

# Regulatory Improvement Workplan



## **Regulatory Improvement Code Amendment Package 1**

**(RICAP 1)**

**Adopted Report**

**Effective April 22, 2006  
Ordinance No. 179980**



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please call 503-823-7700.  
(TTY 503-823-6868)

For more information about this project, please contact: **Regulatory Improvement  
Code Amendment  
Package 1**, please contact:

Portland Bureau of Planning  
1900 SW 4<sup>th</sup> Avenue, Suite 4100  
Portland, Oregon 97201

**Phone:** 503-823-7700

**Email:** [bopregimp@ci.portland.or.us](mailto:bopregimp@ci.portland.or.us)

A digital copy of this plan can be found at:

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# Acknowledgements

## **Portland City Council**

Tom Potter, *Mayor*  
Sam Adams, *Commissioner*  
Randy Leonard, *Commissioner*  
Dan Saltzman, *Commissioner*  
Erik Sten, *Commissioner*

## **Portland Planning Commission**

Paul Schlesinger, *President*  
Don Hanson, *Vice President*  
Timothy Smith, *Vice President*  
Christine Caruso  
Amy Cortese  
Larry Hilderbrand  
Gail Shibley  
Ingrid Stevens  
Youlee Yim You

## **Bureau of Planning**

Tom Potter, *Mayor, Commissioner-in-charge*  
Gil Kelley, *Planning Director*

## **Project Staff**

Cary Pinard, *Principal Planner*  
Sandra Wood, *Senior Planner*  
Phil Nameny, *City Planner*

## **Code Coordination Group**

Rebecca Esau, *Bureau of Development Services*  
Susan McKinney, *Bureau of Development Services*  
Sheila Frugoli, *Bureau of Development Services*  
Cary Pinard, *Bureau of Planning*  
Sandra Wood, *Bureau of Planning*  
Phil Nameny, *Bureau of Planning*

## **Other Contributors**

Kristin Cooper, *Bureau of Development Services*  
Eric Engstrom, *Bureau of Development Services*  
Douglas Hardy, *Bureau of Development Services*  
Shawn Wood, *Bureau of Development Services*  
Jeanne Harrison, *Portland Transportation*  
Dawn Hottenroth, *Bureau of Environmental Services*  
Brian McNerney, *Urban Forester*  
Robertta Jortner, *Bureau of Planning*  
Chris Scarzello, *Bureau of Planning*

# **Regulatory Improvement Stakeholder Advisory Team (RISAT)**

Tom Skaar , *Dev. Review Advisory Committee Participant*  
Kathi Futornik, *Dev. Review Advisory Committee Participant*  
Tony Ellis, *Small Business Advisory Committee Participant*  
Simon Tomkinson, *Small Business Advisory Committee Participant*  
Paul Loney, *Neighborhood Representative*  
Linda Bauer, *Neighborhood Representative*  
Dana Krawczuk, *Downtown Interests*  
Kevin Kraus, *Affordable Housing Representative*  
Jeff Cole, *Adjustment Committee Representative*  
Jennifer Nolfi, *Portland Development Commission*  
Kurt Kreuger, *Portland Transportation*  
Jeanne Harrsion, *Portland Transportation*  
Dawn Hottenroth, *Bureau of Environmental Services*  
Janet Bebb, *Parks and Recreation*  
Brian McNerney, *City Forester*  
Michael O'Brien, *Office of Sustainable Development*  
Sheila Frugoli, *Bureau of Development Services*  
Susan McKinney, *Bureau of Development Services*  
Cary Pinard, *Bureau of Planning*  
Sandra Wood, *Bureau of Planning*  
Phil Nameny, *Bureau of Planning*

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## Summary

This report includes revisions to the Zoning Code as part of the Regulatory Improvement Workplan (RIW). Regulatory Improvement Code Amendment Package 1 contains code amendments addressing 42 issues. These include 26 issues of a technical nature that clarify existing code or provide consistency throughout the code. There are also 16 amendments that make minor changes to existing policy.

