



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

PERMANENT RULE

**Private Rights-of-Way - Streets, Alleys, Shared Courts, Common Greens and
Pedestrian Connections**

Appendix D – Authorizing City Code

AUTHORITY:

TITLE 3

3.30.010 Duties of the Bureau of Development Services.

(Amended by Ordinance Nos. 176955, 180330, 182671, 182962, 186216, 184522, 185448 and 186053, effective January 1, 2015.) The Bureau of Development Services shall be responsible for:

C. The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.

3.30.040 Administration and Enforcement.

(Amended by Ordinance Nos. 175327, 176955, 183793, 186564, 186736 and 189413, effective March 6, 2019.) 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, amend and repeal administrative rules, policies, procedures and forms for the enforcement of applicable Code provisions and laws.

B. Establish enforcement fees or penalties for non-compliance.

C. Establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by City Council.

TITLE 24

24.10.030 Scope.

(Amended by Ordinance Nos. 163237, 163908, 165678 and 176783, effective August 30, 2002.) The provisions of this Title shall apply to the construction, alteration, moving, demolition, repair, and use of any building, structure or land, and to any land clearing or grading within the City. Exceptions are work in the public right-of-way as approved by the City Engineer; publicly constructed sanitary and storm sewer systems and facilities approved by the BES Chief Engineer; and public utility towers and poles, mechanical equipment not specifically regulated in this Code.

24.10.050 Organization.

(Amended by Ordinance Nos. 176955 and 188647, effective November 17, 2017.)

A. Bureau of Development Services. The Bureau of Development Services shall be under the jurisdiction of the Director designated by the appointing authority.

B. Director to enforce Title. General. The Director is hereby authorized and directed to enforce all provisions of this Title. For such purpose the Director shall have the powers of a law enforcement officer.

24.10.070 Application for Permits.

(Amended by Ordinance. Nos. 162100, 163908, 165678, 169905, 171773, 174880, 176783, 176955, 180330, 187432, 188647, 188884, 189806, 190350 and 190548, effective October 8, 2021.)

A. Permits required. No person, firm, or corporation may erect, construct, enlarge, alter, repair, move, improve, remove, convert, change occupancy group of, or demolish any building or structure, or do any clearing or grading, or cause any of the same to be done without first obtaining the proper permit, or where appropriate a minor structural label as outlined in Section 24.10.095. The limitations of Oregon Revised Statutes 455.020 notwithstanding, permits are required to construct, alter, repair or move any structure as identified in this Title or in the Oregon Structural Specialty Code or the Oregon Residential Specialty Code, as adopted in Chapter 24.10 of this Title. Building permits and fees for work on private property are waived whenever the work appears on plans and specifications, approved by the City Engineer or BES Chief Engineer. This work will be limited to the construction of streets, public sewers, public stormwater management facilities, driveways, retaining walls, fences, walkways, parking pads, steps, and tree, shrub, and brush removal.

24.10.080 Board of Appeals.

(Replaced by Ordinance No. 187432, effective December 4, 2015.)

A. Appointment of Building Code Board of Appeal. In order to hear appeals of final decisions of the Building Official made under Section 24.10.075, there has been created a Building Code Board of Appeal, consisting of three members and three alternates appointed by the Mayor and approved by the City Council.

1. Each member and alternate member must be qualified by experience and training to make decisions pertaining to the Building Code and building construction. At least one member and one alternate member must be competent builders who have engaged in the construction business in the City for at least 2 years immediately preceding their appointments, and at least one member and one alternate member shall be competent architects who have practiced their profession for at least 3 years.

2. Building Code Board of Appeal appointments shall be for 3-year terms. Appeal Board members may serve no more than two complete 3-year terms, unless the Director recommends approval of a longer term, and the Mayor and City Council approve the extended appointment. Vacancies occurring prior to the end of a term for whatever cause may be filled by qualified persons through appointment by the Mayor for the remainder of the term.

3. Any member may be removed by the Mayor for incompetence, dereliction of duty, incapacity or other sufficient cause.

4. Members of the Building Code Appeal Board shall comply with the State ethics laws applicable to public officials.

5. Members of the Building Code Appeal Board shall serve in a voluntary capacity and without pay.

B. Appeals to the Building Code Appeal Board. The Building Code Board of Appeal may review Administrative Appeal Board decisions or any other final decision of the Building Official or Director related to the application and interpretation of this Title or the Building Code. The Building Code appeal will be limited to the facts and record reviewed by the Administrative Appeal Board, Building Official or Director related to the decision being appealed. A hearing will be held within 45 days after an interested party submits a written appeal to the Building Code Board of Appeal. A panel of three Building Code Appeal Board members will hear each appeal. The Board may, by a majority vote, affirm, annul, or modify the decision.

C. Powers and Limitations of Authority of the Building Code Appeal Board. The Building Code Board of Appeal may provide reasonable interpretations of the requirements of the Building Code and may grant an appeal if the Board finds one of the following:

1. the Building Official or Director did not correctly apply or interpret this Title or the Building Code;

2. special individual reasons make application of the strict letter of the Building Code impractical, the modification is in compliance with the intent and purpose of the Building Code, and such modification does not lessen health, accessibility, life and fire safety or structural requirements of the structure; or

3. any alternative material, design or method of construction and equipment complies with the intent of the Building Code and the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Building Code in quality, strength, effectiveness, fire resistance, durability, accessibility and safety. The Building Code Board of Appeal may not waive the requirements of the Building Code.

Any person aggrieved by a final decision of the Building Code Board of Appeal may, within 30 days after the date of the decision, appeal to the appropriate advisory board of the State of Oregon Department of Consumer and Business Services.

