and mud on adjacent streets from vehicles entering and leaving the site. During the length of the project, the site must be enclosed or protected in a manner to prevent on-site erosion and to prevent sediment from leaving the site.~~

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

8. Radio frequency transmission facilities.

See 33.296.030.H.

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

1. Parking lot sales

See 33.296.030.C.2.

2. Seasonal outdoor sales

See 33.296.030.C.4.

3. Fairs and carnivals

See 33.296.030.E.

4. Warehouse sales.

See 33.296.030.C.3.

- d. ~~Noise. The project must meet the noise regulations of Title 18, Noise Control. Any variances to the noise regulations will be processed as provided in Title 18.~~
 - e. ~~Community relations. For project staging areas that last more than one year, the public agency must designate a community relations representative for the project. The community relations representative must be available to respond to neighbors related to the operation of the staging area. The community relations representative must also be available to meet on at least a quarterly basis with the affected neighborhood association and business association until the staging area is removed.~~
 - f. ~~Final site condition. At the end of the project, the site must be prepared and seeded with a mixture of 100 percent perennial rye grass to create a low maintenance vegetative ground cover. An exception to this requirement is sites that have paving prior to the start of the project. In these cases the portion of the site that has paving may remain in paving. All other portions of the site must be seeded as provided above. The ground cover or paving must be installed to the applicable standards in *Standard Construction Specifications* published by the City of Portland, Department of Public Works.~~
 - g. ~~Building permit. Prior to the start of the project, a building permit must be obtained from the City. Applications for the building permit must contain evidence that the project will comply with the requirements above. If the project will be implemented through a contract with the City, then the evidence of compliance may be shown as specifications in the contract. If the project does not involve a contract with the City, then at a minimum, evidence of compliance must include performance guarantees to guarantee compliance with the requirements in Subparagraph e., Dust, mud, and erosion control, and f., Final site condition, above. Performance guarantees must comply with the provisions of Section 33.700.050, Performance Guarantees.~~
8. ~~Radio Frequency Transmission Facilities. Temporary facilities, operating with less than 1,000 watts ERP, are allowed for a period of time not to exceed 30 days of consecutive operation, nor more than 120 days of operating in total.~~
- 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. Parking lot sales in zones where outdoor display is not otherwise allowed, are allowed for up to two consecutive weeks at any one time.~~
 - 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. Fairs and carnivals are allowed for up to two consecutive weeks at any one time.~~
 - 4. ~~Warehouse sales. In industrial zones, retail warehouse sales are allowed for up to one week at any one time.~~

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

5. Natural disasters and emergencies

See 33.296.030.G

6. Staging areas for public utility installation.

See 33.296.030.F.4.b.

7. Radio frequency transmission facilities.

See 33.296.030.H.

8. Farmers markets.

See 33.296.030.E.

5. ~~Natural disasters and emergencies. Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.~~
6. ~~Staging areas for public utility installation. Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road improvements, are subject to the regulations for the RF through RH zones stated in Subparagraph 33.296.030 A.7. above. An exception to the regulations is the inclusion of alternatives to the requirements for final site condition (stated in 33.296.030 A.7.f.) In the RX, C, E, and I zones, the site may be seeded for vegetative ground cover, or it may be graveled or paved. However, gravel or paving is not allowed within 5 feet of the lot lines.~~
7. ~~Radio Frequency Transmission Facilities. Temporary facilities, operating with less than 1,000 watts ERP, are allowed for a period of time not to exceed 30 days of consecutive operation, nor more than 120 days of operating in total.~~
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. Calculations are based on the number of vendors, rather than linear or square footage. Those who do not sell any products or services, such as community groups and music areas, are not included in these calculations.~~
 - ~~Category One: Agricultural Producers. 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.~~
 - ~~Category Two: Other Food. Up to 50 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.~~
 - ~~Category Three: All Other. Up to 20 percent of market vendors are not required to be related to agriculture or food.~~

~~For example, a market may have 50 percent of vendors in Category One, 30 percent in Category Two, and 20 percent in Category Three. Another market may have 70 percent of vendors in Category One, 10 percent in Category Two, and 20 percent in Category Three. A third may have 60 percent of vendors in Category One, 35 percent in Category Two, and 5 percent in Category Three.~~
 - c. ~~The Market cannot obstruct a path that is part of a required pedestrian circulation system.~~
 - d. ~~The market manager must retain organic certification information on site and must post a sign in a prominent location that reads "Questions about organic certification? Contact market manager," and that also includes a phone number for the market manager.~~

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Items # 20, 21, 22, 23, 24: Temporary Activities

C. OS zone.

1. Fairs, carnivals, and other special events.

See 33.296.030.E

2. Natural disasters and emergencies

See 33.296.030.G

3. Staging areas for public utility installation

See 33.296.030.F.4.b.

4. Radio frequency transmission facilities

See 33.296.030.H

5. Farmers markets

See 33.296.030.D

33.296.030.D. Time between activities.

This subsection applied a required "break in activity period" to certain temporary activities located in all but the OS zone. This regulation has been incorporated into the relevant subsections for each listed activity. Other activities (apart from fairs, carnivals and other major public gatherings in the OS zone) already include duration limits to ensure the activity remains temporary in nature.

Temporary Activity	Activity time limit
A. Residential sales offices.	All homes sold or plat vesting expires
B. Show of model homes.	One month per each subdivision phase
C. Incidental sales	
1. Garage sales.	3 days, twice per year
2. Parking lot sales	2 weeks, with a 4X break in between
3. Warehouse sales.	1 week, with a 4X break in between
4.a. Seasonal outdoor sales (RX, C, E, I zones)	1 month, with a 4X break in between
4.b. Seasonal outdoor sales (IR, RF-RH zones)	5 weeks, twice a year
D. Farmers Markets	70 days per year
E. Fairs, carnivals and other major public gatherings (RF-RH zone)	9 days, twice a year
Fairs, carnivals and other major public gatherings (IR zone)	9 days, twice a year
Fairs, carnivals and other major public gatherings (RX, C, E, I)	2 weeks, with a 4X break in between
Fairs, carnivals and other major public gatherings (OS zone)	No zoning code limit, PPR permits req'd.
F. Construction activities	
1. Use of a house or manufactured dwelling	2 years
2. Building relocation	6 months
3. Construction parking	1 month after final occupancy
4.a. General construction staging	1 year (3 yrs with community relations rep)
4.b. Staging for public utility projects	1 year (3 yrs with community relations rep)
G. Natural disasters and emergencies.	End of emergency
H. Radio Frequency Transmission Facilities.	120 days per year
I. Commercial filming	4X break in between filming events

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. Fairs, carnivals, and other special events are allowed by right in the OS zone. A permit is required from the Bureau of Parks when such activities occur in public parks and open spaces.~~
 - ~~2. Natural disasters and emergencies. Temporary activities and structures needed as a result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.~~
 - ~~3. Staging areas for public utility installation. Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road improvements, are subject to the regulations for the RF through RH zones stated in Subparagraph 33.296.030 A.7. above.~~
 - ~~4. Radio Frequency Transmission Facilities. Temporary facilities, operating with less than 1,000 watts ERP, are allowed for a period of time not to exceed 30 days of consecutive operation, nor more than 120 days of operating in total.~~
 - ~~5. Farmers Markets. Farmers Markets are allowed as follows:~~
 - ~~a. The market may be open up to 70 days per calendar year.~~
 - ~~b. Vendors. Calculations are based on the number of vendors, rather than linear or square footage. Those who do not sell any products or services, such as community groups and music areas, are not included in these calculations.~~
 - ~~• Category One: Agricultural Producers. 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.~~
 - ~~• Category Two: Other Food. Up to 50 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.~~
 - ~~• Category Three: All Other. Up to 20 percent of market vendors are not required to be related to agriculture or food.~~

~~For example, a market may have 50 percent of vendors in Category One, 30 percent in Category Two, and 20 percent in Category Three. Another market may have 70 percent of vendors in Category One, 10 percent in Category Two, and 20 percent in Category Three. A third may have 60 percent of vendors in Category One, 35 percent in Category Two, and 5 percent in Category Three.~~
 - ~~c. The Market cannot obstruct a path that is part of a required pedestrian circulation system.~~
 - ~~d. The market manager must retain organic certification information on site and must post a sign in a prominent location that reads "Questions about organic certification? Contact market manager," and that also includes a phone number for the market manager.~~
- D. ~~Time between activities.~~** ~~For Subsection A. and B. above, except for manufactured dwellings, construction trailers, and residential sales offices, the time between temporary activities must be four times as long as the duration of the last event.~~

Items # 20, 21, 22, 23, 24: Temporary Activities

33.296.040.B Construction parking

This subsection is deleted since it has been incorporated into the construction-related temporary activity regulations in section 33.296.030.F.3.

C. Signs (deleted)

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

C. Activities Maintained beyond time limits

Minor wording revisions are included to clarify that temporary activities that are maintained beyond the time limits are not automatically considered permanent (i.e. not going away), and that they are subject to the applicable regulations of the base zone, overlay zone, and/or plan district (which may prohibit or otherwise limit the use/development)

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

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. They must be removed within 1 month of issuance of a certificate of occupancy for the construction. The land must be restored to the condition it was in before the development of the temporary parking area unless an alternative development has been approved for the location. A performance bond or other surety must be posted in conformance with 33.700.050, Performance Guarantees, to ensure removal.~~
- ~~**C.** Signs. The sign standards are stated in Title 32, Signs and Related Regulations.~~
- BD.** 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.
- ~~**CE.** Temporary activities in C, E, and I zones [TM(P18)] that are maintained beyond the allowed time limits ~~are considered permanent uses, and~~ are subject to the applicable use and development standards of the zoning code base zone. [TM(P19)]~~
- DF.** 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 BD.
- EG.** These regulations do not exempt the operator from any other required permits such as sanitation facility permits or electrical permits.

Item #18: Radio Frequency (RF) Transmission Facilities

33.410 BUFFER ZONE

33.410.040 Development Standards

D. Signs (deleted)

References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

D. Radio Frequency Transmission Facilities

These changes clarify that the prohibition applies to towers, not the entire facility. This means that antennas and accessory equipment may be located in the buffer. When this prohibition language was added to the code in 1997 the commentary explained that "since the buffer zone already prohibits signs, it should also restrict similar structures such as broadcast towers." The buffer requirements do not contain a similar existing outright prohibition on mechanical equipment. Note that with the current regulation if the antenna were supported by a building instead of a tower, the base equipment (and antennas) *could* be located in the buffer. Also, the prohibition as written could effectively prevent co-location of antennas on existing "non conforming" towers, and therefore create demand for additional towers. This outcome is inconsistent with the purpose of Chapter 33.274 which seeks to encourage collocation.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.410
BUFFER ZONE

33.410.040 Development Standards

The following standards must be met in the Buffer Overlay zone.

A.-C. [No change]

~~**D. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.~~

D.E. Radio Frequency Transmission Facilities. Towers to support Radio Frequency Transmission Facilities ~~that are supported by a tower~~ are prohibited in the Buffer zone.

CHAPTER 33.420
DESIGN OVERLAY ZONE

Item #44 - Application of the Zoning Code in the Right of Way

33.420.041.C

These amendments clarify that:

- Design review and historic resource review is required for non-standard improvements in the public right-of-way such as street lights, street furniture, planters, public art, sidewalk and street paving materials and landscaping; AND
- The applicant must get approval for the non-standard improvement from the City Engineer PRIOR to going through design or historic resource review.

The existing language is unclear and inconsistent with similar provisions in the historic overlay zone.

Item #18: Radio Frequency (RF) Transmission Facilities

33.420.045 Exempt From Design Review

N. Radio frequency transmission facilities. These changes replace references to Effective Radiated Power (ERP) with "personal wireless service facilities" to align with the changes in 33.274.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.420
 DESIGN OVERLAY ZONE**

33.420.041 When Design Review is Required

Unless exempted by Section 33.420.045, Exempt From Design Review, design review is required for the following:

A.-B. [No Change]

- C.** Nonstandard improvements in the public right-of-way such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, Nonstandard improvements in the public right-of-way must which ~~have received prior approval of from~~ the City Engineer prior to applying for design review. Improvements that meet the City Engineer’s standards are exempt from design review;

D.-K. [No change]

33.420.045 Exempt From Design Review

The following items are exempt from design review:

A.-M. [No change]

- N.** Radio frequency transmission facilities for personal wireless services operating at ~~1,000 watts ERP or less~~ that meet the following:
1. The antennas are added to the facade of an existing penthouse that contains mechanical equipment provided the antennas are no higher than the top of the penthouse, are flush mounted, and are painted to match the façade of the penthouse; and
 2. Accessory equipment is within 2 feet of the existing penthouse, is no higher than the top of the penthouse, and is painted to match the façade of the penthouse.

O.-BB. [No change]

Item #25: MCDD Environmental Zone Standards

There are several amendments associated with this item. Taken together the amendments are intended to:

- Streamline the permitting process for resource enhancement projects within the Multnomah County Drainage District (MCDD) and the Peninsula #1 and Peninsula #2 drainage districts;
- Clarify that enhancement projects are not exempt from 33.430; and
- Revise confusing code language in the Portland International Airport and Cascade Station/Portland International Center plan districts.

The amendments are necessary because the existing exemption language related to operation, maintenance and repair of drainage district facilities could be read in ways that would allow resource enhancement projects to be exempt from the regulations of 33.430, and that is not how the code language should be interpreted.

In 2005 City Council adopted the Environmental Code Improvement Project and the language in 33.430.080.C.6 was amended to address the specific types of operation, maintenance and repair activities conducted by the drainage districts. Resource enhancement projects, such as creating benches or terraces by cutting and filling on the banks or laying back the banks, were not included in the list of routine maintenance activities that are exempt because:

- The work goes beyond routine maintenance;
- The work can have substantial impacts on natural resources; and
- There should be transparency and accountability when such activities are taking place.

In 2011 City Council adopted the Airport Futures project. During the project MCDD asked the City to create an exemption for resource enhancement projects such as benching and terracing. For the same reasons that an exemption was not created in 2005, the City did not create an exemption in 2011. However, a set of development standards for reviewing bank restoration projects within the Portland International Airport and Cascade Station/PIC plan districts was created and has been in effect since the adoption of the Airport Futures project. The standards track streamlines the process and provides certainty to the City about important aspects of the work being done in the environmental zones.

MCDD has asked again through the RICAP process to amend the Zoning Code so that resource enhancement projects can be treated as activities associated with routine operation, maintenance and repair of drainage district facilities and be exempt from 33.430. Because bank restoration is not currently exempt from 33.430, and City Council has twice set policy against allowing the activity to be exempt from 33.430, staff does not recommend proceeding with the MCDD request. However, staff recommends that the standards track created for bank restoration activities in the Airport Futures planning area be expanded to apply to the entirety of MCDD's jurisdiction (they currently only apply in about 50% of their jurisdiction). This option will not streamline the process to the degree that MCDD would prefer, but it does allow them to avoid an environmental review in the area where the standards track does not currently exist.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.430
 ENVIRONMENTAL ZONES**

Sections:

General

- 33.430.010 Purpose
- 33.430.015 Purpose of the Environmental Protection Zone
- 33.430.017 Purpose of the Environmental Conservation Zone
- 33.430.020 Environmental Reports
- 33.430.030 Relationship ~~to~~ Other Environmental Regulations
- 33.430.035 Other City Regulations
- 33.430.040 Overlay Zones and Map Symbols
- 33.430.050 Subareas of Environmental Zones
- 33.430.060 Where These Regulations Apply
- 33.430.070 When These Regulations Apply
- 33.430.080 Items Exempt From These Regulations
- 33.430.090 Prohibitions

Development Standards

- 33.430.100 Environmental Development Standards and Environmental Review
- 33.430.110 Purpose
- 33.430.120 Procedure
- 33.430.130 Permit Application Requirements
- 33.430.140 General Development Standards
- 33.430.150 Standards ~~for~~ Utility Lines
- 33.430.160 Standards ~~for~~ Land Divisions and Planned Developments
- 33.430.165 Standards for Property Line Adjustments
- 33.430.170 Standards ~~for~~ Resource Enhancement Projects
- 33.430.175 Standards ~~for~~ Right-of-Way Improvements
- 33.430.180 Standards ~~for~~ Stormwater Outfalls
- 33.430.190 Standards ~~for~~ Public Recreational Trails

Environmental Review

- 33.430.210 Purpose
- 33.430.220 When Review is Required
- 33.430.230 Procedure
- 33.430.240 Supplemental Application Requirements
- 33.430.250 Approval Criteria
- 33.430.260 Use of Performance Guarantees
- 33.430.270 Special Evaluation by a Trained Professional
- 33.430.280 Modification of Base Zone Development Standards

Natural Resource Management Plans

- 33.430.310 Purpose
- 33.430.320 Scope
- 33.430.330 Procedure
- 33.430.340 Components
- 33.430.350 Approval Criteria for Adoption and Amendment

Corrections to Violations of This Chapter

- 33.430.400 Purpose
- 33.430.405 Correction Options
- 33.430.407 Recurring Violations of This Chapter

Notice and Review Procedure

- 33.430.410 Purpose
- 33.430.420 When These Regulations Apply
- 33.430.430 Procedure

Map 430-1 Bank Restoration and Basking Features Area

[Renumber Map 430-1 through Map 430-13 to Map 430-2 through Map 430-14]

Item #25: MCDD Environmental Zone Standards

33.430.080 Items Exempt From These Regulations

- C. existing development operations and improvements
 - 6. operation, maintenance and repair

The changes to this paragraph clarifies that the upland portion of the environmental overlay zone is above the high water mark and clarifies that operation, maintenance and repair activities that affect the banks of a drainageway (such as dredging and bank reconfiguration) are only exempt when the activity takes place below the ordinary high water mark.

The amendments ensure that resource enhancement projects, such as benching, terracing and/or laying back the banks of a drainageway, are not exempt from the regulations in 33.430. Other amendments associated with this item provide a standards track for these types of resource enhancement projects.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.430.080 Items Exempt From These Regulations

The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter. Other City regulations such as Title 10, Erosion Control, must still be met:

A.-B. [No change]

C. Existing development, operations, and improvements, including the following activities:

1.-5. [No change]

6. Operation, maintenance, and repair of drainage facilities, flood control structures, and conveyance channels that are managed by Drainage Districts as defined in ORS 547, and where the activity is conducted or authorized by the Drainage District. This exemption does not apply if dredge spoils are placed onto the top of banks of the drainageway, or onto ~~upland~~ portions of the environmental overlay zone above the ordinary high water mark.

Operation, maintenance, and repair of drainage facilities include:

- a. Dredging and channel cleaning below the ordinary high water mark of existing drainage facilities and vegetative maintenance within the minimum floodway cross-section of drainageways;
- b. Operation, maintenance, and repair of drainage district pump stations, water control structures, or levees;
- c. Reconfiguring the cross-section of drainage channels below the ordinary high water mark, or changing the location of the low flow channel within a wider drainage channel; and
- d. Stabilizing banks and restoring levees back to original condition and footprint;

7.-12. [No change]

D.-E. [No change]

33.430.140 General Development Standards

The standards below apply to all development in the environmental zones except as follows:

- Utilities subject to Section 33.430.150;
- Land divisions subject to Section 33.430.160;
- Property line adjustment subject to Section 33.430.165;
- Resource enhancement projects subject to Section 33.430.170;
- Rights-of-way improvements subject to Section 33.430.175;
- Stormwater outfalls subject to Section 33.430.180; and
- Public recreational trails subject to Section 33.430.190.

Standards A through C and G through S apply to new development. Standards D through S except L apply to alterations to existing development. Standards B, C, and I apply to removal of plants on the Nuisance Plants List. Only standards E, N, Q, R, and S apply in Transition areas. All of the applicable standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

A.-B. [No change]

Item #25: MCDD Environmental Zone Standards

33.430.140 General development standards

C. Disturbance Area and F. Development setbacks

The language being added is not new. The language is being moved from chapters 33.508, Cascade Station/Portland International Center Plan District and 33.565 Portland International Airport Plan District. The regulation describes how to measure top-of-bank when the top-of-bank has moved due to bank reconfiguration conducted in accordance with 33.430.170.A.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

C. The disturbance area must be set back at least:

1. Fifty feet from the edge of any identified wetland, from the top of bank of any identified water body within the Columbia Corridor, or any identified water body within a protection zone on lots zoned R10, R20, or RF. When reconfiguration of the bank is carried out in accordance with subsection .170.A, below, results in the top of bank shifting landward, the applicant may choose to measure the setback from the original top of bank. When this occurs, a survey of the original top of bank line and the new top of bank line must be submitted for verification and then recorded with the County recorder. In all cases the disturbance area must be set back at least 5 feet from the new top of bank line;
2. Thirty feet from the top of bank of any identified water body within a protection zone on all lots except those zoned R10, R20 or RF; and
3. Thirty feet from the centerline of any identified water bodies within a conservation zone except those within the Columbia Corridor.

D.-E. [No change]

F. The proposed development must be set back at least:

1. Fifty feet from the edge of any identified wetland, from the top of bank of any identified water body within the Columbia Corridor, or any identified water body within a protection zone on lots zoned R10, R20, or RF. When reconfiguration of the bank is carried out in accordance with subsection .170.A, below, results in the top of bank shifting landward, the applicant may choose to measure the setback from the original top of bank. When this occurs, a survey of the original top of bank line and the new top of bank line must be submitted for verification and then recorded with the County recorder. In all cases the proposed development must be set back at least 5 feet from the new top of bank line;
2. Thirty feet from the top of bank of any identified water body within a protection zone on lots zoned R7 through IH; and
3. Thirty feet from the centerline of any identified water bodies within a conservation zone except those within the Columbia Corridor.