These code amendments are the first complete set approved since the Bureau of Planning and the Bureau of Development Services were assigned ongoing responsibility for coordinating the implementation of RIW. Under a new process, the two bureaus established a workplan for the Regulatory Improvement Code Amendment Package 1, or RICAP 1 for short. This workplan was approved by Planning Commission on July 12, 2005. Of the 46 items originally suggested for review in the RICAP 1 workplan, 42 Zoning Code amendments were ultimately reviewed and approved. One item was resolved in the Infill Design project, and three items were deferred to allow further research. Although many amendments are technical clarifications not involving policy changes, several amendments result in minor changes to policy. These include the following amendments:

- **Maximum Setbacks and Accessory Structures.** Provides an exception to the maximum street setback for detached accessory structures.
- **Nonconforming Uses in Existing Buildings.** Extends the maximum time a nonconforming use can be vacant or discontinued and provide an optional review for those uses that have been discontinued for a longer period of time.
- **Nonconforming Upgrade Menu.** Allows applicants to determine the order of providing upgrades if a complete upgrade is not required.
- **Multi-Dwelling Zone Vehicle Area Limits.** Amends the vehicle area limits for houses, attached houses and duplexes in the multi-dwelling zones to be consistent with the same development type in the single-dwelling zones.
- **Radio Frequency Transmission Facilities.** Amends the screening requirements for mechanical equipment accessory to a wireless installation placed within the right-of-way. Provides additional approval criteria addressing the placement of new towers in Residential or Open Space Zones.
- **Buffer Overlay Zones.** Provides an exception to buffer requirements for residential uses locating in Commercial and Employment zones.
- **East Corridor/Gateway Plan District Minimum Floor Area Ratios (FARs).** Reduces minimum FAR requirements for R1 zoned property in the East Corridor and Gateway plan districts.
- **East Corridor Plan District Parking Requirements.** Provides more flexibility for parking options along the light rail alignment.
- **Hollywood Plan District Drive-Through.** Eliminates the sunset deadline for the redevelopment of sites with a drive-through in the plan district. Keeps the additional development standards for these sites.

- **Tree Preservation Plans and Land Division.** Amends the tree preservation mitigation options associated with land divisions, and modifies the procedures for violations to tree preservation plans approved through land divisions.
- **Final Plat Review Process.** Amends the Final Plat process to reflect the technical nature of the review, in conformance with revisions to State statutes.

### **City Council Decision**

The City Council took the following actions on this package of amendments:

- Adopted this report and ordinance as attached;
- Amended the Zoning Code as shown in this report; and
- Directed staff to continue any monitoring efforts, as necessary.



## A. Background

The Office of the Mayor initiated the Regulatory Improvement Workplan (RIW) in the summer of 2002. In August 2003, the Bureau of Planning and the Bureau of Development Services were assigned ongoing responsibility for coordinating the implementation of the Workplan.

To develop the future workplans, the two bureaus established a new process for selecting items. The process includes the following:

- an online database;
- a stakeholder advisory team (RISAT);
- combining technical and minor policy amendments into one workplan package; and
- presenting the Planning Commission with future workplan lists at the same time as proposed code language.

The new process was used to prioritize regulatory improvement requests into the first workplan, Regulatory Improvement Code Amendment Package 1 (RICAP 1). This workplan consisted of 46 code issues, all involving sections of *Title 33: Planning and Zoning Code*. These issues were grouped into technical corrections; clarifications and consistency changes to the code; and minor policy items. The list of 46 items was reviewed with the stakeholder advisory team during their April and May 2005 meetings, and the resulting RICAP 1 workplan was presented to the Planning Commission in a hearing on July 12, 2005, where it was approved.

Staff researched and produced code amendments for the 46 RICAP 1 items during the summer and fall of 2005. An in-house draft report of the language was presented to interested City staff and the RISAT in October, 2005. Their comments were incorporated into the proposed draft published on November 15, 2005.

During the drafting of the code language for RICAP 1, a few items were found that would require additional research before a solution could be proposed. These included Item #25, Land Constraints to Minimum Density, Item #32, Neighborhood Notice Requirement, and Item #46, Floor Area Definition and Usage. In addition, one issue (#14, Parking Requirements for Development Types) originally proposed for RICAP 1 was resolved with the Infill Design Project, approved by City Council on December 21, 2005, so no further action was needed on that item.

The 42 remaining items addressed a wide variety of issues including those that apply citywide, those specific to certain zones or plan districts, and those issues relating to the administration of the Zoning Code. A list of the items is provided on the next page. The item numbers shown on this list correspond with the item numbers located throughout the code commentary and language. The list of items, as it appeared for the workplan proposal approved by the Planning Commission is provided in the appendix.

At the December 13, 2005, hearing, the Planning Commission considered the staff proposal on RICAP 1, and listened to testimony from six members of the public. A few minor edits were suggested, but the document was generally approved for consideration by the City Council with no large-scale changes to any of the issues.