TITLE 33

CHAPTER 33.641

TRANSPORTATION IMPACTS

(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02; Ord. No. 177028, effective 12/14/02. Amended by: Ord. No. 182429, effective 1/16/09; Ord. No. 188177, effective 5/24/18; Ord. No. 188958, effective 5/24/18).

33.641.020 Approval Criterion

A. The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B.

B. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site

circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

CHAPTER 33.654 RIGHTS-OF-WAY

(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02. Amended by: Ord. No. 177028, effective 12/14/02; Ord. No. 178657, effective 9/3/04 Ord. No. 179845, effective 1/20/06; Ord. No. 179980, effective 4/22/06; Ord. No. 182429, effective 1/16/09; Ord. No. 183598, effective 4/24/10; Ord. No. 186053, effective 1/1/15; Ord. No. 188177, effective 5/24/18; Ord. No. 188958, effective 5/24/18).

33.654.120 Design of Rights-of-Way

C. Local street approval criteria and standards. The following approval criteria and standards apply to all local service streets except for common greens and shared courts:

1. Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

2. Standard for configuration of elements within the right-of-way. For public streets, the Office of Transportation has approved the configuration of elements within the street right-of-way. For private streets, the Bureau of Development Services has approved the configuration of elements within the street right-of-way.

D. Common green approval criteria and standards.

1. Right-of-way.

a. Approval criteria.

(1) The size of the common green right-of-way must be sufficient to accommodate expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian system, structures, natural features, and the community activities that may occur within the common green.

b. Standards for configuration of elements within the right-of-way.

(1) For common greens, the Bureau of Development Services has approved the configuration of elements within the street right-of-way.

E. Pedestrian connections.

1. Approval criterion for width of the right-of-way. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.

2. Standard for configuration of elements within the right-of-way. For public pedestrian connections, the Office of Transportation has approved the configuration of elements within the pedestrian connection right-of-way. For private pedestrian connections, the Bureau of Development Services has approved the configuration of elements within the pedestrian connection right-of-way.

F. Alleys.

1. Approval criterion for width of the right-of-way. The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.

2. Standard for configuration of elements within the right-of-way. For public alleys, the Office of Transportation has approved the configuration of elements within the alley right-of-way. For private alleys, the Bureau of Development Services has approved the configuration of elements within the alley right-of-way.

G. Shared court approval criteria and standards.

1. Right-of-way.

a. Approval criterion for width of the right-of-way. The size of the shared court right-of-way must be sufficient to accommodate expected users and uses. The size must take into consideration the characteristics of the site and vicinity, such as the pedestrian system, structures, traffic safety, natural features, and the community activities that may occur within the shared court.

c. Standards for configuration of elements within the right-of-way.

(1) The Bureau of Development Services has approved the configuration of elements within the street right-of-way, including a specific paving treatment and traffic calming measures;

CHAPTER 33.700

ADMINISTRATION AND ENFORCEMENT

(Amended by: Ord. No. 163697, effective 1/1/91; Ord. No. 166702, effective 7/30/93; Ord. No. 167386, effective 2/23/94; Ord. 169535, effective 1/8/96; Ord. No. 169917, effective 3/27/96; Ord. No. 171219, effective 7/1/97; Ord. No. 174263, effective 5/14/00; Ord. No. 175837, effective 9/7/01; Ord. Nos. 175965 and 176333, effective 7/1/02; Ord. No. 176469, effective 7/1/02; Ord. No. 177368, effective 5/17/03; Ord. No. 177422, effective 6/7/03; Ord. No. 178509, effective 7/16/04; Ord. No. 178657, effective 9/3/04; Ord. No. 180619, effective 12/22/06; Ord. No. 181357, effective 11/9/07; Ord. No. 183518, effective 03/05/10; Ord. No. 183598, effective 4/24/10; Ord. No. 184521, effective 5/13/11; Ord. No. 185333, effective 5/16/12; Ord. No. 185915, effective 5/1/13; Ord. No. 186639, effective 7/11/14; Ord. No. 186053, effective 1/1/15; Ord. No. 187216, effective 7/24/15; Ord. No. 188177, effective 5/24/18; Ord. No. 188958, effective 5/24/18; Ord. No. 189000, effective 7/9/18; Ord. No. 189488, effective 12/2/19; Ord. No. 190023, effective 8/10/20; Ord. No. 190477, effective 8/1/21.)

33.700.005 Building Permit Required

New development, changes to existing development, and changes in the type or number of uses may require a permit. In addition, other land use reviews may also be required, depending upon the location, the use proposed, the site development proposed, or materials to be used on the site.

33.700.030 Violations and Enforcement

C. Responsibility for enforcement. The regulations of this Title, land use decisions, and conditions of land use approvals may be enforced in one or more of the following ways:

1. By the Director of BDS pursuant to Chapter 3.30 and Title 22 of the City Code; or
2. By the Director of BDS pursuant to 33.700.040 below.

CHAPTER 33.710

REVIEW BODIES

(Amended by: Ord. No. 166921, effective 10/1/93; Ord. No. 169987, effective 7/1/96; Ord. No. 171718, effective 11/29/97; Ord. No. 174263, effective 4/15/00; Ord. No. 175164, effective

12/14/00; Ord. No. 184046, effective 9/10/10; Ord. No. 185915, effective 5/1/13; Ord. No. 186639, effective 7/11/14; Ord. No. 190477, effective 8/1/21.)

33.710.090 Director of the Bureau of Development Services

The Director of BDS directs and manages the staff of BDS. The Director of BDS provides staff services to the commissions, committees, and boards as specified in this chapter. The Director of BDS is responsible for the decisions and recommendations required of the Director of BDS by this Title. The Director of BDS is in charge of implementing this Title. The Director of BDS may delegate review and decision-making authority to BDS staff.