G.-S. [No change]

33.430.170 Standards for Resource Enhancement Projects

The following standards apply to resource enhancement projects in the environmental zones. ~~All of the standards must be met.~~ The applicant for projects that will take place within the area shown on Map 430-1 may choose to meet all of the standards of subsection A, all of the standards of subsection B, or all of the standards of subsection C. Applicants for projects that will take place outside the area shown on Map 430-1 must meet all of the standards in subsection C. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

Item #25: MCDD Environmental Zone Standards

33.430.170 Standards for Resource enhancement Projects

A. Bank Reconfiguration

The standards in this subsection are not new standards. They currently exist in chapters 33.508 and 33.565. They are being moved to Chapter 33.430 so that they can be applied more broadly. The area in which these standards will apply is shown on Map 430-1—the area encompasses a portion of the area within the jurisdiction of the Multnomah County Drainage District.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- A. Bank reconfiguration.** The following standards apply to bank reconfiguration projects that take place in the Bank Reconfiguration and Basking Features Area shown on Map 430-1. Slough and drainageway banks, which are the area between the ordinary high water mark and the top of bank, may be regraded when all of the following are met:
1. The activity is conducted or authorized by the Multnomah County Drainage District #1 or Peninsula Drainage District #2;
 2. The final slope above ordinary high water after grading is 33 percent or less (33 percent slope represents a rise to run ratio equal to 1:3);
 3. Rock armoring may not be used except surrounding outfalls, inlets, culverts and bridge crossings, the rock armoring cannot exceed a distance of 5 feet from those features, and must be planted with live stakes of native plant stock, one half inch in diameter. Stakes must be used at a density of 2 to 3 stakes per 9 square feet. If the armoring is located on a levee, live stakes are not required;
 4. The placement of large wood on the bank is allowed to improve bank stabilization if installed above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps;
 5. Trees or snags, 6 inches or greater in diameter, that are removed landward of the new top-of-bank must be replaced and meet the following:
 - a. Each tree or snag, 6 inches or greater in diameter, removed must be replaced as specified in Table 430-3, Tree Replacement;
 - b. Replacement trees and shrubs must be native and selected from the Portland Plant List;
 - c. Replacement shrubs must be in at least a 2-gallon container or the equivalent in ball or burlap;
 - d. Replacement trees must:
 - (1) Be at least one-half inch in diameter and have a maximum height-at-maturity that will not project above the height limit of the h overlay zone; and
 - (2) Be planted within a transition area or resource area on a property owned by the applicant; or for which the applicant possess a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure success of the mitigation; or can demonstrate legal authority to acquire the site through eminent domain;
 - d. If the replacement trees are planted within 100 feet of the Columbia Slough main channels or secondary drainageways, the trees must be planted above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps.
 6. The area between the ordinary high water mark and the new top of bank must be revegetated as specified in Figure 430-3 and Table 430-7, Bank Revegetation.

Item #25: MCDD Environmental Zone Standards

Figure 430-3

Moved from Figure 508-15 and 565-2

Table 430-7

Moved from Table 508-5 and Table 565-2

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Figure 430-3: Bank Revegetation
 [renumber Figure 430-3 to Figure 430-4]

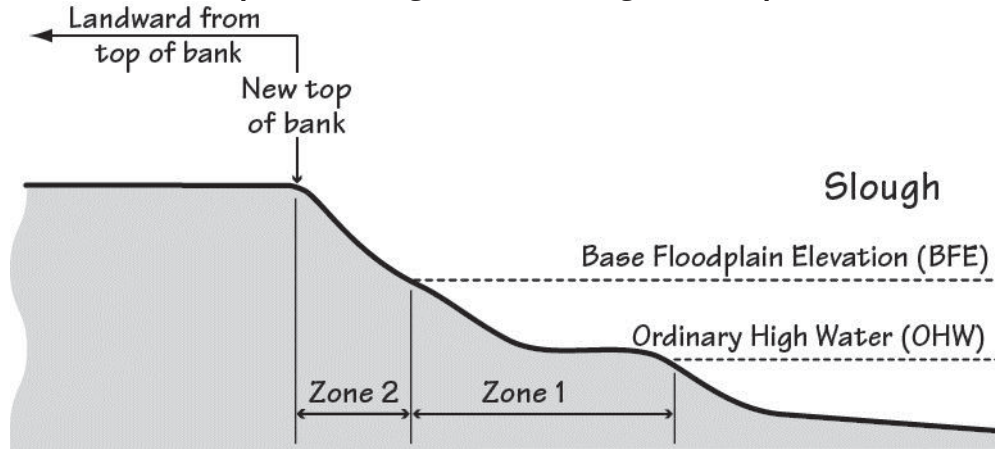


Table 430-7 Bank Revegetation		
Water Body	Zone (See Figure 565-2)	Planting Requirements
<u>Sloughs and drainageways; except on levees</u>	<u>Zone 1</u>	<u>A mix of native emergent wetland vegetation planted at a rate of 50 plugs of vegetation per 100 square feet of area, ten native shrubs for every 100 square feet of area and a native grass and forb seed mix at a rate of 30 pounds per acre. No trees may be planted in Zone 1.</u>
	<u>Zone 2</u>	<u>A. Outside of the Airport Subdistrict of the Portland International Airport plan district, one native tree, three native shrubs and four other native plants for every 100 square feet of area. Trees may be clustered. B. Within the Airport Subdistrict of the Portland International Airport plan district, Option A or ten native shrubs for every 100 square feet of area and a native grass and forb seed mix at a rate of 20 pounds per acre.</u>
<u>On levees</u>	<u>Zone 1 and 2</u>	<u>A native grass and forb seed mix at a rate of 50 pounds per acre or a grass seed mix approved by the US Army Corps of Engineers for use on levees applied at a rate of 50 pounds per acre.</u>

7. Disturbance areas related to structure removal must be replanted with native plants to achieve a 90 percent vegetative cover within one year. Disturbance area that is related to the removal of structures from the water is exempt from this standard;
8. No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:
 - a. The viewing area contains no more than 500 square feet of permanent disturbance area;
 - b. The viewing area is at least 30 feet from the top of bank;
 - c. The viewing area is not in the floodway;
 - d. Native trees more than 10 inches in diameter are not removed; and
 - e. Each 6 to 10-inch diameter native tree removed is replaced at a rate of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5-gallon conifers and be native trees listed on the Portland Plant List. All trees must be planted on the site; and

Item #25: MCDD Environmental Zone Standards

33.430.170 Resource Enhancement Projects

B Basking Features

The standards in this subsection are not new standards. They currently exist in chapters 33.508 and 33.565. They are being moved to Chapter 33.430 so that they can be applied more broadly. The area in which these standards will apply is shown on Map 430-1—the area encompasses a portion of the area within the jurisdiction of the Multnomah County Drainage District.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

9. Temporary disturbance areas may be seeded with non-native seed that is sterile and is certified as 100 percent weed-free for erosion control purposes until replanting occurs.

B. Basking features. The following standards apply to the placement of large wood or large rocks as basking features for wildlife in the Bank Reconfiguration and Basking Features Area shown on Map 430-1. The placement of large wood or large rocks as basking features for wildlife within the Columbia Slough, Whitaker Slough, Buffalo Slough, Peninsula Canal, or other drainageways or identified wetlands is allowed when all of the following are met:

1. The activity is conducted or authorized by the Multnomah County Drainage District #1, Peninsula Drainage District #2 or the City of Portland Bureau of Environmental Services;
2. No native trees are removed;
3. The basking feature is installed above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps; and
4. Disturbance areas related to structure removal must be replanted with native plants to achieve a 90 percent vegetative cover within one year. Disturbance area that is related to the removal of structures from the water is exempt from this standard;
5. No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:
 - a. The viewing area contains no more than 500 square feet of permanent disturbance area;
 - b. The viewing area is at least 30 feet from the top of bank;
 - c. The viewing area is not in the floodway;
 - d. Native trees more than 10 inches in diameter are not removed; and
 - e. Each 6 to 10-inch diameter native tree removed is replaced at a rate of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5-gallon conifers and be native trees listed on the Portland Plant List. All trees must be planted on the site; and
6. Temporary disturbance areas may be seeded with non-native seed that is sterile and is certified as 100 percent weed-free for erosion control purposes until replanting occurs.

C. All other resource enhancement projects. The following standards apply to all other resource enhancement projects not addressed by subsections 170.A or B. All of the following standards must be met:

1. There is no excavation or fill of, or construction activity within any wetland or water body;
- ~~B.2.~~ There is no net fill, or increase in the amount of soil on the site;
- ~~C.3.~~ No native vegetation listed on the Portland Plant List is removed except as allowed by E. below;

Item #25: MCDD Environmental Zone Standards

33.430.170.C All other resource enhancement projects

The changes to paragraphs C.4, C.5 and C.6 clarify confusing language.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

~~D.4.~~ Disturbance areas related to structure removal ~~and not scheduled for replanting~~ must be replanted with native plants to achieve a 90 percent vegetative cover within one year. Disturbance area that is related to the removal of structures from the water is exempt from this standard, except for in-water structure removal;

~~E.5.~~ No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:

- ~~1a.~~ The viewing area ~~may create up to~~ contains no more than 500 square feet of permanent disturbance area;
- ~~2b.~~ The viewing area is at least 30 feet from the top of bank;
- ~~3c.~~ The viewing area is not in the floodway;
- ~~4d.~~ Native trees more than 10 inches in diameter ~~may are not be~~ are not removed;
- ~~5e.~~ Each 6 to 10-inch diameter native tree removed ~~must be~~ is replaced at a rate of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5-gallon conifers and be native trees listed on the Portland Plant List. All trees must be planted on the site; and

~~F.6.~~ Temporary disturbance areas may be seeded with non-native seed that is sterile and is certified as 100 percent weed-free for erosion control purposes until replanting occurs.

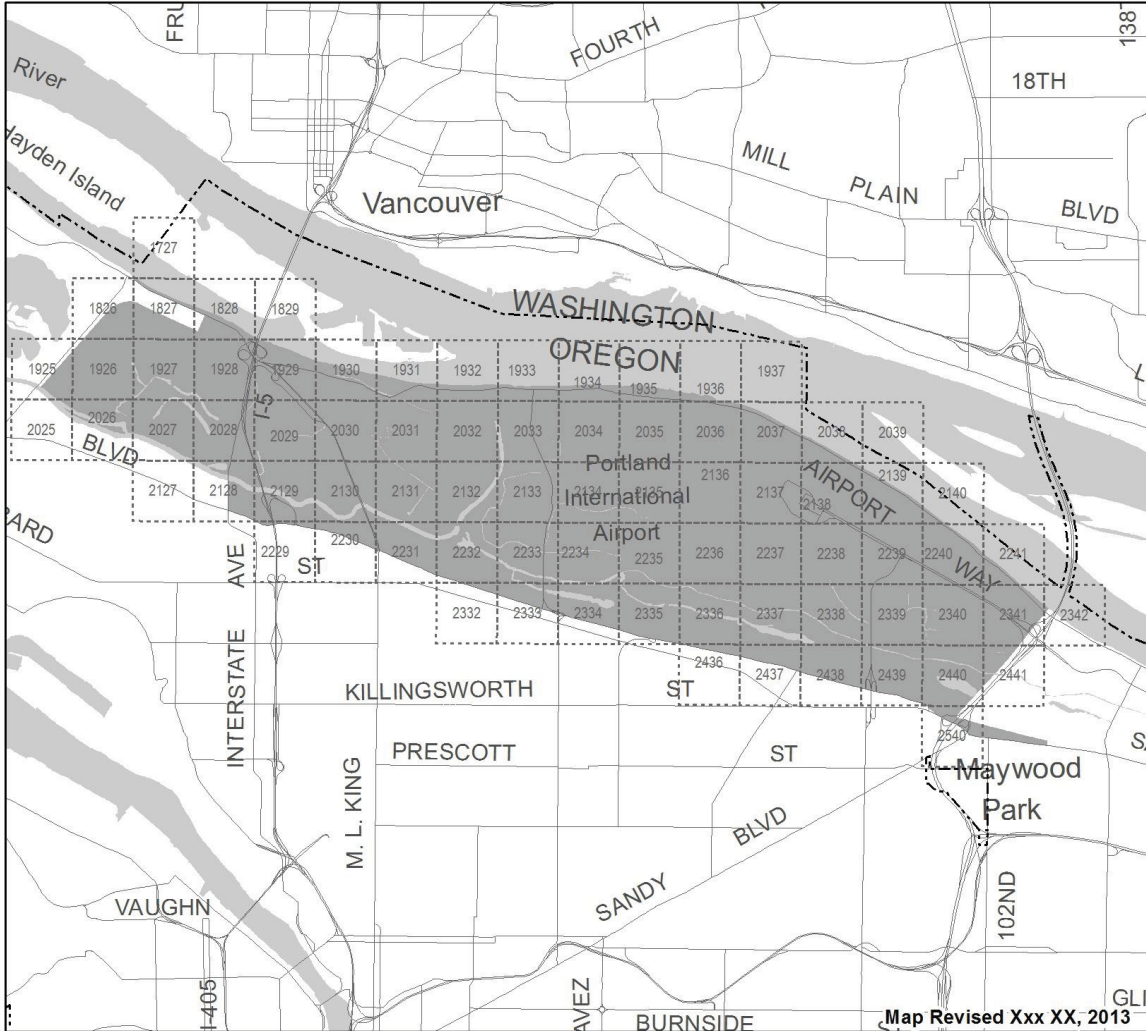
Item #25: MCDD Environmental Zone Standards

New Map 430-1

This map reflects the areas where the standards described in 33.430.170 may be used. Areas to the east of I-205 are within the Columbia South Shore Plan District (33.515)

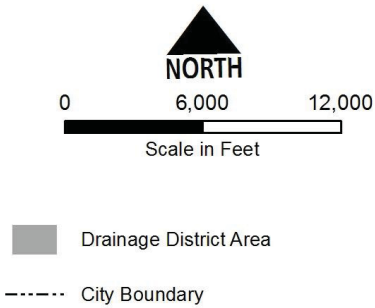
Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

[ADD MAP 430-1]



Map 430-1

**Bank Reconfiguration
 and Basking Features
 Area**



Map Note: Small numbers within boxes represent quarter-sections

Bureau of Planning & Sustainability - City of Portland, Oregon

Item #44 - Application of the Zoning Code in the Right of Way

33.445.320 Development and Alterations in a **Historic District**^[TM(P20)]
A.4, and

33.445.420. Development and Alterations in a Conservation District
A.4

These amendments clarify that:

- Historic resource review is required for non-standard improvements in the public right-of-way such as street lights, street furniture, planters, public art, sidewalk and street paving materials and landscaping; AND
- The applicant must get approval for the non-standard improvement from the City Engineer PRIOR to going through historic resource review.

The existing language is unclear and inconsistent with similar provisions in the design overlay zone.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.445
HISTORIC RESOURCE OVERLAY ZONE

33.445.320 Development and Alterations in a Historic District

Building a new structure or altering an existing structure in a Historic District requires historic resource review to ensure the resource's historic value is considered prior to or during the development process.

- A.** When historic resource review is required in a Historic District. Unless exempted by Subsection B, below, the following proposals in a Historic District are subject to historic resource review:

1-3. [No change]

4. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, ~~that have not received prior approval of the City Engineer~~
Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review;

5.-6. [No change]

- B.** [No change]

33.445.420 Development and Alterations in a Conservation District

Building a new structure or altering an existing structure in a Conservation District requires historic resource review to ensure the resource's historic value is considered prior to or during the development process.

- A.** When historic resource review is required in a Conservation District. Unless exempted by Subsection B., below, the following proposals in a Conservation District are subject to historic resource review. Some may be eligible to use the Community Design Standards as an alternative; see Section 33.445.710:

1.-3. [No change]

4. Nonstandard improvements in the public right-of-way, such as street lights, street furniture, planters, public art, sidewalk and street paving materials, and landscaping, ~~that have not received prior approval of the City Engineer~~
Nonstandard improvements in the public right-of-way must receive approval from the City Engineer prior to applying for historic resource review;

5.-6. [No change]

- B.** [No change]

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

Background

Over the years, as new overlay zones and plan districts have been created, planners have inconsistently added language explaining why and how the Design overlay zone is applied. In some cases, the overlay zone or plan district regulations provide a purpose statement and other regulations that address use of the d-overlay. In other cases, the language in the overlay zone or plan district duplicates language from the Design overlay zone chapter itself (33.420). In many cases, there is no language that references the Design overlay zone chapter. These inconsistencies have led to confusion and in a few instances, the language in 33.420 has been updated but the corresponding language in an overlay zone or plan district has not been amended to match.

In order to make the language in 33.420 and applicable overlay zones and plan districts consistent, the following amendments are made:

- In sections where the design review language is duplicative of the language in 33.420, the duplicative language is removed, and a simple reference to the design review chapter is made.
- In plan districts where design review may be part of the district, but no reference is made, a reference to 33.420 is added. These amendments affect the following sections: 33.455.250 - Main Street Node, 33.460.240 - Main Street Corridor, 33.521.310 - East Corridor Plan District, 33.526.350 - Gateway Plan District, 33.534.240 - Hillsdale Plan District, 33.536.310 - Hollywood Plan District, 33.538.260 - Kenton Plan District, 33.550.290 - Macadam Plan District, 33.555.300 - Marquam Hill Plan District, 33.561.320 - North Interstate Plan District, 33.562.310 - Northwest Plan District, 33.580.030 - South Auditorium Plan District, and 33.583.290 - St. Johns Plan District.

These changes clarify existing procedures but do not create any new procedures, guidelines or regulations within design overlay zones.

CHAPTER 33.455 MAIN STREET NODE OVERLAY ZONE

33.455.250 Required Design Review

The language within this section that is duplicative of the Design Overlay zone is removed, and replaced with a reference to Chapter 33.420. The purpose statement, which is specific to this overlay zone is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.455
 MAIN STREET NODE OVERLAY ZONE**

33.455.250 Required Design Review

A. Purpose. Design review~~These regulations~~ ensures design quality and an attractive pedestrian-friendly character in the areas planned for urban scale development in the Main Street Node overlay. Design Review is~~The regulations are~~ also intended to promote a relationship between new development and older buildings that contribute to the personality of Sandy Boulevard.

B. Required Design Review. The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the Main Street Node Overlay Zone that are within the Design Overlay Zone.~~Where these regulations apply.~~ These regulations apply to sites in commercial zones.

~~**C. When design review is required.** Design review is required for new development and exterior alterations.~~

~~**D. When Community Design Standards may be used.** The community design standards provide an alternative process to design review for some proposals. For some proposals, the applicant may choose to go through the design review process set out in Chapter 33.825, Design Review, or to meet the objective standards of Chapter 33.218, Community Design Standards. Proposals that do not meet the Community Design Standards or where the applicant prefers more flexibility must go through the design review process.~~

~~Unless excluded by Subsection E, below, proposals that are within the limits of Table 455-1 may use the Community Design Standards as an alternative to design review.~~

~~**E. When Community Design Standards may not be used.** The Community Design Standards may not be used as an alternative to design review as follows:~~

- ~~1. For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan; and~~
- ~~2. For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use.~~

Table 455-1 Maximum Limits for Use of the Community Design Standards [1]	
Zones	Maximum Limit—New Floor Area
R1, RH, RX, C & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan.
Zones	Maximum Limit—Exterior Alterations [2]
All except IR	<ul style="list-style-type: none"> •Alterations to the street-facing façade that affect less than 50 percent of the area of the façade, regardless of the square footage of the area affected; and •Alterations to the street-facing façade that affect less than 1,500 sq. ft. of the façade, regardless of the percentage of the façade affected.
IR Zone	See institution's Impact Mitigation Plan.

Notes:

[1] There are no maximum limits for proposals where any of the floor area is in residential uses.

[2] Alterations to the street-facing façade that affect 50 percent or more of the area of the façade and 1,500 sq. ft. or more of the façade, must go through design review.

Item #15: Community Design Standards Cross Reference

33.460.110 Additional Standards in the R1 Zone (North Lombard)

These standards apply to duplexes, attached houses, and multidwelling development in the R1 zone within the North Lombard Main Street Corridor overlay zone. They ensure that medium density development along or adjacent to the main street contributes positively to established neighborhoods and the area's character; creates a strong physical and visual connection between the living area, main entrance and the street; and improves the transition between development in the commercial and single dwelling zones.

D. Standards

With the amendments in 33.218.110.J, J.1. has been separated into two paragraphs. This amendment corrects the cross-reference and refers to the some exterior material requirements.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.460
MAIN STREET CORRIDOR OVERLAY ZONE

33.460.110 Additional Standards in the R1 Zone

A.-C. [No change]

D. Standards.

1. Community design standards. The following standards of Section 33.218.110, Community Design Standards for Primary and Attached Accessory Structures in the R3, R2, and R1 Zones, must be met:
 - a. 33.218.110.E, Large building elevations divided into smaller areas;
 - b. 33.218.110.G.1, Location of main entrance;
 - c. 33.218.110.H.4, Attached garages; and
 - d. 33.218.110.J.1, and J.2, Exterior finish materials.
- 2.-3. [No change]

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

33.460.240 Required Design Review

The language within this section that is duplicative of the Design Overlay zone is removed, and replaced with a reference to Chapter 33.420. The purpose statement, which is specific to this overlay zone is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.460.240 Required Design Review

A. Purpose. ~~Design Review~~ These regulations ensures design quality and an attractive pedestrian-friendly character in the areas planned for urban scale development in the Main Street Corridor overlay. Design Review is ~~The regulations are~~ also intended to promote a relationship between new development and older buildings that contribute to the personality of Sandy Boulevard.