The City Council held a hearing on the Planning Commission's recommendation on March 1, 2006. Although several members of the public testified, their issues were related to larger citywide issues on tree preservation and nonconforming uses and did not directly relate to the amendments. After requesting staff to research these issues, the Council voted to approve the package of amendments at the second reading on March 8, 2006.

### List of Items

Item #	Item Label	Code Section
1.	Flag Lot Regulations Purpose Statement	33.110.240.F, 33.120.270.G
2.	Mechanical Equipment "Structures"	33.110.250.C, 33.120.280.C
3.	Detached Garage Setbacks	33.110.250.E, 33.120.280.E
4.	RH areas with Maximum FAR of 4 to 1	Map 120-2
5.	Maximum Building length standards in multi-dwelling zones and attached houses	33.120.270.C
6.	Mechanical Equipment Screening	33.110.245.C, 33.120.250.C, 33.130.235.C, 33.140.235.C
7.	Pedestrian Connection Clarification	33.120.255.A&B, 33.130.240.A&B, 33.140.240.A&B
8.	Flag Lot Standards in Multi-Dwelling Zones	33.120.270.G
9.	Maximum Setbacks and Accessory Structures	33.120.220.B, 33.130.215.B 33.140.215.B
10.	Building Code References	33.120.265.C, 33.266.130.F(Table 266-4), 33.510.200.E, 33.910.030
11.	Nonconforming Uses in Existing Buildings	33.258.050.D, 33.258.080.B
12.	Nonconforming Development "Menu"	33.258.070.D
13.	Multi-dwelling Zones Vehicle Area Limits	33.266.120.C
14.	Parking Requirement Thresholds for Development Types (Reviewed as part of Infill Design Project)	33.266.120, 33.266.130
15.	Parking Requirements for Attached Duplexes	33.266.120.B
16.	Dimensions for Required Perimeter Parking Lot Landscaping	33.266.130.G
17.	Radio Frequency Transmission Facilities	33.274.040.C, 33.815.225.B
18.	Buffer Overlay Zone Landscaping	33.410.040, 33.410.050
19.	Design Guidelines in Downtown	Map 420-1
20.	South Waterfront Floor Area	33.510.200.C
21.	East Corridor and Gateway Plan Districts Minimum Floor Area Ratios	Map 521-3, Map 526-3
22.	Gateway Plan District and Institutions with Retail Uses	33.526.120.B
23.	East Corridor Parking Regulations	33.521.290
24.	Hollywood Plan District Drive-Through Limitations	33.536.210.D

25.	Land Constraints to Minimum Density <i>(Deferred to RICAP 2. An interim solution may be proposed at that time for specific areas within the Johnson Creek plan district, 33.537, while staff researches the issue city-wide.)</i>	33.610.100, 33.611.100, 33.638.020.B, 33.638.100, 33.665.300, 33.665.315
26.	Ownership Provisions for alleys in Single-Dwelling Zones	33.654.150.B, 33.910.030
27.	Industrial Lands Tree Preservation Methods	33.630.300.C
28.	Tree Preservation for Land Divisions with Partial Environmental Zones	33.630.300.C
29.	Land Divisions in Flood Hazard Areas	33.631.010 & 020
30.	Final Plat Review Process	33.660, 33.662, <del>33.663</del> , 33.670
31.	Administrative Procedure for Sending Notices	33.730.030, 33.730.031
32.	Neighborhood Notice Requirement <i>(Deferred for inclusion into a future RICAP, with other potential neighborhood notice amendments.)</i>	33.730.045.B
33.	Type IV Review Postings	33.730.080
34.	Fees Modification	33.750
35.	Fees for Concurrent Reviews	33.750
36.	Fee Waivers	33.750
37.	Fee Refunds	33.750
38.	Hazardous Materials Review Example	33.800.020
39.	Conditional Use Review Procedure Clarification	33.815.040
40.	Gateway Master Plan (& Approval Criteria)	33.833.110.E
41.	Historic Review Approval Criteria Clarification	33.846.030.C
42.	Impact Mitigation Plans	33.848.030.A
43.	Tree Reviews and Violations	33.853.030.C&D
44.	Tree Review Violation Approval Criteria	33.853.040
45.	Tree mitigation sizes for violation mitigation	33.248.030.C
46.	Floor Area Definition and use of term <i>(Deferred to RICAP 2).</i>	Various parts of the code



## **B. Impact Assessment**

The Impact Assessment process is a subset of the Model Process for Consideration and Assessment of Land Use and Development Actions. See the chart on page 12 for an overview of this process. As part of the steps required for determining the value in undertaking a legislative process, the questions listed on the First and Second Stage Assessment are addressed. Those questions are repeated below, with general answers provided for the RICAP 1 workplan. Additional information may be found within the Commentary sections for the specific proposals under consideration.