B. Required Design Review. The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the Main Street Corridor Overlay Zone that are within the Design Overlay Zone. ~~Where these regulations apply.~~ These regulations apply to sites in commercial zones.

~~**C. When design review is required.** Design review is required for new development and exterior alterations.~~

~~**D. When Community Design Standards may be used.** The community design standards provide an alternative process to design review for some proposals. For some proposals, the applicant may choose to go through the design review process set out in Chapter 33.825, Design Review, or to meet the objective standards of Chapter 33.218, Community Design Standards. Proposals that do not meet the Community Design Standards or where the applicant prefers more flexibility must go through the design review process.~~

~~Unless excluded by Subsection E, below, proposals that are within the limits of Table 460-1 may use the Community Design Standards as an alternative to design review.~~

~~**E. When Community Design Standards may not be used.** The Community Design Standards may not be used as an alternative to design review as follows:~~

- ~~1. For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan; and~~
- ~~2. For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use.~~

Table 460-1 Maximum Limits for Use of the Community Design Standards [1]	
Zones	Maximum Limit—New Floor Area
R1, RH, RX, C & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR-Zone	See institution's Impact Mitigation Plan.
Zones	Maximum Limit—Exterior Alterations
All except IR	•Alterations to the street facing facade that affect less than 50 percent of the area of the façade, regardless of the square footage of the area affected; and •Alterations to the street facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected.
IR-Zone	See institution's Impact Mitigation Plan.

Notes:

[1] There are no maximum limits for proposals where any of the floor area is in residential uses.

Item #15: Community Design Standards Cross Reference

33.460.310 Additional Standards (Division Street)

C. Exterior finish materials.

To make this section consistent with the regulations in the Community Design Standards, the paragraph has been restructured with minor wording changes. These standards reflect a materials palette more appropriate for larger scale buildings, found more commonly in the R1, CM, or CS zones. Additional material restrictions, like those found in the community design standards for RH, RX, C and E zones are not included here, because unlike the community design standards where alternative materials may be proposed through a more holistic design review, for the main street overlay, an adjustment would be required.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

33.460.310 Additional Standards.

A. -B. [No change]

- C. Exterior finish materials.** ~~Plain concrete, concrete block, corrugated metal, plywood and sheet pressboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than 10 percent of the surface of each façade.~~ This standard applies on all building façades. Items that are exempt from this standard are listed in Section 33.420.045, Exempt From Design Review.

Plain concrete block, plain concrete, corrugated metal, plywood, and sheet pressboard may not be used as exterior finish material except as secondary finishes if they cover no more than 10 percent of each façade.

D.-E. [No change]

Item #25: MCDD Environmental Zone Standards

33.508 Cascade Station/Portland International Center Plan District

The amendments to this chapter are intended to do two things:

1. Delete development standards for bank reconfiguration and the creation of basking features because they are moving to Chapter 33.430; and
2. Clarify confusing language related to when the regulations in this chapter apply in addition to or instead of the regulations in Chapter 33.430.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.508
 CASCADE STATION/PORTLAND INTERNATIONAL CENTER (CS/PIC)
 PLAN DISTRICT**

General

- 33.508.010 Purpose
- 33.508.020 Where These Regulations Apply
- 33.508.030 Relationship to Other Regulations and Agencies
- 33.508.040 Special Definitions

Use Regulations

- 33.508.120 Additional Allowed Uses
- 33.508.130 Additional Prohibited Uses
- 33.508.140 Use Regulations in the Park Blocks

Development and Design Standards

- 33.508.200 Purpose
- 33.508.210 Prohibited Development in Subdistrict A
- 33.508.215 Limitations on Development in Park Blocks
- 33.508.220 Maximum Development/Transportation Capacity
- 33.508.230 Development and Design Standards in Subdistrict A
- 33.508.240 Development and Design Standards in Subdistrict B
- 33.508.260 Parking
- 33.508.267 Signs
- 33.508.270 Sumps, Septic Tanks and On-Site Disposal Systems
- 33.508.280 Street Requirements in Subdistrict A
- 33.508.290 Open Space Plan
- 33.508.295 Archaeological Resource Protection

Environmental Overlay Zones

- 33.508.300 Purpose
- 33.508.310 Relationship to Other Environmental Regulations
- 33.508.320 Where and When These Regulations Apply
- 33.508.330 Measuring Setbacks
- 33.508.340 Exemptions
- 33.508.350 Development Standards
- ~~33.508.360 General Development Standards~~
- ~~33.508.370 Standards for Resource Enhancement~~
- 33.508.~~360~~380 ~~Special Procedures~~-Provisions for Wildlife Hazard Management

Notice and Review Procedure for Permits within Environmental Overlay Zones

- 33.508.392 Purpose
- 33.508.395 When These Regulations Apply
- 33.508.397 Procedure

Map 508-1 CS/PIC Plan District and Subdistricts

33.508.310 Relationship to Other Environmental Regulations

The regulations of Sections 33.508.~~310~~300 through 33.508.~~380~~397 are supplemental to or supersede the regulations of Chapter 33.430. Whenever a provision of this plan district conflicts with Chapter 33.430, the plan district provision supersedes.

~~Specifically, the following sections of Chapter 33.430 are superseded or supplemented by the regulations of Chapter 33.430 sections 33.508.310 through 33.508.380:~~

- Exemptions in Section 33.508.340 supplement exemptions in Section 33.430.080;
- Standards in Section 33.508.~~360~~350 supplement, ~~or with portions superseding,~~ standards in Sections 33.430.140 through .190;

Item #25: MCDD Environmental Zone Standards

33.508.330 Measuring Setbacks

This regulation has been moved to 33.430.140.C and F.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- When wildlife hazard management is proposed and an environmental review is required the procedure type specified in Subsection 33.508.360.A supersedes the procedure type specified in Section 33.430.230. Procedures for Environmental Review, Section 33.430.230, are superseded by Section 33.508.380 when Wildlife Hazard Management is proposed;
- Submittal-When wildlife hazard management is proposed and an environmental review is required, the requirements for Environmental Reviews of SubSection 33.508.360.B33.430.240 are superseded the requirements of Subsection 33.430.240. and supplemented by Section 33.508.380;
- When wildlife hazard management is proposed and an environmental review is required, the approval criteria of Subsection 33.508.360.C supersede the approval criteria of Subsections 33.430.250.E and F.
- The Environmental Plan Check notice and review procedures of Sections 33.508.392 through .397 33.430.410 through .430 are completely superseded the notice and review procedures of by Section 33.430.410 through .430. 33.508.392 through .397.

This chapter contains only the City’s environmental regulations. Activities ~~which~~that the City regulates through this chapter may also be regulated by other agencies. City approval does not imply approval by other agencies.

33.508.320 Where and When These Regulations Apply

The regulations of Sections 33.508.310 through 33.508.380~~397~~ apply to all environmental zones in the CS/PIC District. The boundaries of this plan district and the subdistricts are shown on Map 508-1. Unless exempted by Section 33.508.340, the regulations of Sections 33.508.310 through 33.508.380~~397~~ apply to the activities listed below. Items not specifically addressed in these sections must comply with the regulations of Chapter 33.430.

- A.** Development;
- B.** Removing, cutting, mowing, clearing, burning or poisoning native vegetation listed in the Portland Plant List;
- C.** Planting or removing nuisance plants listed in the Portland Plant List;
- D.** Changing topography, grading, excavating, and filling;
- E.** Dedication, expansions, and improvements within rights-of-way;
- F.** Road improvements; and
- G.** Resource enhancement.

~~**33.508.330 Measuring Setbacks.**~~

~~When the top of bank moves landward as a result of a resource enhancement project, the disturbance area and proposed development setbacks, specified in 33.430.140, may be measured from the original top of bank rather than the new top of bank. See Figure 508-14. When this occurs, a survey of the original top of bank and the new top of bank must be submitted for verification that the top of bank has been measured according to provisions of this chapter. The survey must be recorded with the County recorder. In no case can the setback be less than 5 feet landward of the new top of bank.~~

~~**Figure 508-14 Measuring Setbacks [delete figure 508-14]**~~

33.508.340 No change

Item #25: MCDD Environmental Zone Standards

33.508.350 Development Standards

The changes to this section are a result of moving the standards for bank reconfiguration and basking features to Chapter 33.430. This also allowed sections 33.508.350 through .370 to be consolidated.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.508.350 Development Standards

Unless exempted by Section 33.508.340, ~~above~~, or 33.430.080, the standards of this section and the standards of Chapter 33.430 must be met. Compliance with the standards is determined as part of a development or zoning permit application process and processed according to the procedure described in Section 33.508.392 ~~through~~ .397. For proposals that cannot meet the standards, ~~E~~environmental ~~R~~review is required as described in ~~Section 33.508.380 or in~~ Sections 33.430.210 through .280 and, where applicable, the applicable approval criteria of 33.430.250 through .280 or 33.508.386. Adjustments to the standards are prohibited. Other City regulations, including Title 10, Erosion Control, and Title 11, Trees, still apply.

~~**33.508.360 General Development Standards**~~

A. General development standards.

1. Tree and snag removal

- ~~1a.~~ If the tree or snag, 6 inches or greater in diameter, is removed as part of a resource enhancement project, the requirements of 33.508.370 350.B apply;
- ~~2b.~~ If the tree or snag, 6 inches or greater in diameter, is removed for either of the following reasons, then the standards in Subparagraphs 33.508.350.A.1.c through 1.g ~~33.508.360.A.3 through 7~~ must be met instead of 33.430.140.K:
 - ~~a-(1)~~ the tree or snag currently projects, or the tree will upon maturity project, above the height limit of the h overlay zone, or
 - ~~b-(2)~~ the tree or snag is identified in the FAA authorized Wildlife Hazard Management Plan as attracting wildlife species of concern.
- ~~3c.~~ Each tree or snag, 6 inches or greater in diameter, removed must be replaced per the requirements of Table 508-4, Tree and Snag Replacement;
- ~~4d.~~ Replacement trees and shrubs must be native and selected from the Portland Plant List;
- ~~5e.~~ Replacement shrubs must be in at least a 2-gallon container or the equivalent in ball or burlap;
- ~~6f.~~ Replacement trees must:
 - ~~a-(1)~~ Be at least one-half inch in diameter and have a maximum height-at-maturity that will not project above the height limit of the h overlay zone; and
 - ~~b-(2)~~ Be planted within a transition area or resource area on a property owned by the applicant; or for which the applicant possess a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure success of the mitigation; or can demonstrate legal authority to acquire the site through eminent domain; and
- ~~7g.~~ If the replacement trees are planted within 100 feet of the Columbia Slough main channels or secondary drainageways, the tree must be planted above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps.

[No change to Table 508-4]

Item #25: MCDD Environmental Zone Standards

The changes to this section are a result of moving the standards for bank reconfiguration and basking features to Chapter 33.430. This also allowed sections 33.508.350 through .370 to be consolidated.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

2. ~~B.~~ Wildlife exclusions. Instead of standards listed in Section 33.430.140, all of the following standards must be met when installing wildlife exclusionary structures or fencing to comply with the FAA authorized Wildlife Hazard Management Plan within the resource area or transition area of the conservation or protection overlay zone:

- ~~1~~a. Trees or snags, 6 inches or greater in diameter, that are removed must be replaced to meet the standards in 33.508.350.A.1.c through 33.508.370.A.3 through 7, above; and
- ~~2~~b. Temporary disturbance areas must be replanted so that the area achieves a 90 percent vegetation cover within one year. Vegetation must be native and selected from the Portland Plant List.

3. ~~C.~~ Vehicle or pedestrian crossings over identified water bodies.

- ~~1~~a. New or altered vehicle or pedestrian crossings of the Middle Columbia Slough must be by bridge.
- ~~2~~b. Exceptions.
 - ~~a.~~(1) At locations where BES determines that a water control structure is necessary, the standard of this subsection does not apply.
 - ~~b.~~(2) The standard of this subsection does not apply to the addition of guard rails to an existing crossing.

B. ~~33.508.370~~ Standards for ~~r~~Resource ~~e~~Enhancement. An applicant may choose to meet all of the standards of 33.430.170 or all of the standards of this Subsection. In either case, the applicant must meet the standards 33.430.170.D through F.

1. ~~A.~~ Wetland habitat conversion. Conversion from an emergent or herbaceous wetland to a scrub-shrub or forested wetland is allowed if all of the following are met:

- ~~1~~a. There is no excavation, fill, grading or construction activity;
- ~~2~~b. The habitat conversion area must be replanted, at a minimum, in accordance with one of the following options:
 - ~~a.~~(1) Ten native shrubs for every 100 square feet of area and a native grass and forb seed mix at a ratio of 20 pounds per acre; or
 - ~~b.~~(2) One native tree, three native shrubs and four other native plants for every 100 square feet. Trees may be clustered;
- ~~3~~c. Trees must have a maximum height at maturity that will not project above the height limit delineated by the h overlay zone; and
- ~~4~~d. There is no permanent irrigation.

2. ~~B.~~ Forest or woodland habitat conversion. Forest or woodland conversion to a different native tree association is allowed if all of the following are met:

- ~~1~~a. There is no excavation, fill, grading or construction activity;
- ~~2~~b. The habitat conversion area must be replanted, with at least one native tree, three native shrubs and four other native plants for every 100 square feet of area. Trees may be clustered.
- ~~3~~c. Trees must have a maximum height at maturity that will not project above the height limit delineated by the h overlay zone; and
- ~~4~~d. There is no permanent irrigation.

Item #25: MCDD Environmental Zone Standards

33.508.370.C and D Bank Restoration and Basking Features

These standards are not being deleted from the zoning code; they have been moved to Chapter 33.430.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

- ~~C. Bank restoration. Slough and drainageway banks, which are the area between 12 and 18 inches below the ordinary high water mark and the top of bank, may be re-graded when all of the following standards are met:~~
- ~~1. The activity is conducted or authorized by the Multnomah County Drainage District #1;~~
 - ~~2. The final slope above ordinary high water after grading is 33 percent or less (33 percent slope represents a rise to run ratio equal to 1:3);~~
 - ~~3. Rock armoring may not be used except surrounding outfalls, culverts and bridge crossings. The rock armoring cannot exceed a distance of 5 feet from those features, and must be planted with live stakes of native plant stock, one half inch in diameter. Stakes must be used at a density of 2 to 3 stakes per 9 square feet. If the armoring is located on a levee, live stakes are not required;~~
 - ~~4. The placement of large wood on the bank is allowed if installed above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps;~~
 - ~~5. Trees removed landward of the new top of bank must be replaced and meet standards 33.508.360.A.3 through 7, above; and~~
 - ~~6. The area between 12 and 18 inches below the ordinary high water mark and the new top of bank must be revegetated as specified in Figure 508-15 and Table 508-5, Bank Revegetation.~~

Figure 508-15: Bank Revegetation ~~[delete figure 508-15]~~

Table 508-5 ~~[delete Table 508-5]~~

- ~~D. Basking features. Placement of large woody debris or large rocks as basking features for wildlife within the Columbia Slough, drainageways or identified wetlands is allowed when all of the following are met:~~
- ~~1. The activity is conducted or authorized by the Multnomah County Drainage District #1 or the City of Portland Bureau of Environmental Services;~~
 - ~~2. No native trees are removed;~~
 - ~~3. The basking feature is installed above the Base Floodplain Elevation (BFE) as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps; and~~
 - ~~4. Temporary disturbance areas are replanted in accordance with Figure 508-15 and Table 508-5.~~

Item #25: MCDD Environmental Zone Standards

33.508.360 Special Provisions for Wildlife Hazard Management

The changes to this section are not intended change the intent of the regulations. The changes are intended to clarify confusing language, fix cross-references, and make the regulations more consistent with similar language in 33.565.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.508.380360 ~~Special Procedures~~Provisions for Wildlife Hazard Management

These following provisions apply to wildlife hazard management activities that are required in order to implement a Federal Aviation Administration (FAA) authorized Wildlife Hazard Management Plan within environmental overlay zones ~~that are required to implement a Federal Aviation Administration (FAA) authorized Wildlife Hazard Management Plan.~~

- A. Procedure Type.** ~~In addition to the exemptions and standards listed in Chapter 33.430, if the activity does not meet the exemptions of Section 33.508.340 or the standards of Sections 33.508.350 through 33.508.370, then environmental review is required. Within the CS/PIC Plan District, all a~~Activities required in order to implement an FAA authorized Wildlife Hazard Management Plan within the resource area or transition area of the conservation or protection overlay zones that require environmental review are processed through the Type II procedure and address only the approval criteria of Section 33.430.250.E.3 through 6.
- B. Application Requirements.** ~~Within the CS/PIC Plan District and for An~~alternatives analysis is not required for activities required to implement an FAA authorized Wildlife Hazard Management Plan, an alternatives analysis is not required. Specifically, instead of the supplemental narrative requirements of 33.430.230.B, the following is required:
1. Activity description. Describe the activity and why it is necessary to implement an FAA authorized Wildlife Hazard Management Plan;
 2. Documentation of resources and functional values. Documentation of resources and functional values is required to determine compliance with the approval criteria. In the case of a violation, documentation of resources and functional values is used to determine the nature and scope of significant detrimental impacts.
 - a. Identification, by characteristics and quantity, of the resources and their functional values found on the site;
 - b. In the case of a violation, determination of the impact of the violation on the resources and functional values.
 3. Construction management plan. Identify measures that will be taken during the activity or remediation to protect the remaining resources and functional values at and near the site and a description of how undisturbed areas will be protected. For example, describe how trees will be protected, erosion controlled, equipment controlled, and the timing of activity; and

Item #25: MCDD Environmental Zone Standards

C. Approval Criteria

The approval criteria previously referenced in Subsection A (which refers users to 33.430.250.E.3-6.) have been repeated here for easier reference and to prevent future referencing errors if criteria are added or removed from 33.430.250.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

4. Mitigation or remediation plan. The purpose of a mitigation or remediation plan is to compensate for unavoidable significant detrimental impacts that result from the chosen activity or violation as identified in the impact evaluation. A mitigation or remediation plan includes:
 - a. Resources and functional values to be restored, created, or enhanced on the mitigation or remediation site;
 - b. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
 - c. Activity timetables;
 - d. Operations and maintenance practices;
 - e. Monitoring and evaluation procedures;
 - f. Remedial actions for unsuccessful mitigation; and
 - g. Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

C. Approval Criteria. The following approval criteria apply to activities required in order to implement an FAA authorized Wildlife Hazard Management Plan within the resource area or transition area of the conservation or protection overlay zones that require environmental review. These criteria supersede the criteria in 33.430.250.E and F:

1. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
2. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
3. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
4. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

Item #18: Radio Frequency (RF) Transmission Facilities

33.510.205 Height

G. South Waterfront height opportunity area

2.b. Maximum height

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas " and "radio and television antennas" could lead to confusion. Additionally, while antennae may be configured differently or be of different sizes, all antennae are used to radiate or receive radio waves (the radio spectrum is 3KHz to 300GHz). Consequently, there is no meaningful distinction between an antenna, a TV antenna, or a radio antenna for purposes of applying this regulation. Stating only "antennas" makes this intent more clear.

Item #43: Regional Arts and Culture Commission - Options for Public Art

33.510.220 Ground Floor Windows. Developments in the Central City Plan District are generally subject to design review. These projects undergo greater design scrutiny as BDS works with RACC on design solutions for public art through an integrated "modification request" as part of required design review. The amendment to allow public art in lieu of ground floor windows outside the central city is intended in part to reduce the number of procedural steps (i.e. an added adjustment) to provide public art. Where there is already a design review process required (as is the case in the central city) folding in an adjustment or modification does not add an extra procedural step.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.510 CENTRAL CITY PLAN DISTRICT

33.510.205 Height

A.-F. [No change]

G. South Waterfront height opportunity area.

1. [No change]
2. Additional building height may be requested as a modification through design review as follows:
 - a. [No change]
 - b. The maximum height that may be approved is 325 feet, including projections, roof top mechanical equipment, ~~radio and television~~ antennas, and any other structures that project above the roof of the building;
 - c.-g. [No change]

H. [No change]

33.510.220 Ground Floor Windows

A. – B. [No change]

- C. Optional artwork.** Projects proposing to use artwork as an alternative to the ground floor window requirements may ~~would normally~~ apply for this through the adjustment procedure. Projects may also apply for a modification through design review if they meet the following qualifications. ~~However, projects meeting the qualifications stated below may apply as part of design review instead of through the adjustment process.~~ Buildings having more than 50 percent of their ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters), may be allowed to use the design review process. Artwork and displays relating to activities occurring within the building are encouraged. In these instances, the artwork will be allowed if it is found to be consistent with the purpose for the ground floor window standard.

Item #30: Retail Sales and Service Limits in EG2 Zone in the Columbia South Shore Plan District

In the EG2 zone of the Columbia South Shore plan district, up to 25,000 square feet of retail sales and service uses are allowed by right. More than that amount requires land use approval as a conditional use. As part of a previous code amendment project to limit the total amount of retail uses in industrial areas, a cap of 20,000 square feet was placed on the amount of retail that could be approved through a Conditional Use review. This was intended to apply only within the IG2 zone, but inadvertently included the EG2 zone. This amendment corrects this error.

33.515.120 Commercial Uses

This section is not being amended but is shown here for reference and context. In the Columbia South Shore plan district, retail sales and service uses are limited to 25,000 square feet in the EG2 zone and to a maximum of 12,000 square feet in the IG2 zone. Amounts greater than that amount are subject to the Conditional Use section below.

33.515.130 Additional Conditional Use

D. Retail Sales and Service.

As part of the RICAP 4 project approved in 2009, amended limitations were placed on the amount of retail sales and service uses allowed through in the industrial zones (33.515.130.D.1). The total amount of retail sales and service use allowed is 20,000 square feet. More than 20,000 square feet is prohibited. This presents a conflict in the EG2 zones since 33.515.120.A allows 25,000 square feet of retail sales and service outright in EG2, but 33.515.130.D.1 prohibits more than 20,000 square feet in both EG2 and IG2.

RICAP 4's code amendments were approved to bring the city's code into compliance with Metro's Title 4 requirements for industrial areas. In reviewing the legislative intent, it is clear that the 20,000 square foot maximum was to apply within the IG2 zones and not within the EG2 zone.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.515 COLUMBIA SOUTH SHORE PLAN DISTRICT

33.515.120 Commercial Uses

- A.** Retail Sales And Service uses in the EG2 zone are limited to 25,000 square feet or less of floor area including any exterior storage or nonconforming exterior display per site. The 25,000 square foot limitation does not apply to hotels or motels.
- B.** Office uses within the EG2 zone are limited to a floor area ratio (FAR) of 0.45 to 1. Structured parking is not included in the FAR calculation.
- C.** The IG2 zone regulations allow four Retail Sales And Service uses of up to 3,000 square feet each of floor area including any exterior storage or nonconforming exterior display per site without a conditional use review. Within the Industrial Business Opportunity subdistrict, sites zoned IG2 are allowed a single Retail Sales And Service use of up to 12,000 square feet of floor area including any exterior storage or nonconforming exterior display without a conditional use review, in lieu of the four separate uses.

33.515.130 Additional Conditional Uses

A-C. [No change]

D. Retail Sales And Service.

1. Retail Sales And Service uses that have floor area plus exterior display and storage area in excess of the limits in 33.515.120.A or C are allowed only through a conditional use review. The approval criteria are in 33.815.303, Retail Sales and Service Uses in the Columbia South Shore plan district.

In the IG2 zone, ~~t~~The total area of all the Retail Sales And Service and Office uses on a site, taken together, may not exceed 20,000 square feet. More than 20,000 square feet is prohibited unless allowed by Paragraph 2 below. These limits include floor area plus exterior display and storage areas.

2. Retail Sales And Service uses that have floor area plus exterior display and storage area in excess of 25,000 square feet, which existed on September 1, 1996, or for which a complete application was received under Section 33.700.080 by September 1, 1996, may change to another use in the same use category without a land use review if there is no increase in floor area or exterior improvement area.

Item #31: Heavy Truck Parking in Columbia South Shore Plan District

33.515.205 Airport Way Streetscape

D. Exterior storage, heavy trucks and equipment, and work activities.

In 1993, the Columbia South Shore plan district underwent a rewrite that included new and expanded development standards. During the public outreach and hearings on the amendments, there was considerable discussion about the city's investment in the Airport Way streetscape and the desire to limit certain exterior development activities that could be visible from this street. The initial proposal developed by staff prohibited the parking of heavy trucks, as well as other exterior storage and work activities, within 150 feet of NE Airport Way. However, several stakeholders testified that the prohibition did not provide any flexibility for existing businesses and/or special circumstances. The adopted code offered the opportunity to allow work activities and exterior storage of equipment and materials within 150 feet of NE Airport Way through an adjustment review. However, the code was not clear how the parking of heavy trucks is regulated. The intent was to apply the standard to the parking of heavy trucks (which is a form of exterior storage). This amendment clarifies that intent.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Development Standards

33.515.200 Streetscape Standards

The development standards foster distinct, yet complementary streetscapes for NE Airport Way and Marine Drive.

33.515.205 Airport Way Streetscape

- A. Purpose.** Special streetscape standards for NE Airport Way are intended to enhance and strengthen the image of the plan district; unify public and private improvements; and provide for a safe, comfortable, and attractive pedestrian environment.

The Airport Way streetscape embodies the following themes:

- Integrating public and private frontage landscaping;
- Minimizing the visual impact of certain exterior development activities;
- Limiting the size, number, and types of signs; and
- Providing on-site pedestrian circulation.

- B. Where the regulations apply.** East of Interstate 205, the Airport Way streetscape standards apply to sites within 300 feet of NE Airport Way. The standards do not apply west of Interstate 205. The Airport Way streetscape standards supersede less restrictive regulations of this or other chapters.

- C. Items allowed in setback.** Development which abuts Airport Way must be set back at least 25 feet from Airport Way. The following items are allowed in the building setback: utility structures, public monument signs, driveway entries, pedestrian paths and water quality facilities. The 25-foot setback must be landscaped and maintained in conformance with Section 33.515.210 and Chapter 33.248, Landscaping and Screening.

- D. Exterior storage, heavy trucks and equipment, and work activities.** Certain types of exterior development are an integral part of industrial uses. However, exterior development should be located and screened to not detract from the intended appearance of the NE Airport Way streetscape. Firms that require extensive exterior development areas are encouraged to locate in the Southern Industrial subdistrict.

1. Exterior work activities and exterior storage of equipment and materials, including heavy trucks, are not allowed within 150 feet of the NE Airport Way property line. Vehicles staged at a loading dock are excepted.
2. The outer perimeter of all such exterior storage must be landscaped, meeting one of the standards stated below.
 - a. Option 1. Perimeter landscaping must be at least 5 feet wide and meet the L3 standard.
 - b. Option 2. For each 30 feet of frontage along Airport Way, one tree and four high shrubs must be planted within a minimum 5-foot wide perimeter landscape area.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.521 EAST CORRIDOR PLAN DISTRICT

33.521.310 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.521
EAST CORRIDOR PLAN DISTRICT

Sections:

General

- 33.521.010 Purpose
- 33.521.020 Where These Regulations Apply

Use Regulations

- 33.521.100 Purpose
- 33.521.110 Prohibited Uses
- 33.521.120 Housing Regulations

Development Standards

- 33.521.200 Purpose
- 33.521.210 Building Height
- 33.521.220 Floor Area Ratios
- 33.521.230 Connectivity
- 33.521.240 Pedestrian Standards
- 33.521.250 Entrances
- 33.521.260 Building Design
- 33.521.270 Exterior Display and Storage
- 33.521.280 Drive-Through Facilities
- 33.521.290 Parking
- 33.521.300 Additional Standards in the 122nd Avenue Subdistrict
- 33.521.310 Required Design Review

Map 521-1 East Corridor Plan District

Map 521-2 Maximum Building Heights

Map 521-3 Floor Area Ratios

Map 521-4 Areas Where Exterior Display and Storage are Allowed

33.521.310 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.526 GATEWAY PLAN DISTRICT

33.526.350 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.526
 GATEWAY PLAN DISTRICT**

Sections:

General

- 33.526.010 Purpose
- 33.526.020 Where These Regulations Apply
- 33.526.030 Early Design Consultation

Use Regulations

- 33.526.100 Purpose
- 33.526.110 Prohibited Uses
- 33.526.120 Retail Sales and Service Uses

Development Standards

- 33.526.200 Purpose
- 33.526.210 Building Height
- 33.526.220 Floor Area Ratio
- 33.526.230 Floor Area and Height Bonus Options
- 33.526.240 Open Area
- 33.526.250 Connectivity
- 33.526.260 Pedestrian Standards
- 33.526.270 Entrances
- 33.526.280 Enhanced Pedestrian Street Standards
- 33.526.290 Ground Floor Windows
- 33.526.300 Required Windows Above the Ground Floor
- 33.526.310 Exterior Display and Storage
- 33.526.320 Drive-Through Facilities
- 33.526.330 Gateway Master Plan
- 33.526.340 Parking
- 33.526.350 Required Design Review

Map 526-1 Gateway Plan District

Map 526-2 Maximum Heights

Map 526-3 Floor Area Ratios

Map 526-4 Enhanced Pedestrian Streets

Map 526-5 Bonus Option Areas

33.526.350 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #18: Radio Frequency (RF) Transmission Facilities

33.533 HEALY HEIGHTS PLAN DISTRICT

The Healy Heights Plan District provides additional regulations for the conditional use review of Radio Frequency Transmission Facilities in a unique situation. Healy Heights has a concentrated and complex array of radiofrequency sources and towers located within a developed single-family neighborhood. The plan district protects the established character of the neighborhood while ensuring that the broadcast and communications industry at this location remains viable.

33.533.050 New towers and Expanded Facilities

C Temporary Towers.

These amendments reflect the changes to Chapter 33.274 which replace table 274-1 with a requirement that applicants document compliance with the FCC emissions standards. This mirrors the amended regulation found in 33.274.040.C.5.

33.533.080.

B. Required power density assessment

2. Measurement of power density

These amendments reflect the changes to Chapter 33.274 which replace table 274-1 with a requirement that applicants document compliance with the FCC emissions standards. This mirrors the amended regulation found in 33.274.040.C.5.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.533
 HEALY HEIGHTS PLAN DISTRICT**

33.533.010 – 33.533.040 [No change]

33.533.050 New Towers and Expanded Facilities

New towers and reconstruction that will expand tower capacity may be approved if the review body finds the approval criteria of A and B, below, are met. Temporary towers may be approved if the review body finds that criterion C, below, is met. All other new towers or reconstruction that will expand tower capacity are prohibited.

A. – B. [No change]

- C. Temporary towers.** Temporary auxiliary towers may be used when necessary for the reconstruction of an existing tower, to protect workers from excessive levels of radiofrequency energy, or to replace a damaged tower. The temporary auxiliary tower may remain until such time as the existing tower is returned to regular use, and then it must be dismantled and removed from the plan district within 90 days. A temporary tower may not be in place for more than 2 years or exceed the radio frequency emissions levels or exposure limits established by the Federal Communications Commission (FCC). Applicants must certify compliance with FCC emissions standards with the permit application.~~[MT21]the applicable standards of Table 274-1.~~

33.533.060 – 33.533.070 [No change]

33.533.080 Monitoring and Power Density Measurements

A. [No change]

B. Required power density assessment.

1. [No change]
2. Measurement of power density. When calculations show that the majority of the measurement points will have an increase of 25 percent of the difference between the latest base line study of power density levels and the maximum power density allowed, a new base line power density level must be established. A new base line will be established by measuring the power density at, or as near as reasonably possible, all measurement points identified in *An Investigation of Radiofrequency Fields on Healy Heights, Portland, Oregon, Phases I and II*, after regular operation of the facility has commenced. Final approval of the facility will be contingent upon documenting compliance with the radio frequency emissions levels and exposure limits established by the Federal Communications Commission (FCC)~~the standards in Table 274-1.~~

C. [No change]

33.533.090 – 33.533.100 [No change]

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.534 HILLSDALE PLAN DISTRICT

33.534.240 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.534
HILLSDALE PLAN DISTRICT

Sections:

General

33.534.010 Purpose

33.534.020 Where These Regulations Apply

Use Regulations

33.534.100 Purpose

33.534.110 Prohibited Uses

Development Standards

33.534.200 Purpose

33.534.210 Setbacks

33.534.220 Exterior Display, Storage and Work Activities in the IR and C Zones

33.534.230 Drive-Through Facilities

33.534.240 Required Design Review

Map 534-1 Hillsdale Plan District

33.534.240 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay zone.

Item #18: Radio Frequency (RF) Transmission Facilities

CHAPTER 33.536 HOLLYWOOD PLAN DISTRICT

33.536.290 Maximum Parking Allowed in the RX, CS, and CX zones

These changes replace references to Effective Radiated Power (ERP) with "personal wireless service facilities" and "radio or television broadcast facilities" to align with the changes in Chapter 33.274 and for consistency with the changes in 33.266.110.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.536
 HOLLYWOOD PLAN DISTRICT**

33.536.290 Maximum Parking Allowed in the RX, CS, and CX zones

[No change to remainder of Table 536-1]

Table 536-1 Maximum Parking Spaces Allowed in the RX, CS, and CX zones		
Use Categories	Specific Uses	Maximum Parking Spaces Allowed
Other		
Radio Frequency Transmission Facilities	<u>Personal wireless service and other non-broadcast facilities</u> Unstaffed facilities operating at or below 1000 watts ERP	None
	<u>Radio or television broadcast</u> All other facilities	2 per site

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.536 HOLLYWOOD PLAN DISTRICT

33.536.310 Required Design Review

The language within this section that is duplicative of the Design Overlay zone is removed, and replaced with a reference to Chapter 33.420. The purpose statement, which is specific to this plan district, is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.536.310 Required Design Review

A. Purpose. Design review~~These regulations~~ ensures attractive, quality design and a pedestrian-friendly character in the areas planned for urban-scale development in Hollywood. Design review~~They~~ also promotes a relationship between new development and historic building along Sandy Boulevard, and creates a special identity for the district’s business core. Finally, design review~~the regulations~~ ensures design quality and promotes better transition of scale and character to the areas adjoining the business core.

B. Required Design Review. The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.~~Where these regulations apply.~~ These regulations apply to sites zoned RX, CS and CX.

~~**C. When design review is required.** Design review is required for new development and exterior alterations.~~

~~**D. When Community Design Standards may be used.** The Community Design Standards provide an alternative process to design review for some proposals. For some proposals, the applicant may choose to go through the design review process set out in Chapter 33.825, Design Review, or to meet the objective standards of Chapter 33.218, Community Design Standards. Proposals that do not meet the Community Design Standards or where the applicant prefers more flexibility must go through the design review process.~~

~~Unless excluded by Subsection E, below, proposals that are within the limits of Table 536-2 may use the Community Design Standards as an alternative to design review.~~

~~**E. When Community Design Standards may not be used.** The Community Design Standards may not be used as an alternative to design review as follows:~~

- ~~1. For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan; and~~
- ~~2. For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use.~~

Table 536-2 Maximum Limits for Use of the Community Design Standards [1]	
Zones	Maximum Limit—New Floor Area
R1, RH, RX, C & E Zones	20,000 sq. ft. of floor area
I-Zones	40,000 sq. ft. of floor area
IR-Zone	See institution's Impact Mitigation Plan.
Zones	Maximum Limit—Exterior Alterations
All except IR	<ul style="list-style-type: none"> •Alterations to the street-facing facade that affect less than 50 percent of the area of the façade, regardless of the square footage of the area affected; and •Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected.
IR-Zone	See institution's Impact Mitigation Plan.

Notes:

[1] There are no maximum limits for proposals where any of the floor area is in residential uses.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.538 KENTON PLAN DISTRICT

33.538.260 Required Design Review

The language within this section that is duplicative of the Design Overlay zone is removed, and replaced with a reference to Chapter 33.420. The purpose statement, which is specific to this plan district, is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.538
 KENTON PLAN DISTRICT**

33.538.260 Required Design Review

A. Purpose. Design review ~~These regulations~~ ensures attractive, quality design and a pleasant pedestrian environment in the plan district. Design review ~~They~~ also promotes a relationship between new development and the historic commercial buildings along Denver Avenue. Finally, design review ~~the regulations~~ ensures design quality and compatibility of character with the areas adjoining the commercial corridor.

B. Required Design Review. The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone. ~~Where these regulations apply.~~ These regulations apply to new development and exterior alterations in the design overlay zone.

C. ~~When Community Design Standards may be used.~~ ~~The Community Design Standards provide an alternative process to design review for some proposals. For some proposals, the applicant may choose to go through the design review process set out in Chapter 33.825, Design Review, or to meet the objective standards of Chapter 33.218, Community Design Standards. Proposals that do not meet the Community Design Standards or where the applicant prefers more flexibility must go through the design review process.~~

~~Unless excluded by Subsection D, below, proposals that are within the limits of Table 538-1 may use the Community Design Standards as an alternative to design review.~~

D. ~~When Community Design Standards may not be used.~~ ~~The Community Design Standards may not be used as an alternative to design review as follows:~~

- ~~1. For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan; and~~
- ~~2. For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use.~~

Table 538-1 Maximum Limits for Use of the Community Design Standards [1]	
Zones	Maximum Limit—New Floor Area
R1, RH, RX, C & E Zones	20,000 sq. ft. of floor area
I-Zones	40,000 sq. ft. of floor area
IR-Zone	See institution's Impact Mitigation Plan.
Zones	Maximum Limit—Exterior Alterations
All except IR	<ul style="list-style-type: none"> •Alterations to the street-facing facade that affect less than 50 percent of the area of the facade, regardless of the square footage of the area affected; and •Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected.
IR-Zone	See institution's Impact Mitigation Plan.

Notes:

[1] There are no maximum limits for proposals where any of the floor area is in residential uses.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.550 MACADAM PLAN DISTRICT

33.550.290 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.550
MACADAM PLAN DISTRICT

Sections:

General

33.550.010 Purpose

33.550.020 Where the Regulations Apply

Use Regulations

33.550.100 Prohibited Uses

Development Standards

33.550.200 Floor Area Ratio

33.550.210 Building Height

33.550.220 Building Setbacks

33.550.230 Building Coverage

33.550.240 Building Length

33.550.250 View Corridors

33.550.260 Exterior Display and Storage

33.550.270 Drive-Through Facilities

33.550.280 Signs

33.550.290 Required Design Review

Map 550-1 Macadam Avenue Plan District

33.550.290 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #18: Radio Frequency (RF) Transmission Facilities

CHAPTER 33.555 MARQUAM HILL PLAN DISTRICT

33.555.230 Maximum Height

B. He regulations in Subdistricts A through D.

2. Measurement

c. height limit exemptions

With the changes to Chapter 33.274 which include references to "Radio or Television Broadcast Facilities" the terms "radio antennas " and "radio and television antennas" could lead to confusion. Additionally, while antennae may be configured differently or be of different sizes, all antennae are used to radiate or receive radio waves (the radio spectrum is 3KHz to 300GHz). Consequently, there is no meaningful distinction between an antenna, a TV antenna, or a radio antenna for purposes of applying this regulation. Stating only "antennas" makes this intent more clear. Note that while antennas are exempt from height limits, the mounting hardware is subject to either B.2.b of this section, or for RF facilities, the requirements in 33.274.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

33.555.300 Design Review

The title and language within this section is amended to be consistent with the language in the other plan districts to provide a reference to Chapter 33.420. The purpose statement, which is specific to this plan district, is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.555
 MARQUAM HILL PLAN DISTRICT**

General

- 33.555.010 Purpose
- 33.555.020 Where These Regulations Apply

Use Regulations

- 33.555.100 Purpose
- 33.555.110 Additional Prohibited Uses
- 33.555.120 Additional Use Limitations in Subdistricts A through D
- 33.555.130 Additional Conditional Uses in Subdistricts A through D
- 33.555.140 Basic Utilities in the OS Zone
- 33.555.150 Impacts of a Suspended Cable Transportation System in the OS Zone
- 33.555.160 Temporary Activities in the OS Zone

Development Standards

- 33.555.200 Purpose
- 33.555.210 Relationship to Base Zone Regulations
- 33.555.220 Drive-Through Facilities
- 33.555.230 Maximum Height
- 33.555.240 Maximum Floor Area Ratio in Subdistricts A through D
- 33.555.250 Maximum Building Coverage
- 33.555.260 Formal Open Areas in Subdistricts A through D
- 33.555.270 Exterior Storage and Work Activities
- 33.555.280 Parking
- 33.555.290 Signs

Design Review

- 33.555.300 Required Design Review

Map 555-1 Marquam Hill Plan District and Subdistricts

Map 555-2 Maximum Height Design Review

33.555.230 Maximum Height

- A. [No change]**
- B. Height regulations in Subdistricts A through D.** The regulations of this subsection apply in Subdistricts A, B, C, and D.
 - 1. [No change]
 - 2. Measurement. Height is measured as follows:
 - a.-b. [No change]
 - c. ~~Radio and television~~ Antennas, utility power poles, and public safety facilities are exempt from the height limits of this section.
 - d. [No change]
 - 3. [No change]

33.555.300 Required Design Review

- A. Purpose. [No change]**
- B. Required Design Review.** The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone. ~~Where these regulations apply.~~ These regulations apply within the Marquam Hill design district, shown on Map 420-5.
- ~~**C. When design review is required.**~~ Design review is required for new development and exterior alterations, including additions of gross floor area to the site.

CHAPTER 33.561
NORTH INTERSTATE PLAN DISTRICT

Item #15: Community Design Standards Cross Reference

33.561.310 Compatibility Standards in the R2.5 and R2 Zones

These standards ensure that development of R2.5 and R2 zoned sites improves the transition between high density mixed-use development along Interstate Avenue and single-dwelling zone areas; contributes positively to established neighborhoods; and creates a strong physical and visual connection between the living area and the street.

C. Standards.

The standards of this subsection address building setbacks, main entrances, parking area restrictions, and exterior finish materials. They were developed to ensure compatible development between the R2 and R2.5 zones and the adjacent single dwelling neighborhood. These standards were drawn from the Community Design Standards in chapter 33.218. To make these standards consistent with the community design standards, two regulations from 33.218 that are applicable to single and multidwelling zone development related to wood siding and horizontal siding are added here.

Additional verbiage has been added to keep the wording and format consistent with similar provisions in the Community Design Standards.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

33.561.320 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.561
 NORTH INTERSTATE PLAN DISTRICT**

Sections:

General

- 33.561.010 Purpose
- 33.561.020 Where These Regulations Apply

Use Regulations

- 33.561.100 Commercial Uses in the RH Zone

Development Standards

- 33.561.210 Maximum Building Height
- 33.561.220 Floor Area Ratios
- 33.561.230 Transition Between Zones
- 33.561.240 Minimum Density in the RH Zone
- 33.561.250 Exterior Display and Storage
- 33.561.260 Off-Site Impacts of Industrial Uses in the EX Zone
- 33.561.270 Required Building Lines
- 33.561.280 Active Building Use Areas
- 33.561.290 Ground Floor Windows in the EX and CS Zones
- 33.561.300 Motor Vehicle Access
- 33.561.310 Compatibility Standards in the R2.5 and R2 Zones
- 33.561.320 Required Design Review

Map 561-1 North Interstate Plan District

Map 561-2 North Interstate Plan District: Maximum Building Heights

Map 561-3 North Interstate Plan District: Floor Area Ratios

Map 561-4 North Interstate Plan District: Required Building Lines/Active Building Use Areas

33.561.310 Compatibility Standards in the R2.5 and R2 Zones

A.-B. [No change]

C. Standards.

1.-3. [No change]

4. Exterior finish materials. The standards of this subsection must be met on all building facades:
 - a. Plain concrete block, plain concrete, corrugated metal, plywood, composite materials manufactured from wood or other products, and sheet pressboard are not allowed may not be used as exterior finish material, except as secondary finishes if they cover no more than 10 percent of ~~the surface area of~~ each façade.
 - b. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide.
 - c. Where wood products are used for siding, the siding must be shingles, or horizontal siding, not shakes.
 - d. Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of 6 inches or less, or vinyl or aluminum siding that is in a clapboard or shiplap pattern where the boards in the pattern are 6 inches or less in width.

33.561.320 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.562 NORTHWEST PLAN DISTRICT

33.562.310 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.562
 NORTHWEST PLAN DISTRICT**

Sections:

General

- 33.562.010 Purpose
- 33.562.020 Where These Regulations Apply

Use Regulations

- 33.562.100 Residential Use Limitation
- 33.562.110 Retail Sales And Service Uses in the EX Zone
- 33.562.120 Retail Sales And Service and Office Uses in the RH Zone
- 33.562.130 Commercial Parking in Multi-Dwelling Zones

Development Standards

- 33.562.200 Purpose
- 33.562.210 Maximum Height
- 33.562.220 Floor Area Ratios
- 33.562.230 Bonus Options
- 33.562.240 Standards on Main Streets and the Streetcar Alignment

33 Development Standards

- Map 562-8 Sites where Ac.562.250 Drive-Through Facilities Prohibited
- 33.562.260 Mechanical Equipment in the EX Zone
- 33.562.270 Minimum Active Floor Area
- 33.562.280 Parking
- 33.562.290 Use of Accessory Parking for Commercial Parking
- 33.562.300 Northwest Master Plan
- 33.562.310 Required Design Review

Map 562-1 Northwest Plan District

Map 562-2 Limited Use Areas

Map 562-3 Commercial Parking in Multi-Dwelling Zones

Map 562-4 Maximum Heights

Map 562-5 Floor Area Ratios

Map 562-6 Bonus Areas

Map 562-7 Areas with Special Accessory Parking May be Operated as Commercial Parking

Map 562-9 Northwest Master Plan Required

33.562.310 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #25: MCDD Environmental Zone Standards

33.565 Portland International Airport Plan District

The amendments to this chapter are intended to do two things:

1. Delete development standards for to bank reconfiguration and the creation of basking features because they are moving to Chapter 33.430; and
2. Clarify confusing language related to when the regulations in this chapter apply in addition to or instead of the regulations in Chapter 33.430.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

**CHAPTER 33.565
 PORTLAND INTERNATIONAL AIRPORT PLAN DISTRICT**

Sections:

General

- 33.565.010 Purpose
- 33.565.020 Where These Regulations Apply
- 33.565.030 Relationship to Other Regulations and Agencies

Use Regulations

- 33.565.100 Additional Allowed Uses in the Airport Subdistrict

Development Regulations

- 33.565.110 Archaeological Resource Protection

Regulations in the Airport Subdistrict

- 33.565.200 Supplemental Application Requirement
- 33.565.210 New Airport Capacity
- 33.565.220 Landscaping
- 33.565.230 Pedestrian Standards for Specified Uses
- 33.565.240 Transportation Impact Analysis Review
- 33.565.250 Development and Availability of Public Services in the SW Quadrant

Special Notification Requirements in the Airport Subdistrict

- 33.565.310 Mailed Public Notice for Proposed Development
- 33.565.320 Posted Public Notice Requirements for Land Use Reviews

Environmental Overlay Zones

- 33.565.500 Purpose
- 33.565.510 Relationship to Other Environmental Regulations
- 33.565.520 Where and When These Regulations Apply
- 33.565.530 Measuring Setbacks
- 33.565.540 Exemptions
- 33.565.550 Development Standards
- ~~33.565.560 General Development Standards~~
- ~~33.565.570 Standards for Resource Enhancement~~
- 33.565.580 Special Procedures for Wildlife Hazard Management

Notice and Review Procedure for Permits Within Environmental Overlay Zones

- 33.565.600 Purpose
- 33.565.610 When These Regulations Apply
- 33.565.620 Procedure

Map 565-1 Portland International Airport Plan District

Map 565-2 Portland International Airport Plan District Areas of Archaeological Interest

33.565.510 Relationship to Other Environmental Regulations

The regulations of Sections 33.565.510 through 33.565.580 ~~either are supplemental to or supersede the regulations of Chapter 33.430. Whenever a provision of this plan district conflicts with Chapter 33.430, the plan district provision supersedes.~~

~~Specifically, the following sections of Chapter 33.430 are superseded or supplemented by the regulations of Chapter 33.430 sections 33.565.510 through 33.565.580:~~

Item #25: MCDD Environmental Zone Standards

33.565.530 Measuring Setbacks

This regulation has been moved to 33.430.140.C and F.

33.565.550 Development Standards

The changes to this section are a result of moving the standards for bank reconfiguration and basking features to Chapter 33.430. This also allowed sections 33.565.350 through .370 to be consolidated.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

- Exemptions in Section 33.565.540 supplement exemptions in Section 33.430.080;
- Standards in Section 33.565.560 supplement, ~~with portions or superseding,~~ standards in Sections 33.430.140 through .190;
- When wildlife hazard management is proposed and an environmental review is required the procedure type specified in Subsection 33.565.560.A supersedes the procedure type specified in Section 33.430.230; Procedures for Environmental Review, section 33.430.230, are superseded by section 33.565.580 when Wildlife Hazard Management is proposed;
- ~~Submittal~~When wildlife hazard management is proposed and an environmental review is required the requirements for Environmental Reviews of Subsection 33.565.560.B 33.430.240 are superseded the requirements of Subsection 33.430.240.B; and supplemented by 33.565.580;
- When wildlife hazard management is proposed and an environmental review is required the approval criteria of Subsection 33.565.560.C supersede the approval criteria of Subsections 33.430.250.E through .F;
- ~~The E~~environmental Plan Check notice and review procedures of Sections 33.565.600 through .620~~33.430.410 through .430 are completely superseded by the notice and review procedures of Sections 33.430.410. through .430. 33.565.600 through .620.~~

This chapter contains only the City’s environmental regulations. Activities ~~which~~that the City regulates through this chapter may also be regulated by other agencies. City approval does not imply approval by other agencies.

33.565.520 Where and When These Regulations Apply

The regulations of Sections 33.565.510 through 33.565.580~~620~~ apply to all environmental zones in the Portland International Airport plan district. The boundaries of this plan district and the subdistricts are shown on Map 565-1. Unless exempted by section 33.565.540, the regulations of Sections 33.565.510~~500~~ through 33.565.580~~620~~ apply to the activities listed below. Items not specifically addressed in these sections must comply with the regulations of Chapter 33.430.

~~**33.565.530 Measuring Setbacks.**~~

~~When the top of bank moves landward as a result of a resource enhancement project, the disturbance area and proposed development setbacks, specified in 33.430.140, may be measured from the original top of bank rather than the new top of bank. See Figure 565-1. When this occurs, a survey of the original top of bank and the new top of bank must be submitted for verification that the top of bank has been measured according to provisions of this chapter. The survey must be recorded with the County recorder. In no case can the setback be less than 5 feet landward of the new top of bank.~~

~~**Figure 565-1 Measuring Setbacks [delete figure 565-1]**~~

33.565.540 [No change]

33.565.550 Development Standards

Unless exempted by section 33.565.540, ~~above,~~ or by 33.430.080, the standards of this section and the standards of 33.430 must be met. Compliance with the standards is determined as part of a development or zoning permit application process and processed according to the procedure described in 33.565.600 through .620. For proposals that cannot meet the standards, ~~E~~environmental Rreview is required as described in ~~Section 33.565.580 or in~~ Sections 33.430.210 through .280 and, where applicable, the applicable approval criteria of 33.430.250 through .280 or 33.565.580. Adjustments to the standards are prohibited.

Item #25: MCDD Environmental Zone Standards

The changes to this section are a result of moving the standards for bank reconfiguration and basking features to Chapter 33.430. This also allowed sections 33.565.350 through .370 to be consolidated.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.565.560 General Development Standards

A. General development standards.

~~A.1.~~ Tree and snag removal

- ~~1a.~~ If the tree or snag, 6 inches or greater in diameter, is removed as part of a resource enhancement project, the requirements of ~~33.565.570~~550.B apply;
- ~~2b.~~ If the tree or snag, 6 inches or greater in diameter, is removed for either of the following reasons, then the standards in Subparagraphs 1.c through 1.g, below 33.565.560.A.3 through 7 must be met instead of 33.430.140.K:
 - ~~a.(1)~~ the tree or snag currently projects, or the tree will upon maturity project, above the height limit of the h overlay zone; or
 - ~~b.(2)~~ the tree or snag is identified in the FAA authorized Wildlife Hazard Management Plan as attracting wildlife species of concern.
- ~~3c.~~ Each tree or snag, 6 inches or greater in diameter, removed must be replaced as specified in Table 565-1, Tree and Snag Replacement;

Table 565-1 [No change]

- ~~4d.~~ Replacement trees and shrubs must be native and selected from the Portland Plant List;
- ~~5e.~~ Replacement shrubs must be in at least a 2-gallon container or the equivalent in ball or burlap;
- ~~6f.~~ Replacement trees must:
 - ~~a.(1)~~ Be at least one-half inch in diameter and have a maximum height-at-maturity that will not project above the height limit of the h overlay zone; and
 - ~~b.(2)~~ Be planted within a transition area or resource area on a property owned by the applicant; or for which the applicant possess a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure success of the mitigation; or can demonstrate legal authority to acquire the site through eminent domain.
- ~~7g.~~ If the replacement trees are planted within 100 feet of the Columbia Slough main channels or secondary drainageways, the trees must be planted above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps.
- ~~B2.~~ Wildlife exclusions. Instead of standards listed in 33.430.140, all of the following standards must be met when installing wildlife exclusionary structures or fencing to comply with the FAA authorized Wildlife Hazard Management Plan within the resources area or transition area of the conservation or protection overlay zone:
 - ~~1a.~~ Trees or snags, 6 inches or greater in diameter, that are removed must be replaced to meet standards Subparagraphs 1.c through 1.g, 33.565.560.A.3 through 7, above; and

Item #25: MCDD Environmental Zone Standards

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- ~~2~~b. Temporary disturbance areas must be replanted so that the area achieves a 90 percent vegetation cover within one year. Vegetation must be native and selected from the Portland Plant List.
- ~~E~~3. Golf cart paths. Instead of the standards listed in 33.430.140, all of the following standards must be met for new or relocated golf cart paths:
 - ~~1~~a. The disturbance area must be set back at least 5 feet from the resource area of any environmental protection zone;
 - ~~2~~b. The golf cart path is no more than eight feet wide;
 - ~~3~~c. The disturbance area is no more than 18 feet wide;
 - ~~4~~d. Trees or snags, 6 inches or greater in diameter, removed must be replaced and meet standards Subparagraphs 1.c through 1.g-33.565.560.A.3 through 7, above;
 - ~~5~~e. Temporary disturbance areas must be replanted so that the area achieves a 90 percent vegetation cover within one year; and
 - ~~6~~f. Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts, or other light types exceeding the brightness of a 200-watt incandescent light, must be placed so they do not shine directly into the resource area of the protection overlay zone.
- ~~D~~4. Golf course vegetation. References to the Portland Plant List in Chapter 33.430 are superseded by the following:
 - ~~1~~a. Grasses and forbs planted in the existing landscaped portions of the resource or transition area on a golf course may be non-native; and
 - ~~2~~b. Poa annua may be planted to maintain existing landscaped portions of the resource or transition area on a golf course.
- ~~E~~5. Golf course disturbance. Instead of standards listed in 33.430.140, any activity that changes topography or results in grading, excavating, or filling of areas in an environmental protection zone must meet the following standards:
 - ~~1~~a. The activity is in an existing landscaped area of the golf course; and
 - ~~2~~b. The activity results in disturbance of less than 10,000 square feet;
- ~~F~~6. Vehicle or pedestrian crossings. ~~New or altered vehicle or pedestrian crossings of the Middle Columbia Slough, Whitaker Slough, Buffalo Slough, or Elrod Slough must be by bridge except as follows:~~
 - ~~2. Exceptions.~~
 - a. At locations where BES determines that a water control structure is necessary, ~~the standard of this subsection does not apply.~~
 - b. ~~The standard of this subsection does not apply to~~ The addition of guard rails to an existing crossing.

Item #25: MCDD Environmental Zone Standards

C Bank Restoration

These standards are not being deleted from the zoning code; they have been moved to Chapter 33.430.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

B. ~~33.565.570 Standards for Resource Enhancement.~~ An applicant may choose to meet all of the standards of 33.430.170 or all of the standards of this section. In either case, the applicant must meet the standards of 33.430.170.D through F.

A.1. Wetland habitat conversion. Within the Airport Subdistrict, conversion from an emergent or herbaceous wetland to a scrub-shrub or forested wetland is allowed if all of the following are met:

- ~~1~~a. There may be no excavation, fill, grading or construction activity;
- ~~2~~b. The habitat conversion area must be replanted, at a minimum, in accordance with one of the following options:
 - ~~a~~(1). Ten native shrubs for every 100 square feet of area and a native grass and forb seed mix at a ratio of 20 pounds per acre; or
 - ~~b~~(2). One native tree, three native shrubs and four other native plants for every 100 square feet. Trees may be clustered;
- ~~3~~c. Trees must have a maximum height at maturity that will not project above the height limit delineated by the h overlay zone; and
- ~~4~~d. Permanent irrigation is not allowed.

B.2. Forest or woodland habitat conversion. Within the Airport Subdistrict, forest or woodland conversion to a different native tree association is allowed if all of the following are met:

- ~~1~~a. There may be no excavation, fill, grading or construction activity;
- ~~2~~b. The habitat conversion area must be replanted, at a minimum, with one native tree, three native shrubs and four other native plants for every 100 square feet of area. Trees may be clustered;
- ~~3~~c. The habitat conversion area must be replanted, at a minimum, to meet one of the following:
 - ~~(1)~~a. Generally. One native tree, three native shrubs and four other native plants for every 100 square feet of area. Trees may be clustered. Trees must have a maximum height at maturity that will not project above the height limit delineated by the h overlay zone;
 - ~~(2)~~b. Exception. If the maximum height of all appropriate tree species would project above the height limited delineated by the h overlay zone, the habitat conversion area must be replanted with at least 10 native shrubs for every 100 square feet of area and a native grass and forb seed mix at a ratio of 20 pounds per acre;
- ~~4~~d. Permanent irrigation is not allowed.

C. ~~Bank restoration. Slough and drainageway banks, which are the area between 12 and 18 inches below the ordinary high water mark and the top of bank, may be re-graded when all of the following standards are met:~~

- ~~1.~~ The activity is conducted or authorized by the Multnomah County Drainage District #1 or Peninsula Drainage District #2;
- ~~2.~~ The final slope above ordinary high water after grading is 33 percent or less (33 percent slope represents a rise to run ratio equal to 1:3);

Item #25: MCDD Environmental Zone Standards

D Basking Features

These standards are not being deleted from the zoning code; they have been moved to Chapter 33.430.

33.565.560 Special Provisions for Wildlife Hazard Management

The changes to this section are not intended change the intent of the regulations. The changes are intended to clarify confusing language, fix cross-references, and make the regulations more consistent with similar language in 33.508.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

- ~~3. Rock armoring may not be used except surrounding outfalls, inlets, culverts and bridge crossings, the rock armoring cannot exceed a distance of 5 feet from those features, and must be planted with live stakes of native plant stock, one half inch in diameter. Stakes must be used at a density of 2 to 3 stakes per 9 square feet. If the armoring is located on a levee, live stakes are not required;~~
- ~~4. The placement of large wood on the bank is allowed to improve bank stabilization if installed above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps;~~
- ~~5. Trees or snags, 6 inches or greater in diameter, that are removed landward from the new top of bank must be replaced and meet standards 33.565.570.A.3 through 7, above; and~~
- ~~6. The area between 12 and 18 inches below the ordinary high water mark and the new top of bank must be revegetated as specified in Figure 565-2 and Table 565-2, Bank Revegetation.~~

Figure 565-2: Bank Revegetation [delete Figure 565-2]

Table 565-2 [delete Table 565-2]

- ~~**D.** Basking features. Placement of large woody debris or large rocks as basking features for wildlife within the Columbia Slough, Whitaker Slough, Buffalo Slough, Peninsula Canal, drainageways or identified wetlands is allowed when all of the following are met:~~
- ~~1. The activity is conducted or authorized by the Multnomah County Drainage District #1, Peninsula Drainage District #2 or the City of Portland Bureau of Environmental Services;~~
 - ~~2. No native trees are removed;~~
 - ~~3. The basking feature is installed above the Base Floodplain Elevation (BFE), as defined on the Federal Emergency Management Agency Flood Insurance Rate Maps; and~~
 - ~~4. Temporary disturbance areas are replanted in accordance with Table 565-2.~~

33.565.580560 Special ProceduresProvisions for Wildlife Hazard Management

These provisions apply to wildlife hazard management activities that are required in order to implement a Federal Aviation Administration (FAA) authorized Wildlife Hazard Management Plan within environmental overlay zones in the Airport Subdistrict~~that are required to implement a Federal Aviation Administration (FAA) authorized Wildlife Hazard Management Plan.~~

- A.** ~~In addition to the exemptions and standards listed in Chapter 33.430, if the activity does not meet the exemptions of Sections 33.565.540 or the standards of Sections 33.565.540 through 33.565.570, then environmental review is required.~~ **Procedure type.** Within the Airport Subdistrict, all activities required in order to implement an FAA authorized Wildlife Hazard Management Plan within the resource area or transition area of the conservation or protection overlay zones that require environmental review are processed through the Type II procedure.

Item #25: MCDD Environmental Zone Standards

C. Approval Criteria

The previous language in 33.565.080.C was unclear. It applied criteria from 33.430.250.E.3 through E.6 (which address transition area and resource areas of conservation zones) to transition areas and resource areas of conservation zones in addition to the transition area and resource area of environmental protection zones. The amended language clarifies the applicability of the criteria and helps prevent future referencing errors if criteria are added or removed from 33.430.250.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

B. Application requirements. Within the Airport Subdistrict and for activities required to implement an FAA authorized Wildlife Hazard Management Plan, an alternatives analysis is not required. Specifically, instead of the supplemental narrative requirements of 33.430.230.B, the following is required:

1. Activity description. Describe the activity and why it is necessary to implement an FAA authorized Wildlife Hazard Management Plan;
2. Documentation of resources and functional values. Documentation of resources and functional values is required to determine compliance with the approval criteria. In the case of a violation, documentation of resources and functional values is used to determine the nature and scope of significant detrimental impacts.
 - a. Identification, by characteristics and quantity, of the resources and their functional values found on the site;
 - b. In the case of a violation, determination of the impact of the violation on the resources and functional values.
3. Construction management plan. Identify measures that will be taken during the activity or remediation to protect the remaining resources and functional values at and near the site and a description of how undisturbed areas will be protected. For example, describe how trees will be protected, erosion controlled, equipment controlled, and the timing of activity; and
4. Mitigation or remediation plan. The purpose of a mitigation or remediation plan is to compensate for unavoidable significant detrimental impacts that result from the chosen activity or violation as identified in the impact evaluation. A mitigation or remediation plan includes:
 - a. Resources and functional values to be restored, created, or enhanced on the mitigation or remediation site;
 - b. Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;
 - c. Activity timetables;
 - d. Operations and maintenance practices;
 - e. Monitoring and evaluation procedures;
 - f. Remedial actions for unsuccessful mitigation; and
 - g. Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

C. Approval criteria. The following approval criteria apply to activities required in order to implement an FAA authorized Wildlife Hazard Management Plan within the resource area or transition area of the conservation or protection overlay zones that require environmental review. These criteria supersede the criteria in 33.430.250.E and F:

1. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
2. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
3. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and

Item #25: MCDD Environmental Zone Standards

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

4. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

~~Within the Airport Subdistrict, activities required to implement an FAA authorized Wildlife Hazard Management Plan are not required to avoid or minimize impacts to identified natural resources and functional values within a resource or transition area of either a protection or conservation overlay zone; mitigation is required. Mitigation for impacts to natural resources and functional values is required to meet only the approval criteria of section 33.430.250.E.3 through 6 when impacts to natural resources and functional values occur within a resource or transition area of either a protection or conservation overlay zone.~~

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

**CHAPTER 33.580
SOUTH AUDITORIUM PLAN DISTRICT**

33.580.030 Design Review

The title, and language within this section is amended to be consistent with the language in the other plan districts to provide a reference to Chapter 33.420. The purpose statement, which is specific to this plan district, is retained.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

CHAPTER 33.580
SOUTH AUDITORIUM PLAN DISTRICT

Sections:

- 33.580.010 Purpose
- 33.580.020 Where the Regulations Apply
- 33.580.030 Required Design Review
- 33.580.040 Portland Development Commission

Development Standards

- 33.580.100 Floor Area Ratios
- 33.580.110 Landscaped Areas
- 33.580.120 Parking Lot Landscaping
- 33.580.130 Preservation of Existing Trees
- 33.580.140 Sign Restrictions
- 33.580.150 Roof Top Screening

Map 580-1 South Auditorium Plan District

Map 580-2 South Auditorium Plan District FAR

33.580.030 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone. ~~Development in the plan district is subject to design review, using the design guidelines in effect for the Downtown subdistrict of the Central City.~~

Item #29: Design Review Requirements In Overlay Zones And Plan Districts

CHAPTER 33.583 ST JOHNS PLAN DISTRICT

33.583.290 Required Design Review

This new section is added to provide a reference to Design Overlay Chapter, to be consistent with other overlay zone and plan district chapters that incorporate the 'd' overlay. At a future point, the City may wish to adopt a purpose statement that is specific to the plan district's design review requirement.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.583
ST. JOHNS PLAN DISTRICT

Sections:

General

- 33.583.010 Purpose
- 33.583.020 Where These Regulations Apply

Use Regulations

- 33.583.100 Purpose
- 33.583.110 Prohibited Uses
- 33.583.120 Retail Sales And Service Uses in the EG and EX Zones

Development Standards

- 33.583.200 Purpose
- 33.583.210 Drive-Through Facilities
- 33.583.220 Exterior Activities in the EG and EX Zones
- 33.583.230 Housing Types Prohibited in the EG and EX Zones
- 33.583.240 Minimum Density in the R1 Zone
- 33.583.250 Maximum Building Height
- 33.583.260 Bonus Option in the CN2 Zone
- 33.583.270 Building Coverage and Landscaping in the EX Zone
- 33.583.280 Residential Uses in the EG1 Zone
- 33.583.285 Additional Regulations in the Riverfront Subdistrict
- 33.583.290 Required Design Review

Map 583-1 St. Johns Plan District

Map 583-2 Maximum Heights

33.583.290 Required Design Review

The regulations of Chapter 33.420, Design Overlay Zones apply in all areas of the plan district that are within the Design Overlay Zone.

Item #33: Land Division Approval Criteria in Potential Landslide Hazard Areas

33.632 Sites in Potential Landslide Hazard Areas

If any part of a land division site is in a potential landslide hazard area, then a detailed landslide hazard study is required. The study must identify landslide hazard areas within the site, and identify the safest part of the site in terms of the risk of a landslide affecting the site or adjacent sites. The study is evaluated as part of the land division review and application of the landslide hazard approval criterion.

The first part of the criterion currently states: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.

In 2011 this approval criterion was called into question in an appeal of a land division on a site in a potential landslide hazard area (*Gravatt v. City of Portland*; LUBA No. 2010-087). The case centered on the meaning of the words "safest part of the site" in relation to the words that follow. The petitioner in the case argued that the words "safest part of the site" should be read as requiring the lots, buildings, services and utilities to be located in the absolute safest part of the site. LUBA rejected the petitioner's interpretation of the criterion and agreed with the City's interpretation of the language that "the phrase 'safest part of the site' must be considered in the context of PCC 33.632.100 as a whole and also in the context of all provisions of PCC 33.632".

However, in a footnote to the opinion LUBA suggested that the existing language—safest part of the site—is potentially problematic, and directed the City to amend the code to "more clearly state what PCC 33.632.100 requires and how the city expects applicants to go about applying and complying with PCC 33.632.100". The amendments proposed here clarify that the approval criterion does not require an unqualified search for the safest part of the site, but rather requires that development be located in areas of the site that are suitable (i.e. safe) for development because the risk of a landslide affecting the site or neighboring sites is or can be reasonably limited.

The second paragraph of the approval criterion requires that the determination of where the risk is reasonably limited is based on an evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. The proposed amendments to this paragraph clarify that improvements or engineering solutions can be required in addition to alternative development types as a way to ensure that a suitable area exists that limits the risk of landslides.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.632
SITES IN POTENTIAL LANDSLIDE HAZARD AREAS

33.632.010 Purpose

The approval criterion for lands subject to landslide will help minimize public and private losses as a result of landslides. The approval criterion limits the creation of lots on lands subject to landslides ~~hazard~~ in order to direct development away from hazardous areas. The approval criterion ensures that lots and development are located on a portion of the site that is suitable for development where the ~~present the least amount of risk of a landslide is reasonably limited~~ causing landslides, and are protected as much as possible from landslides. ~~The approval criterion ensures that lots are created where development can occur with the least likelihood of causing landslides on the site or adjacent properties.~~ In some cases, the approval criterion will result in requirements to stabilize sites through engineered solutions.

33.632.100 Landslide Hazard Area Approval Criterion

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

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Specific improvements, engineering requirements, techniques or systems, or ~~A~~ alternative development options, including alternative housing types and reduced density, may be required in order to facilitate a suitable development that limits the risk to a reasonable level.

Item #33: Land Division Approval Criteria in Potential Landslide Hazard Areas

While evaluating the Land Division criteria for sites in potential landslide hazard areas, another land division code correction need was identified.

33.663.110.A Voiding a Final Plat Application

An application for a final plat review can be voided under two circumstances. The amendments to this Subsection clarify those two circumstances because the existing language is confusing.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.663 FINAL PLATS

33.663.110 Voiding of Final Plat Application

A. Generally. An application for Final Plat review will be voided ~~where~~when:

1. The Director of BDS has sent written comments to the applicant, requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval; and the applicant has not provided any of the requested information or completed any steps toward meeting the outstanding requirements within 180 days. If the applicant provides some information or completes some steps toward meeting the outstanding requirements within 180 days the application of final plat review will not be voided; or
2. It has been more than 3 years since the Director of BDS has sent the initial set of written comments requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval and the applicant has not provided all of the requested information and completed all of the steps necessary to meet the outstanding requirements. This paragraph does not apply to applications for final plat review submitted on or before May 16, 2012. The final plat review has remained inactive for 180 days from the date the Director's letter was mailed. The plat is considered inactive if the applicant has not provided any of the requested information, or completed steps toward meeting any of the outstanding requirements for final plat approval; or
3. ~~It has been more than three years from the date the Director's written comments were mailed, even if the plat has been active. This paragraph applies to applications for Final Plat Review submitted after May 16, 2012.~~

B. Exception. For final plat applications that were submitted before December 31, 2009, the 180 day period identified in ~~A.2-A.1~~, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of May 27, 2009.

Item #16: Convenience Stores

In reviewing the neighborhood meeting requirement for Convenience Stores (Chapter 33.219), several inconsistencies were identified with language in the general neighborhood contact requirement. These amendments intend to make both contact requirements more similar, as well as address some requirements that were unclear.

33.700.025 Neighborhood Contact

C. Requirements.

Neighborhood contact is required for certain types of proposals (multi-dwelling development of more than five units, certain proposals using community design standards, or located in the main street overlay, and some land division, design, and historic resource reviews). The changes to this subsection address several issues with the neighborhood contact requirements:

- Some applicants who may not have experience with the neighborhood contact process may not provide sufficient information for the neighborhood meeting request letter. Often, these letters are brief statements that do not give the neighborhoods a good sense of the proposal or what is expected in terms of next steps. BDS is developing a form letter to standardize the format and provide applicants with guidance on the types of information that they should be furnishing. The letter will also include instructions for the neighborhood association should they choose to request the applicant to come meet with them.
- Letters often are missing illustrations, such as site plans or building elevations, that are helpful in preliminarily evaluating the proposal. The amended language encourages applicants to include this information but does not mandate it. This is because the intent of these preliminary meetings is to discuss concepts and revisions that may address neighbors' concerns. If significant cost has been expended to develop a proposal, applicants may be less willing to make changes.
- Lack of clarity when the timelines begin. "Initial contact" could be read to mean the date the letter was sent, was received, or was read. Since the letter must be sent by registered mail, there is a receipt which can be verified. This amendment makes it clear that the timelines begin on the date the letter is sent.
- Lastly, paragraph 2 is amended to require registered or certified mailing for the follow up letter to the neighborhoods for consistency and accountability.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT**

33.700.025 Neighborhood Contact

A.-B. [No change]

C. Requirements. The requirements for Neighborhood Contact are:

1. The applicant must contact the neighborhood association for the area, by registered or certified mail, to request a meeting. A copy of this request must also be sent by registered or certified mail to the district neighborhood coalition. Meeting request forms are available at the Development Services Center. Applicants are encouraged to include conceptual site plans, building elevations, and any other information that supports their proposal. The request letter must summarize the proposed development, the purpose of the meeting, and describe the following timelines.

The neighborhood association should reply to the applicant within 14 days and hold a meeting within 45 days of the date of mailing the request ~~the initial contact~~. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 45 days, the applicant may request a land use review, or building permit without further delay. If the neighborhood requests the meeting within the time frame, the applicant must attend the meeting. The applicant may attend additional meetings on a voluntary basis. The neighborhood may schedule the meeting with its board, the general membership, or a committee.

2. After the meeting and before applying for the land use review or building permit, the applicant must send a letter by registered or certified mail, to the neighborhood association and district neighborhood coalition. The letter will explain changes, if any, the applicant is making to the proposal.
3. [No change.]

Item #34: Regulations in effect at Application

33.700.080 Regulations That Apply at the Time of an Application

The introduction to this section can be confusing because it seems to describe only the regulations in Subsection C. The intro is being amended to be more clear.

The change to A.2 clarifies that to be considered a "complete application" the application need not necessarily conform to all applicable use regulations and development standards. Complete applications may require imposition of conditions to ensure this conformance, and in some cases, complete applications are denied because they have not or are not able to demonstrate this conformance. Changing the word to "whether" means that a "complete application" is one where sufficient information is contained in order to evaluate the proposal and from there, determine *whether* the proposal conforms or does not conform to the regulations and standards.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

Timeliness of Regulations

33.700.080 Regulations That Apply at the Time of an Application

~~When new zoning code amendments or changes to the zoning map are adopted but not yet implemented,~~ The regulations of this section apply to applications for land use reviews and building or development permits.

A. Applications.

1. Application for land use review. Applications for land use reviews will be processed based on the regulations in effect on the date an application is filed with the City, as follows:
 - a. Complete at filing. If, on the date the application is filed with the City, the application contains all the information stated in 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, the application will be processed based on the regulations in effect on the date the application is filed;
 - b. Complete within 180 days. If, on the date the application is filed with the City, the application does not contain all the information stated in Section 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, but the applicant provides the information within 180 days of the date the application was filed, the application will be processed based on the regulations in effect on the date the application was filed.
2. Application for building or development permit. Applications for building or development permits will be processed based on regulations in effect on the date a complete application is filed with the City. For the purposes of this section, a complete building or development permit application contains the information necessary for BDS to determine whether~~that~~ the proposal conforms with all applicable use regulations and development standards.

B. Revisions to building or development permit applications. Revisions will be processed based on the regulations in effect when the original complete application was received if:

1. The use remains within the same use category as in the original application;
2. The revision does not increase the total square footage of the proposed use;
3. The original application has not expired; and
4. The revised development meets all applicable development standards.

C. Use of new regulations or mapping. Applications will not be accepted for building permits or land use reviews based on regulations or ~~zone~~ changes to zoning maps that have been approved but not yet implemented, or have been adopted but have not yet become effective. However, pre-application conferences may be requested and held.

Items #35, 36: Revocable Permits

Revocable permits are issued for a wide-ranging variety of activities and development. There are revocable permits that are issued through Title 17 for encroachments in the right of way (e.g. a rail spur, building extension, or utility vaults) and revocable permits issued for land uses (e.g. a commercial development in a residential zone, a triplex in a single dwelling neighborhood, or activities related to an event). These permits are "revocable" at the will of the City Council, and often include conditions to limit their duration, development, or other impacts.

From 1959 to 1991, the City granted revocable permits to allow land uses that did not comply with zoning regulations. Initially, these permits were granted at the Council's discretion with no set criteria. The code was later modified to include a basic criteria to address area character and impacts. With the adoption of the new code in 1991, granting land use revocable permits was no longer allowed, and triggers were established for when and how revocable permits would expire.

Currently, all land use revocable permits will expire, either on the date established in the permit, or when the use or owner changes. In some cases the uses allowed by revocable permits operate in a similar manner to nonconforming uses or nonconforming residential density. However, unlike non-conforming situations which are allowed to continue subject to the regulations in 33.258 there are presently no remedies or options for transferring the revocable permit or use allowances beyond the date of expiration or beyond the original permit holder.

There are over 7,400 revocable permits that were issued in the period 1959-1991, including revocable permits for both "land uses" and "rights-of way". Staff estimates that between half and two-thirds are for rights-of-way; meaning that there are approximately 2,500 to 3,500 for land use activities or development. Without the ability to conduct extensive research into the status of revocable permits, it is difficult to estimate the number of permits that are still in effect. According to BDS staff, this is an issue that comes up on a regular basis, more so now that the cohort of original permit holders is aging.

The proposed amendments continue the City policy of expiring permits that have an expiration date, but will allow the continuation of non-conforming residential density. For permits that did not include an expiration date, a permit holder who has maintained the use or development over time will now have the option of converting the permit to a non-conforming situation, and be subject to the regulations in 33.258.

Commentary continues on next commentary page.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.700.120 Status of Prior Revocable Permits

Land use revocable permits approved prior to January 1, 1991 are subject to the regulations stated below.

- A. Uses ~~which~~that are now allowed.** Revocable permits for uses that are now an allowed use are revoked and the uses are subject to the zoning regulations. ~~Any conditions of approval no longer apply.~~ Specific activities of the use ~~which~~that were allowed by the revocable permit but which do not conform to the code may continue and are limited by any conditions of approval from the prior revocable permit. Any other conditions of approval no longer apply.
- B. Uses ~~which~~that are now conditional uses.** Revocable permits for uses that are now regulated as a conditional use are revoked and the uses are subject to the conditional use regulations. Any conditions of approval continue to apply. Specific activities of the use ~~which~~that were allowed by the revocable permit but ~~which~~ do not conform to the code may continue and are limited by any conditions of approval from the prior revocable permit.
- C. Uses ~~which~~that are prohibited.** Revocable permits for uses that are prohibited by this Title may continue under the conditions of the permit as provided below.
1. Revocable permits with a specified expiration date.
 - a. A revocable permit that has a specified expiration date continues to be in effect until the expiration date, the use that was approved changes, or the ownership changes. Transfers of permit rights or modifications to the permit are prohibited. The holder of the revocable permit may ask to have a one-time extension of the expiration date of up to 3 years. Approval of more than one extension is prohibited. Extensions are processed through a Type III procedure. An extension will be granted if the review body finds that all of the following approval criteria are met:
 - ~~a-(1)~~ The use has no adverse impacts on surrounding uses; and
 - ~~b-(2)~~ The extension is necessary to allow the use time to cease operation or to move to a location where the use is allowed.
 - b. Exception. If the revocable permit granted additional residential dwelling units, then the extra dwelling units become nonconforming residential density, and must nonconforming residential density regulations. In this case, any conditions of approval of the revocable permit no longer apply.

Items #35, 36: Revocable Permits

33.700.120 Status of Prior Revocable Permits

C. Uses that are prohibited

These amendments will allow properties with revocable permits for uses that would be prohibited under current regulations to prove the use has been maintained since the establishment of the permit and become nonconforming situations.

1. Revocable permits with a specified expiration date.

a. This amendment clarifies that the permit is nullified when there is a change of owner. The use of the word "ownership" in this context is confusing as the zoning code defines "ownership" as a site and not the owner of the property.

b. It is likely that most, if not all, revocable permits that included a specific expiration date have expired, since the last permit was issued more than 20 years ago. Nevertheless, since we cannot be certain that all have expired, the expiration provisions are retained but have been amended to allow continuation of additional residential density.

2. Revocable permits without an expiration date.

a. This amendment clarifies that the permit is nullified when there is a change of owner. The use of the word "ownership" in this context is confusing as the zoning code defines "ownership" as a site and not the owner of the property.

b. This exception will allow the continuation or transfer of uses established under a revocable permit provided an applicant can demonstrate that the use approved has been maintained over time. In this case, the use will convert to a "nonconforming use" and be subject to the requirements of the Nonconforming Situations chapter (33.258). Expansions, modifications, or changes to other uses will be subject to the conditions of the revocable permit and the nonconforming situation regulations, as applicable. Since these permits may have included conditions restricting their transfer, the amendment clarifies that once the use has converted to a non-conforming situation, transfers are allowed.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

2. Revocable permits without an expiration date.
 - a. A revocable permit that does not have a specified expiration date continues to be in effect until the use that was approved changes or the ownership changes. Extensions, transfers of permit rights, or modifications to the permit are prohibited.
 - b. Exceptions.
 - (1). If the revocable permit granted additional residential dwelling units, then the extra dwelling units become nonconforming residential density and must meet nonconforming residential density regulations. In this case, any conditions of approval of the revocable permit no longer apply.
 - (2) If the use established by the revocable permit has been maintained over time, and the applicant can document that the use has been maintained over time using standard evidence per 33.258.038.B or through a review per 33.258.075, then the use becomes a nonconforming use and must meet nonconforming use regulations. If the use approved through the revocable permit has been discontinued for 3 consecutive years, it has not been maintained over time. The use is considered to be discontinued when the use approved ceases to operate, even if the structure or materials related to the use remain. Conditions of approval of the revocable permit continue to apply, except for any conditions that limit the transfer of ownership.

Item #37: Design and Historic Landmarks Commission Membership

33.710.050 Design Commission

B. Membership.

Prior to 2010 the Design Commission and the Historic Landmarks Commission had a requirement that each commission include a member of the Planning Commission. When the Planning Commission and the Sustainability Commission merged to form the PSC (Planning & Sustainability Commission), the requirement was dropped due to concerns about volunteer time commitments. The requirement for this representation was removed from the membership section of the code in 2010 but the total number of commissioners was never amended creating a vacancy between the overall number and the representatives.

This vacancy has never been filled and both Commissions have been operating with seven members since 2010. BDS has requested that the number of required members on both commissions be reduced from eight to seven. Having an odd number of members also helps ensure that there is a majority when all members vote.

33.710.060 Historic Landmarks Commission

B. Membership.

See commentary for 33.710.050 above.

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.710 REVIEW BODIES

33.710.050 Design Commission

- A. Purpose.** [No change.]
- B. Membership.** The Design Commission consists of seven~~eight~~ members, none of whom may hold public elective office. The Commission must include a representative of the Regional Arts and Culture Council, one person representing the public at-large, and five members experienced in either design, engineering, financing, construction or management of buildings, and land development. No more than two members may be appointed from any one of these areas of expertise. The Regional Arts and Culture Council member is nominated by the Regional Arts and Culture Council chair and approved by the Mayor. The other members are appointed by the Mayor and confirmed by the City Council.
- C-E.** [No change.]

33.710.060 Historic Landmarks Commission

- A. Purpose.** [No change]
- B. Membership.** The Historic Landmarks Commission consists of seven~~eight~~ members, none of whom may hold public elective office. The Commission must include a historian with knowledge of local history; an architectural historian; an architect; two members from the following: landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, or related disciplines; and two members at-large. All members must have demonstrated interest, competence, or knowledge of historic preservation. No more than two members of the Commission may be in the business of buying, selling, leasing, or developing real estate for profit, or be officers of such a business. The members are appointed by the Mayor and confirmed by the City Council.
- C-E.** [No change]

Item #40: Notice of Type III Decision

An omission in the notice requirements for Type III decisions made it unclear what information was required to be contained in the notice. As part of reviewing this item, some other inconsistencies were identified in the following sections:

33.730.014 Type I Procedure; 33.730.015 Type Ix Procedure; 33.730.020 Type II Procedure; 33.730.025 Type IIx Procedure; 33.730.030 Type III Procedure, and 33.730.031 Type IV Procedure

33.730.014 Type I Procedure

33.730.015 Type Ix Procedure

These amendments ensure that the applicant and/or the owner of a site receive copies of all relevant notices for the land use reviews: Type I, Ix, II, IIx, III, and IV.

In addition, the amendments eliminate duplicative or inconsistent language between the different procedures.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.014 Type I Procedure

The Type I procedure is an administrative process with public notice but no hearing.

A-B. [No change.]

C. Notice of a request. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to the owner, the applicant if different, all property owners within 100 feet of the site, and to the recognized organization(s) in which the site is located. The notice will contain all information listed in 33.730.070.B, Type I and Type Ix notice of request.

D-E. [No change.]

F. Notice of decision. The Director of BDS will mail notice of the decision to the owner, the applicant if different, and to any person or organization who submitted written comments. See 33.730.070.F, Type I, Type Ix, and Type IV notice of decision.

G. [No change.]

33.730.015 Type Ix Procedure

The Type Ix procedure is an administrative process with public notice but no hearing.

A-B. [No change.]

C. Notice of a request. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to the owner, the applicant if different, all property owners within 100 feet of the site, and to the recognized organization(s) in which the site is located. The notice will contain all information listed in 33.730.070.B, Type I and Type Ix notice of request.

D-E. [No change.]

F. Notice of decision. The Director of BDS will mail notice of the decision to the owner, the applicant if different, and to any person or organization who submitted written comments. See 33.730.070.F, Type I, Type Ix, and Type IV notice of decision.

G. [No change.]

Item #40: Notice of Type III Decision

33.730.020 Type II Procedure

These amendments ensure that the applicant and/or the owner of a site receive copies of all relevant notices for the land use reviews: Type I, Ix, II, IIx, III, IV.

In addition, the amendments eliminate duplicative or inconsistent language between the different procedures.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.730.020 Type II Procedure

The Type II procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A-B.[No Change.]

C. Preliminary notice. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to the owner, the applicant if different, all property owners within 150 feet of the ~~site~~lot when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 400 feet of the lot. See 33.730.070.C, Type II and Type Iix notice of request.

D-E.[No Change.]

F. Notice of decision (pending appeal). The Director of BDS will mail the notice of the decision to the owner, the applicant if different, all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, to all recognized organizations within 400 feet of the site, and to any person who submitted written comments. See 33.730.070.G, Notice of Type II, ~~or~~ Type Iix or Type III decision (pending appeal).

G-H.[No Change.]

I. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
 - The file number and land use review(s) appealed;
 - The appellant's name, address, signature, phone number;
 - A statement of which sections of the Zoning Code or which approval criteria the decision violates; and
 - The required fee.
2. Notification of appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant, and the owner. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the owner, the applicant if different, and all persons and recognized organizations who received the notice of the decision. See 33.730.070.H, Notice of a Type II or Type III appeal hearing.

3-10. [No change.]

Item #40: Notice of Type III Decision

33.730.025 Type IIx Procedure

These amendments ensure that the applicant and/or the owner of a site receive copies of all relevant notices for the land use reviews: Type I, Ix, II, IIx, III, and IV.

In addition, the amendments eliminate duplicative or inconsistent language between the different procedures. Specifically, this amendment removes the language related to the sending of copies of the decision from paragraph E.3, because it is already stated in subsection F.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.730.025 Type IIx Procedure

The Type IIx procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A-B. [No Change.]

C. Preliminary notice. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to the owner, the applicant if different, all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, and to all recognized organizations within 400 feet of the site. See 33.730.070 C, Type II and Type IIx notice of request.

D. [No Change.]

E. Administrative decision.

1. In making the decision, the Director of BDS may consult with the owner, applicant, other citizens, City agencies, and other public and private organizations to solicit information relevant to the request. The decision is based on the Director of BDS's findings, which are based on an evaluation of the facts and the applicable code regulations.
2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.
- ~~3. A copy of the decision report will be mailed to the owner, applicant if different, the recognized organization(s) in which the site is located, and will be made available to the public.~~

F. Notice of decision (pending appeal). The Director of BDS will mail a notice of the decision to the owner, the applicant if different, all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, to all recognized organizations within 400 feet of the site, and to any person who submitted written comments. See 33.730.070 G, Notice of Type II, Type IIx or Type III decision (pending appeal).

G. [No Change.]

I. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. [No change.]
2. Notification of appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant, and the owner. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the owner, the applicant if different, and all persons and recognized organizations that received the notice of the decision. See 33.730.070 H, Notice of an appeal hearing.
- 3-10. [No change.]

Item #40: Notice of Type III Decision

33.730.030 Type III Procedure

These amendments ensure that the applicant and/or the owner of a site receive copies of all relevant notices for the land use reviews: Type I, Ix, II, IIx, III, and IV.

In addition, the amendments eliminate duplicative or inconsistent language between the different procedures.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.730.030 Type III Procedure

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

A-C. [No change.]

D. Notice of a request.

1. Mailed notice. At least 20 days before the scheduled hearing, the Director of BDS will mail a notice of the request to the regional transit agency, Metro, the Oregon Department of Transportation, the owner, the applicant if different, all property owners within 400 feet of the site when inside the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 1,000 feet of the lot. See 33.730.070 D, Type III and Type IV notice of request.

E. Decision by review body if site is in City of Portland.

- 1-4. [No change.]
5. Notice of decision (pending appeal). When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, or within 30 days for Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer or Director of BDS will mail notice of the review body's decision (pending appeal) to the owner, the applicant if different, ~~owner,~~ and all recognized organizations or persons who responded in writing to the notice of the request, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.G, Notice of Type II, Type IIX or Type III decision (pending appeal).

F-G. [No Change.]

H. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. [No change.]
2. Notice of the appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant, and the owner. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the owner, the applicant if different, the review body, and all persons and recognized organizations that received the notice of the decision. See 33.730.070.H, Notice of a Type II, Type IIX, or Type III appeal hearing.
- 3-7. [No change.]

33.730.031 Type IV Procedure

These amendments ensure that the applicant and/or the owner of a site receive copies of all relevant notices for the land use reviews: Type I, Ix, II, IIx, III, and IV.

In addition, the amendments eliminate duplicative or inconsistent language between the different procedures.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

I. Decision by review body if site is not in City of Portland.

1. BDS recommendation. The Director of BDS will prepare a report with recommendations, and file the report with the review body and make the report available to the public at least 10 days prior to the hearing. A copy will be mailed to the owner, the applicant if different and to any recognized organizations whose boundaries include the site.
- 2-7. [No change.]

33.730.031 Type IV Procedure

A.-C. [No change]

D. Notice of a request.

1. Mailed notice. At least 20 days before the scheduled hearing, the Director of BDS will mail a notice of the request to the regional transit agency, Metro, the Oregon Department of Transportation, the owner, the applicant if different, all property owners within 400 feet of the site when inside the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 1,000 feet of the lot. See 33.730.070.D, Type III and IV notice of request.
2. Posting notice on the site. The applicant must place a public notice about the request on the site. The posting must meet the standards of 33.730.080, below.

E. [No change]

F. Decision by review body.

1. BDS recommendation. The Director of BDS will prepare a report with recommendations, and file the report with the review body and make the report available to the public at least 10 days prior to the hearing. A copy will be mailed to the owner, the applicant if different, and to any recognized organizations whose boundaries include the site.
- 2.-6. [No change]

Item #33: Land Division Approval Criteria in Potential Landslide Hazard Areas

33.730.060 Application Requirements

D.1.g. Landslide Hazard Study

The amendments to this subparagraph make the language in the application requirements describing the landslide hazard study consistent with the language in the approval criterion in 33.632.100.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.730.060 Application Requirements

A.-C. [No change]

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

a.-f. [No Change]

g. Landslide Hazard Study. If any part of the site is in a potential landslide hazard area as shown on the City’s Potential Landslide Hazard Areas Map the application must include a Landslide Hazard Study prepared by a Certified Engineering Geologist and a Geotechnical Engineer. The Landslide Hazard Study must identify landslide hazard areas within the site and identify the ~~safest part or parts~~ of the site suitable for development in terms of the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site. The Landslide Hazard Study should make recommendations for the layout and design of the land division and development. The study must provide adequate detail to show the design of all proposed structures and improvements, and must include a statement of on-site slope stability after the proposed development is complete. The study must also include a statement of the estimated effect of the developments on stormwater and groundwater runoff as it relates to slope stability and landslide hazard, and a proposed method of control.

The study may also include

- Review of aerial photography including stereo views;
- Review of geologic literature or previous reports;
- Site reconnaissance including mapping of observable geologic features or hazards;
- Field explorations as necessary; and
- Laboratory testing;

h.-k. [No Change]

Item #40: Notice of Type III Decision

33.730.070 Written Notice Requirements

G. Notice of Type II or Type IIx decision (pending appeal).

Prior to 1995, the zoning code had a standard set of items that were required to be a part of a Notice of Decision (pending appeal). As part of the Zoning Code Improvement Project effective in October 1995, the notification requirements were separated out by Land Use Types. However, there was no information provided for the requirements of a notice for a Type III decision. This amendment incorporates the Type III decision into the Notice for Type II and IIx requirements. The requirements for a Type III decision notice are essentially the same as that for the Type II or IIx decision.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

33.730.070 Written Notice Requirements

A.-F. [No change]

G. Notice of Type II, ~~or~~ Type IIX, or Type III decision (pending appeal). The notice of Type II, ~~or~~ Type IIX, or Type III decision (pending appeal) will describe the land use request and decision. The notice will include the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- An explanation of the local decision-making process for the decision being made;
- A summary of the applicable approval criteria;
- The review body's~~The Director of BDS's~~ decision, the decision date, and the filing date;
- A statement that the decision is final unless appealed;
- A description of the appeal process, time frame, the review body, and the fee for an appeal; and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

H.-I. [No change]

Item #45: Conformance with Statewide Land Use Goals

Approval Criteria for Quasi-Judicial Comprehensive Plan Map Amendment

33.810.050 Approval Criteria

A. Quasi Judicial

2. This new approval criterion will require the applicant to show how the comprehensive plan map amendment is consistent with Statewide Land Use Planning Goals. Currently, compliance with Statewide Land Use Planning Goals is addressed in criterion A.1, however the language of A.1 only requires the applicant to meet the Statewide Land Use Planning Goals "on balance". The "on balance" threshold is not appropriate for Statewide Land Use Planning Goals. Comprehensive plan map amendments should be consistent with all of the statewide goals.

4. The introductory text for this approval criterion is being amended for readability purposes.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.810
COMPREHENSIVE PLAN MAP AMENDMENTS

33.810.050 Approval Criteria

- A. Quasi-Judicial.** Amendments to the Comprehensive Plan Map that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:
1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;
 2. The requested change is consistent with Statewide Land Use Planning Goals;
 - ~~23.~~ [No change]
 - ~~34.~~ ~~When the requested amendment is from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation, i~~In order to prevent the displacement of industrial and employment uses and preserve land primarily for these uses, the following criteria must also be met when the requested amendment is from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation:
 - a. The uses allowed by the proposed designation will not have significant adverse effects on industrial and employment uses in the area or compromise the area's overall industrial character;
 - b. The transportation system is capable of safely supporting the uses allowed by the proposed designation in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, truck circulation, access to arterials, transit availability, on-street parking impacts, site access requirements, neighborhood impacts, and pedestrian and bicycle circulation and safety;
 - c. The uses allowed by the proposed designation will not significantly interfere with industrial use of the transportation system in the area, including truck, rail, air, and marine facilities;
 - d. The site does not have direct access to special industrial services such as multimodal freight movement facilities;
 - e. The proposed designation will preserve the physical continuity of the area designated as Industrial Sanctuary or Mixed Employment and not result in a discontinuous zoning pattern;
 - f. The uses allowed by the proposed designation will not reduce the ability of Portland's Central City, Regional or Town Centers to attract or retain the principal retail, cultural, and civic facilities; and
 - g. The size of the area that may be given a new Comprehensive Plan Map designation is as follows:
 - (1)-(5) [No change]

Item #41: Conditional Uses - Changes within the same use category.

33.815.040 Review Procedures

The reference to review procedures in 33.279 and 33.281, which was added as part of the Schools and Recreational Fields project in 2010, is incomplete and redundant. Review procedures and thresholds for conditional use review can be found in many more chapters than just these two. In fact, there are currently ten chapters that establish unique thresholds for conditional use review procedures:

- Bed and Breakfast Facilities (aka Accessory Short Term Rentals)
- Helicopter Landing Facilities
- Radio Frequency Transmission Facilities
- Recreation Fields for Organized Sports
- Schools and School sites
- Short Term housing
- Historic preservation incentive
- Columbia South Shore
- Conditional Use Master Plans
- Impact mitigation Plans

The statement "the provisions of this section apply unless specifically stated otherwise in this title" covers all the instances where separate conditional use thresholds are established. This prevents future omission and the need to update this section if future legislative projects establish alternative thresholds for specific conditional use reviews.

A. Proposals that affect the use of the site.

2. Changing to another use:

There has been confusion about whether a conditional use review is required when there is a change of use within a use category. This amendment clarifies current policy to state that changes of use within a specific use category, such as from one community service use to another can trigger a conditional use review.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

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. A new conditional use. A request for a new conditional use is processed through a Type III procedure.
2. Changing to another use:
 - a. In the same use category, such as from one Community Service use to another Community Service use.
 - (1) Except as specified in subparagraph A.2.a(2), below, changing from one conditional use to another conditional use in the same use category is processed through a Type II procedure;
 - (2) If changing from one conditional use to another conditional use in the same use category will also change a specifically approved amount of the previous use, such as members, students, trips, or events, by more than 10 percent, the change of use is processed through a Type III procedure;
 - b. In another use category.
 - (1) Changing to a conditional use in another use category is processed through a Type III procedure.
 - (2) Changing to an allowed use is allowed by right.
3. Adding another use. [No change.]
4. Changes to an existing conditional use. [No change.]
5. Conditional uses within institutional campuses in the IR zone. [No change.]
6. Conditional uses in landmarks. [No change.]

Item #18: Radio Frequency (RF) Transmission Facilities

33.815 CONDITIONAL USES

33.815.223 Public Safety Facilities

This subsection requires that public safety facilities that are radio frequency transmission facilities comply with the other requirements found in the Radio Frequency Transmission Facilities chapter. However, the list omits section 33.274.070, Measurements. 33.274.070 requires that measurements be taken by a qualified engineer using uniform measurement methods and with calibrated instruments.

33.815.225 Radio Frequency Transmission Facilities

These changes replace references to Effective Radiated Power (ERP) with "personal wireless service facilities" to align with the changes in Chapter 33.274

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

33.815.223 Public Safety Facilities

These approval criteria allow Public Safety Facilities where it is necessary to the health and safety of the public that a facility be at a particular site. The criteria also ensure that impacts resulting from the facility will be mitigated to the extent practicable. The approval criteria are:

[A. through D. No change]

E. Radio Frequency Transmission Facilities. Unless exempted or allowed by Sections 33.274.030 or 33.274.035, Radio Frequency Transmission Facilities must also comply with the regulations of Sections 33.274.040, ~~.050, and .060.~~ through .070.

33.815.225 Radio Frequency Transmission Facilities

These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

A. Approval criteria for personal wireless service facilities ~~operating at 1,000 watts ERP or less~~, proposing to locate on an existing building or other non-broadcast structure in an OS or R zone or in a C, E, or I zone within 50 feet of an R zone:

1. – 3. [No change]

B. Approval criteria for personal wireless service facilities ~~operating at 1,000 watts ERP or less~~, proposing to locate on a tower in an OS or R zone, or in a C, E, or I zone within 50 feet of an R zone:

1. – 6. [No change]

C. Approval criteria for personal wireless service facilities ~~operating at 1,000 watts ERP or less~~, proposing to locate on a tower in a C or EX zone more than 50 feet from an R zone:

1. – 6. [No change]

D. [No change]

Item #18: Radio Frequency (RF) Transmission Facilities

Item #16: Convenience Stores

33.910 DEFINITIONS

33.910.030 Definitions

Effective Radiated Power (deleted).

This term is being deleted. The city prevailed in a previous challenge at the Land Use Board of Appeals in its application of this term to determine the appropriate level of conditional use review. However, in light of federal restrictions on the city's ability to regulate the placement, construction or modification of facilities on the basis of radio frequency emissions, this term is a less useful distinction. ERP has historically been used to distinguish cell tower sites from radio broadcast sites, as well as lower power emitters like radio controlled toys, remote controls, and home wireless networks. As the technology has changed, ERP has increasingly been less effective at distinguishing these devices.

Operator

The definition has been modified to better address convenience store operators, consistent with language previously used in 33.219.

Personal Wireless Service Facilities

Title 47 of the Code of Federal Regulations addresses all telecommunications devices. What was formerly cellular communications, has expanded to include PCS, SMR, ESMR, and both broadband and narrowband technologies. The new definition of Personal Wireless Service Facility encompasses these technologies and anticipates future technologies that will generally fall within the FCC classification for personal wireless service. This clarifies and makes consistent how a particular facility is reviewed and avoids the potential for "unreasonably discriminating among functionally equivalent services."

Radio or Television Broadcast Facilities

In contrast, radio and television broadcast facilities are not functionally equivalent to personal wireless services, and may therefore be regulated differently. These broadcast facilities are typically higher in power, require taller towers, and are sited in larger installations.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.910 DEFINITIONS

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Effective Radiated Power (ERP). ~~A calculation of the amount of power emitted from a radio frequency antenna~~

Operator. A person undertaking a development, the proprietor of a use or development, or the owner of the land underlying a development. The operator may also be the manager or other person who has oversight responsibility for the day to day operations of the use or development.

Personal Wireless Service Facility^[MT22] A type of Radio Frequency Transmission Facility that provides telecommunication service as defined by the Federal Telecommunications Act of 1996. These facilities include technologies that currently exist or that may be developed in the future, including but not limited to cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, and similar Federal Communications Commission (FCC)-licensed commercial wireless telecommunications services.

Radio or Television Broadcast Facility A type of Radio Frequency Transmission Facility that disseminates radio and television communications intended to be received by the public, including the direct transmission or by the intermediary of relay stations.

Items #12, 13, 14: Short-Term Rentals

33.920 DESCRIPTIONS OF THE USE CATEGORIES

33.920.110 Household Living

Technical amendments to Chapter 33.920, Description of Use Categories replaces reference to bed and breakfast facilities with accessory short-term rentals.

Item #18: Radio Frequency (RF) Transmission Facilities

33.920.540 Radio Frequency Transmission Facilities

Additional examples have been added to clarify that radio frequency transmission facilities include more than just different types of towers.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

CHAPTER 33.920 DESCRIPTIONS OF THE USE CATEGORIES

33.920.110 Household Living

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales And Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy housing (SROs), that do not have totally self contained dwelling units are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, residential homes as defined by the State of Oregon are included in the Household Living category (see Chapter 33.910, Definitions).
- 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, ~~bed and breakfast facilities~~ accessory short-term rentals, and food membership distribution are accessory uses that are subject to additional regulations.

C.-D. [No change]

33.920.540 Radio Frequency Transmission Facilities

- A. Characteristics.** Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce nonionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.
- B. Accessory Uses.** Accessory use may include transmitter facility buildings.
- C. Examples.** Examples include Personal Wireless Service Facilities, Radio or Television Broadcast Facilities, broadcast towers, communication towers, ~~and~~ point to point microwave towers, accessory equipment, antennas, and transmitter radios.
- D. Exceptions.**
1. Receive-only antenna are not included in this category.
 2. Radio and television studios are classified in the Office category.
 3. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

IV. Amendments to other Titles of City Code

The following additional amendments affect non- Title 33 zoning code portions of the City’s regulations. These regulations are contained in separate Titles of City Code. They are being presented in a separate section of this report, because while they are intended to complement the regulations in the zoning code, they are not land use regulations and are subject to a different legislative adoption process.

Like the previous section of this report, the amendments to code language are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about the proposed amendment.

For more information about the zoning code amendments, refer to Section III. For information about RICAP items where no amendment is proposed, see Section V, Items without Amendments.

Items #12, 13, 14: Short-term Rentals

Amendments to Title 3 Administration

The amendments to 3.30.040.B.5 give the Bureau of Development Services Director the authority to revoke a Type A Accessory Short-Term Rental Permit for failing to comply with the regulations in Chapter 33.207.

Other changes are grammatical in nature.

Remaining code language is included for reference.

3.30.040 Establishment of Enforcement Priorities and Remedies.

In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

- A. Adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Establish enforcement fees or penalties for non-compliance. Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.

- B. Gain compliance by:
 - 1. Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code~~;~~ ~~or~~
 - 2. Causing appropriate action to be instituted in a court of competent jurisdiction~~;~~ ~~or~~
 - 3. Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.
 - 4. Taking other lawful action.
 - 5. Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
 - a. If the Director determines that cause for revocation of a permit exists, the Director shall provide written notice thereof to the permittee. The notice shall contain a brief description of the facts supporting the revocation, the date the revocation shall become final and a notice of the permittee's right to appeal the revocation.
 - b. The notice shall be mailed by certified mail, return receipt requested, and regular mail to the permittee. The notice shall be effective upon three days after mailing.
 - c. The revocation shall become final and effective ten days after the notice is effective, unless an appeal is filed.

Items #12, 13, 14: Short-term Rentals

Amendments to Title 3 Administration

The code language on this page is included for reference. There are no changes to these provisions (see previous page for changes to 3.30.040.B.)

- d. Any permittee whose permit has been revoked may appeal the revocation to the Code Hearings Officer pursuant to the provisions of City Code Chapter 22.10. The filing of an appeal shall stay the effective date of the revocation until the appeal is determined in a final decision by the Code Hearings Officer.
- C. Impose fees or penalties for non-compliance, provide notification, and allow for appeals by:
 - 1. Initiating the notification procedures provided in Section 29.60.050.
 - 2. Imposing monthly enforcement fees or penalties for each property that meets the following conditions:
 - a. The property is the subject of a notice of violation by the Bureau of Development Services; and
 - b. A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
 - 3. Doubling the penalties if the violations are not corrected within three months from the initial notice of violation.
 - 4. Imposing an additional penalty as set forth in the Enforcement Fee and Penalty Schedule against any property for which a code enforcement proceeding is initiated before the Code Hearings Officer pursuant to the provisions of Title 22 of this Code.
 - 5. All required fees or penalties are listed in the Enforcement Fee and Penalty Schedule adopted by City Council. Fees or penalties may be updated annually or on an as needed basis. The approved Enforcement Fee and Penalty Schedule will be available at the Bureau of Development Services Center and on the bureau's Web site.
 - 6. Providing for administrative procedures as set forth in Subsections 29.70.010 C. through E.
 - 7. Providing for administrative review and the opportunity for appeal to the Code Hearings Officer as set forth in Section 29.80.010.
 - 8. Allowing exceptions as provided in Section 29.60.100.

Item #11: Accessory Home Occupations

Amendments to Title 16 Vehicles and Traffic

The amendments to 16.20.160.D work in concert with the regulations in Chapter 33.203 to limit the number and size of vehicles used in association with a home occupation to one vehicle with a maximum size of a light pickup truck. This ensures that regardless of where the vehicle is parked (on site or in the right of way) the vehicle size and number limitations apply.

16.20.160 Use of Streets in Lieu of Off-street Parking or Storage Prohibited.

- A.** It is unlawful for any public vehicle parking business, vehicle sales, repair, or servicing business to cause or permit a vehicle to be parked on a street, alley, lane, or other public right of way while such vehicle is in the custody, control, or possession of the business for the purpose of being parked, offered for sale, repaired, or serviced.
- B.** As used in this Section, “public vehicle parking business” means the business of offering off-street vehicle parking or storage for a fee; “vehicle sales, repair, or servicing business” means the business of offering new or used vehicles for sale, lease, or rent, or of offering vehicle repairs or servicing; “vehicle” means any device, including any major portion or part thereof, in, on, upon, or by which any person or property may be transported or drawn upon a public highway except a device moved exclusively by human power, or used exclusively upon stationary rails or tracks.
- C.** If a vehicle is parked on a street, alley, or lane, or other public right of way while in the custody, control, or possession of a public vehicle parking business or a vehicle sales, repair, or servicing business for the purpose of being parked or stored, offered for sale, lease, or rent, or being serviced or repaired, it is prima facie evidence that the person engaged in such business caused or permitted such vehicle to be so parked.
- D.** Except for vehicles associated with accessory home occupations per 33.203, it is unlawful for any business entity to store more than one vehicle on any block face between the hours of 8:00 p.m. and 6:00 a.m. It is unlawful for the operator of any accessory home occupation to park or store more than one vehicle used in association with the home occupation in the public right-of-way at any time. The maximum size of the vehicle used in association with the home occupation is a pickup truck in the medium truck category as defined in Chapter 33.910.
- E.** The owner of the business, operator of the business, or the owner of the property where the business is located shall be the party responsible for any violation of this Section.

IV. Items without Amendments

The list of RICAP items selected by the Planning and Sustainability Commission for staff to further analyze is not necessarily the list of items that will result in code amendments. After the PSC hearing, RICAP items are researched and evaluated to determine whether an amendment to the zoning code is necessary to either clarify or correct language, or adjust existing policy in order to better achieve a desired outcome.

In some cases, the research may show that the policy intent should remain unchanged, or the change is not timely in the context of the smaller, more discreet nature of the changes RICAP addresses. Sometimes, what was thought to be incorrect is not, and what may have seemed unclear simply required explanation with greater context setting. The items in this section were found to not need code amendments for the reasons elaborated on the following pages.

Items #5, 6 & 7: Fence Height Requirements in Front Setbacks

Description of Regulatory Improvement Request:

The City of Portland should consider amending current front yard fence height limits to raise them from 3 ½ feet to 4 feet due to several reasons including:

- the greater availability of fences at a four-foot height at area building supply stores,
- the more recently annexed areas of East Portland that had a four-foot height limit under County zoning, and
- the changes in state statutes that require certified family day care facilities to enclose children play areas with a fence at a minimum height of 4-feet.

BPS recommendation: No change

Background:

There have been several requests entered into the database over the years to consider raising the allowed fence height from 3-1/2 feet to 4 feet within the front setback, for the reasons outlined above. Comparing regulations with other jurisdictions in the area, front yard fence height limits range from 3 to 3-1/2 to 4-feet, indicating that there is no predominant standard for front yard fence heights in the region.

Research into the availability of prefab and design/build fences in the Portland area indicate that the 3-1/2 foot high fence in various types of materials has become a more available fence height for purchasing/building in recent years.

Most properties annexed from Multnomah County into Portland were annexed 20-30 years ago and have since been subject to the current 3-1/2 foot height limitation. It is likely that fences in East Portland would have been replaced during that time and that new fences would have been subject to current City of Portland code. There is no evidence of any issues that have arisen with fence replacement in these areas.

In 2001, state regulations for certified child care facilities, which are allowed within residential zones, were amended to require that the enclosed children's play area contain a minimum 4-foot high fence instead of a 3-foot fence. The fence is not required to be solid, and can have separation between slats of up to 4 inches. The play area is allowed to be within the back or front yards. Note, however, that fences located outside the front setback may be up to eight feet in height.

A review of the City's Code Compliance and Land Use Review database over the past three years was done to determine the extent of any code compliance cases or requests for land use adjustments to allow a 4-foot fence in the front setback for a day care facility. While there have been several code compliance cases for over-height fences, and a couple of adjustments requested each year for fence heights, none of them involved a state certified family day care facility. The bulk of the adjustments were for special situations involving slopes or limited options for backyards, etc, and often were for fences with a height in excess of 4-feet. Similarly, the majority of the code compliance cases with fences in the front setback were for instances where a 6-foot tall fence was built in the front setback.

Due to the lack of evidence that there is a need to allow an increased fence height of 4-feet in the front setback, staff recommends that the current maximum fence height be kept in place, and that the adjustment process is appropriate to consider design and ways to mitigate impacts for unusual circumstances.

Item #10: Mechanical Equipment Screening

Description of Regulatory Improvement Request:

It is not clear if screening requirements should apply to wall-mounted equipment. This includes items such as radon filters in single-dwelling zones and heat pumps and other heating/AC equipment mounted on multi-dwelling and commercial buildings. Existing screening requirements for mechanical equipment only address equipment placed on the ground or on the roof-top. In addition, it is not clear how mechanical equipment screening is addressed through non-conforming upgrades.

BPS recommendation: No change

Background:

The questions from above can be split into two issues.

- 1) Required screening. Screening is required for mechanical equipment located on the ground or roof. Should screening requirements also apply to mechanical equipment attached to the sides of buildings? How?
- 2) Non-conforming upgrades. Should mechanical equipment be required to be screened when upgrading non-conforming development?

The Zoning code currently addresses mechanical equipment in a similar fashion for the purpose of applying setbacks, regardless of whether it is attached to or detached from the building. However, the code does not include screening requirements in single dwelling zones, and does not explicitly address wall mounted equipment elsewhere.

- 1) There are no screening requirements for wall-mounted equipment. However, initial research has illustrated a potential wide range of types of mechanical equipment that may be placed on the wall, such as radon or other air filtering systems, small room-based heating and air conditioning units, etc. These systems can be placed close to the ground, attached to the wall, or they may have components located at each floor. It may be difficult to apply a 'one size fits all' regulation to this equipment, since some types of equipment might not be able to incorporate screening, be painted to match, or are limited to specific locations. Screening requirements for wall-mounted equipment would also need to be considered for design overlay zones, or through the community design standards. Since there is no current policy on how this type of equipment should be regulated, and since it can affect other regulatory and sustainability programs, this issue is larger than the clarification that was requested through RICAP 6 and should undergo additional research to determine the extent of the issue and vet the range of potential solutions.
- 2) The current non-conforming chapter includes screening as an item that needs to be considered for non-conforming upgrades. Screening includes both garbage/recycling areas as well as mechanical equipment. Applicants affected by the non-conforming upgrade requirements need to address the screening provisions in the base zones. These screening requirements apply specific landscaping for ground-mounted equipment and screening or setbacks for roof-mounted equipment. The disagreement regarding whether screening of mechanical equipment should be considered as a non-conforming upgrade does not appear to be based on code uncertainty, since the screening requirements for mechanical equipment is similar and located in the same code section as other screening requirements such as for garbage and recycling areas. Therefore, additional code requirements or clarification is not necessary.

Item #26: Woody debris and enhancement in environmental zones**Description of Regulatory Improvement Request:**

The resource enhancement standards should be revised to allow installation and anchoring of large woody debris projects in Portland's water bodies. Amend the resource enhancement project standards in Section 33.430.170.A and E to also allow the anchoring and assembly of large woody debris without environmental review.

BPS recommendation: No change**Background:**

The standards for resource enhancement projects in the environmental overlay zones chapter of the zoning code (33.430.170) allow certain projects to proceed with a plan check (i.e. no environmental review), but the standards do not allow construction in a wetland or water body and do not allow "structures" to be built except in limited circumstances. These types of projects must go through an environmental review process and are subject to approval criteria. The limitations in the standards also mean that resource enhancement projects that involve anchoring pieces of large wood to the banks of a water body must go through environmental review because the anchoring constitutes construction activity and the final product is a structure.

In order to explore the idea of broadening the resource enhancement standards to allow anchoring of large wood to the bank without a review, BPS staff met with Bureau of Environmental Services (BES) Watershed Services Division staff that design and manage resource enhancement projects for the City. The meeting took place on October 8, 2013 and the following staff were in attendance: BPS—Shannon Buono, Roberta Jortner, Mindy Brooks; BES—Jennifer Anktak, Colleen Mitchell, Shannon Axtel, Nancy Hendrickson, Melissa Brown.

The group discussed different aspects of engineering a large wood installation in an attempt to identify factors that the standards would need to address or limit. During the initial discussion the group identified the following factors:

- disturbance area
- access roads for large equipment
- excavation limits
- size and type of wood
- hydrologic conditions (e.g., water level during construction; low or high gradient stream, scour and deposition areas, etc.)

As the discussion progressed it became clear that there were concerns about the potential ecological or public safety risks of approving such projects through standards. The group was unable to settle on a set of standards that would be appropriate in all cases. Although all agreed that it would be desirable to reduce the time and cost associated with resource enhancement projects, BES staff concluded that large wood installations warrant evaluation on a case-by-case basis to determine whether the project is appropriate from a hydrologic perspective.

In the end, BES watershed services staff are not supportive of allowing large wood to be anchored to the bank through a citywide standards track. There was some interest in exploring standards that would apply in the Lower Columbia Slough, and potentially the Willamette mainstem; however, this effort would require additional analysis and coordination with agencies and other stakeholders, and goes beyond the scope of this RICAP project.

Item #27: Use of Community Design Standards in Conservation Districts

Description of Regulatory Improvement Request:

Research whether the state's requirements for offering a "clear and objective" standards review path for aesthetic controls for residential development applies to Conservation Landmarks and Conservation Districts. Confirm whether the limits on the use of the clear and objective standards were intended to apply only to historic landmarks and in historic districts, and not to conservation landmarks and in conservation districts.

BPS recommendation: No change

Background:

Ordinances No. 169987 (April 10, 1996) and 171220 (May 28, 1997) amended the City's historic resource protections, creating new chapters for Historic Resource overlay protection (33.445 and 33.846), review thresholds and criteria, and established two tiers of protection for both landmarks and districts: Historic and Conservation.

The state legislature adopted HB 2774 (October 4, 1997) to address "needed housing" and to limit local governments' ability to impose discretionary review for aesthetic controls or conditions that would reduce or limit otherwise allowed housing density. In other words, a clear and objective review path must be offered. This bill included several exceptions.

The City Attorney's office issued a memo (December, 1997) responding to questions about HB 2774 and outlining the circumstances where the clear and objective standards review path is not a mandated option (i.e. the City can require discretionary review) as follows:

- non-residential development proposals
- proposals in the Central City
- proposals in Gateway Regional Center, regional centers as identified by Metro
- proposals in areas with a historic designation established under Goal 5.

33.445.720 currently states that proposals in historic districts or on historic landmark sites are ineligible to use the clear and objective standards and must go through historic resource review.

33.445.710.B. currently places a limit on the ability to use the community design standards for proposals in Conservation Districts and to Conservation Landmarks based on the proposed number of residential units (in RF-R2 zones) or the amount of new floor area (in R1, RH, RX, C, E and I zones).

The 1997 City Attorney's memo only lists "Historic Districts" as excluded from HB 2774 and does not address "Conservation Districts". BDS has interpreted that the limitations on the ability to use the clear and objective community design standards for residential development in Conservation Districts do not apply.

In 2011, the state legislature redrafted portions of ORS 197.307. These changes did not affect the language relating to proposals in areas with a historic designation.

The City Attorney's office has reviewed current legislation and has advised that Conservation Districts and Conservation Landmarks are considered "historic areas designated for protection under a land use planning goal" and the City is thus able to require a discretionary review process regulating residential development under the terms of ORS 197.307. Based on the research, and opinion from the City Attorney's office, BPS does not see a reason to change the policy regarding limits currently established in 33.445.710.B, nor is there a need to change the language since it currently complies with state law.

Item #28: Main Street Corridor – Retail regulations on Division Street

Description of Regulatory Improvement Request:

The retail floor area regulations along Division Street in the 'm' overlay do not make it clear that these are limitations on the amount of retail in zones where retail is an allowed use. The regulation has been read by the public as a special allowance for retail regardless of zone. The regulation should clarify that the retail is limited to only zones where retail is an allowed use.

BPS recommendation: No change

Background:

The public has questioned section 33.460.310.D, and read it in isolation to mean that up to 10,000 square feet of retail is allowed anywhere within the overlay regardless of the underlying zoning. However, that interpretation is not consistent with the structure of the City's zoning code. Allowed uses such as retail sales and service or household living are generally determined through application of the base zones. These use allowances may be superseded through specific provisions within the Additional Use and Development Regulations, the Overlay Zones or through a Plan District. For additional explanation, refer to "How to Use this Document" in the introduction section of the zoning code.

In the case of the Division Street Main Street Corridor overlay zone, there are no use regulations that supersede the base zone use allowances. The standards within the overlay zone are additional development standards that may apply in certain situations. Adding a reference to specific zones, or adding a reference that a standard applies in areas where the use is allowed is not consistent with the framework of the zoning code.

ITEMS WITHOUT AMENDMENTS

Item #32: Johnson Creek Plan District Density Transfer

Description of Regulatory Improvement Request:

Clarify that the transfer of development rights provisions in the Johnson Creek Basin plan district allow for transfers in single dwelling zones and are in addition to multi-dwelling base zone transfer allowances

BPS recommendation: No change*

Background:

This request stems from City approval of a 68 unit apartment building located in an R1d multi-dwelling zone in the Johnson Creek Basis plan district (JCBPD) that was appealed to LUBA. The R1 base zone allows 34 dwelling units on the site in question. The property owner transferred an additional 34 units from an adjacent site for a total of 68 units. The transfer was allowed based on a provision of the R1 zone that permits density transfers between sites within the same block or sites that are abutting but for a right of way (33.120.205.E). No similar density transfer provision applies in single-dwelling zones. The JCBPD contains provisions governing transfer of development rights from single-dwelling zoned sites (33.537.B.1).

The issue on appeal was whether the density transfer provisions in the R1 base zone are applicable inside the JCBPD. The appellants argued that JCBPD provides the exclusive means to transfer density within the plan district, and because the JCBPD does not address density transfer from multi-dwelling zoned sites, no transfer should have been allowed.

The City applies its regulations in the JCBPD to allow density transfers where the transfer would otherwise not be allowed. In other words, rather than providing the exclusive means to transfer development within the plan district, the City interprets the JCBPD provisions as providing an *additional* means to transfer development rights. This interpretation is supported by the purpose statement of the JCBPD which says that “at other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions” (33.537.010). This purpose is implemented through the transfer of development rights provisions (33.537.110), which states that the density transfer section is intended to “preserve development opportunities for new housing and reduce development pressure on environmentally sensitive sites”. The regulations in 33.537.110 address the unique circumstances presented by the proximity of Johnson Creek to single-dwelling zoned areas and provide a mechanism to transfer development rights to “areas that can accommodate the additional density without environmental conflict”.

On September 27, 2013 LUBA issued a final opinion on the appeal and ruled that the “city correctly interpreted the relevant code provisions, to the effect that the two density transfer provisions do not conflict, and PCC 33.120.205(E) applies to allow density transfers from sites zoned for multi-dwelling use with the Plan District”.

LUBA’s ruling indicates that the code is already clear and the City is correctly applying it in this context.

*The LUBA ruling has been appealed to the Oregon Court of Appeals. If the Court of Appeals reverses LUBA’s opinion then BPS staff may reconsider the current recommendation.

Item #38: Land Use Review Comment Period**Description of Regulatory Improvement Request:**

The code does not provide a specific period of time for public comment to occur between when the initial notice of proposal goes out and the initial decision. Instead, there is a window of "processing time" with no clear end time for public comment.

BPS recommendation: No change

Background:

This request was made by BDS staff who sought specificity in code regarding the exact time that a land use proposal is open for public comment. However, all 6 procedure types (I, Ix, II, IIx, III, and IV) specify a "processing time" within which the notice is mailed and the public is provided time to comment before a decision is made or a public hearing is held. This processing time window was set up as part of the Land Division Code rewrite in 2002. The stated minimum amount of time required between mailing the notice and the release of a decision or the conducting of a hearing is in effect the time allotted for public comment.

This processing time allows for neighbors to comment within the overall decision period, but the time is also used internally by BDS and other bureau staff to resolve any issues regarding the land use review. Specifying a distinct time that is solely related to public comment would add additional complexity to the code and does not eliminate the need for a processing time window, since issues related to the land use review (including consideration of public comments) will still need to be resolved. In some cases providing a comment period in addition to the processing time would make meeting the 120-day state mandated land use review timeline infeasible.

BPS proposes, after further discussion with BDS, to not make an amendment that codifies the public comment period. As an option, the handouts that BDS provides on land use reviews can be modified to clarify the window within the processing time that the public comment occurs.

Item #39: Type IIx Time Period on Hearings Officer Appeal Decision**Description of Regulatory Improvement Request:**

For Type IIx decisions that are appealed, the hearings officer is required to issue a written decision within 14 days of the close of the record after the hearing. For other similar processes, the Hearings Officer is afforded 17 days to issue the decision. This RICAP item request was submitted by the Hearings Office seeking to reestablish consistency between the Type IIx decision and the Type II appeal or Type III hearing decision.

BPS recommendation: No change

Background:

The Type IIx process was established with the Land Division Code rewrite in 2002. The process was specifically to be used for smaller, but moderately complex land divisions. These plans require more time for the various bureaus to adequately review prior to preliminary plan approval. So, additional processing time was added to the Type IIx procedure in order to incorporate staff and public comments into the decision.

However, the state-mandated 120 day requirement for processing land use requests did not change. To ensure that these cases could be processed within the 120-day window, the time period for Hearings Officer consideration of an appeal was shortened from 17 to 14 days.

In discussing this with BDS land division staff, they did not feel that their processing time could be shortened. Without the potential to gain three additional days elsewhere, the Hearings Officer timeline for the report cannot be extended without risking violating the 120 day case timeline.

In conclusion, no amendment is being considered. BDS staff will discuss the issue with the Hearings Officer and provide them with the reasoning behind the different timelines.

ITEMS WITHOUT AMENDMENTS

Comparison of timelines between different Land Use Review procedures

Procedure	Completeness check	Notice of request	Processing time (first decision)	Appeal period	Appeal Hearing (if appealed)	Notice of final decision (if appealed)
Type I	14	Sent upon complete application	At least 14 days and not more than 21 days following complete application	N/A	N/A	N/A
Type Ix	21	Sent upon complete application	At least 30 days and not more than 45 days following complete application	N/A	N/A	N/A
Type II	14	Sent upon complete application	At least 21 days and not more than 28 days following complete application	14 days after notice of decision	Notice w/in 5 days of appeal, Hearing at least 21 days after notice	w/in 17 days of close of the record
Type Iix	21	Sent upon complete application	At least 30 days and not more than 42 days following complete application	14 days after notice of decision	Notice w/in 5 days of appeal, Hearing at least 21 days after notice	w/in 14 days of close of the record
Type III	21	Sent at least 20 days prior to hearing	Public hearing scheduled w/in 51 days of complete app. Decision issued within 17 days of close of record	14 days after notice of decision	Notice w/in 5 days of appeal, Hearing at least 21 days after notice	w/in 5 days of final council action
Type IV	21	Sent at least 20 days prior to hearing	Public hearing scheduled w/in 71 days of complete app. Decision issued within 5 days of final council action	N/A	N/A	N/A

Item #42: Clarify the distinction between accessory dwelling units and guest-houses

Description of Regulatory Improvement Request:

Clarify how the phrase “guest houses that contain kitchen facilities” can be prohibited as accessory to Household Living and yet accessory dwelling units that have kitchen facilities are accessory uses to Household Living and allowed on a site.

BPS recommendation: No change.

Background:

In Chapter 33.920, Descriptions of the Use Categories, guest houses that contain kitchen facilities are prohibited as accessory to Household Living uses (33.920.110.D.3). The term “guest house” is found in two other places in the Zoning Code. Within the examples of covered accessory structures that must meet setback standards in the single dwelling (33.110.250.C.4.a) and multidwelling (33.120.280.C.4.a) zones, are garages, greenhouses, artist’s studios, *guest houses*, *accessory dwelling units*, storage buildings, wood sheds, water collection cisterns, covered decks, covered porches, and covered recreational structures.

Why include references to both guest houses and accessory dwelling units? A guest house is different from an accessory dwelling unit. An accessory dwelling unit (contains a bathroom, living area, sleeping area, and cooking facilities) are required to meet the standards of chapter 33.205, Accessory Dwelling Units. These standards address design, size, and location to ensure the new unit respects the look and scale of single-dwelling development. In addition, accessory dwelling units must meet building code standards that ensure a safe and livable residential unit.

Guest houses may have bathrooms, living areas, and sleeping areas, but once there is the inclusion of a kitchen, it becomes a dwelling unit and needs to meet all the requirements of 33.205. By maintaining the distinction in the code that guest houses containing kitchen facilities are prohibited as accessory to Household Living—while accessory dwelling units are allowed—this ensures accessory structures with all the amenities of a living unit must meet the standards of 33.205, while continuing to allow other covered accessory structures.

Additional clarifying language in the code is not seen as necessary, and could ultimately create unforeseen impacts with regard to prohibiting structures that are currently allowed.

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