### The Model Process for Impact Assessment

The Impact Analysis Workgroup developed a model process for impact assessment. Development of the model was part of the 2002-2003 Regulatory Improvement Workplan. The model recommends a two-stage assessment for all legislative projects; each stage includes a set of questions to be addressed.

The first stage is part of the initial phase of a project, and is incorporated into the scoping, problem definition, and other early project steps. The second stage is part of the development and analysis of a project, and includes considerations of alternatives. The Regulatory Improvement code amendment package followed this two-stage assessment model by addressing many of the first stage questions during the development of the workplan. The second stage alternatives were researched during the development of the code language contained here.

### **First Stage of Assessment**

The model process recommends that the following questions be addressed in the initial phases of any legislative project:

1. *What is the issue or problem we are trying to address? Is there a mandate (state or federal) that requires a regulation or other non-regulatory response--and is there clear authority for its adoption?*

The 46 items originally proposed for this package all address problems with implementation of the Zoning Code. These items were taken from a database of potential problems that have been collected from various City bureaus and the general public. In one case, the "final plat review process," the request was made due to changes proposed and subsequently approved for the Oregon Revised Statutes on the review process for final plats. None of the proposed code amendments are the result of state or federal mandates.

2. *What are the intended or desired outcomes? What community goals or aspirations are we trying to achieve? How will the outcomes advance and support the City's Comprehensive Plan?*

In general, the intended outcome for these issues is to make the code easier to use, read and apply, which helps provide surety for developers and community members. These changes directly support Goal 10 of the City's Comprehensive Plan and specifically Policy 10.10, which requires amendments to be clear, concise and applicable to a broad range of development. They also support the goal of Resolution No. 36080, creating the Regulatory Improvement Program

whose purpose was to “update and improve City building and land use regulations that hinder desirable development.”

3. *Is the issue of sufficient magnitude to justify developing new regulations or other non-regulatory tools? Is the issue just the “crisis du jour” or something more substantial?*

The recent changes made to the selection process for the Regulatory Improvement Workplan ensure that only those issues justifying research and change are proposed for each workplan package. The selection criteria for choosing specific issues are similar to the five First Stage Assessment Questions. The issues contained in this package were selected from a list of nearly 150 minor policy and technical issues tracked in the Regulatory Improvement Requests (RIR) database. These items were chosen through a ranking and selection process. The items in the database were initially reviewed by staff made up of employees from the Bureau of Planning and the Bureau of Development Services. Their initial choices were then reviewed by the Regulatory Improvement Stakeholder Advisory Team (RISAT). The RISAT is made up of staff from other bureaus as well as members of the public representing business, housing and neighborhood interests. The proposed list for the workplan was brought to a public hearing before the Planning Commission for final approval. None of the changes contained in this report create new regulations. They only improve existing regulations to make them easier to implement. In three cases, issues were omitted from RICAP 1 for further research, as development of a sufficient resolution could not be completed in the time allotted. These issues were deferred to a future package of amendments.

4. *What entities will be affected by the potential proposed policies, requirements and/or regulations? Are there existing regulations and non-regulatory tools that affect the same entities? Are there existing policies, requirements and/or regulations that are duplicative, contradict, or overload the existing regulatory framework?*

These regulations mostly affect the Bureau of Development Services (BDS) who has the responsibility of implementing zoning regulations. Developers, property owners and neighborhoods may also be affected by the minor policy amendments proposed. Since the intent of these regulatory changes is to clarify provisions of existing regulations, it is expected that these changes should have a positive effect on implementation and will not result in duplicative or contradictory regulations.

5. *Why should this be a priority for action? How will the City staff and fund the project?*

These items were all entered into the Regulatory Improvement Request database requesting City action to clarify and or correct certain regulations. Through the development of the Regulatory Improvement Workplan (RIW), only issues that require immediate action are chosen by staff. The original list of 46 items was taken from a potential number of 150 choices. Administration of RIW is part of the Bureau of Planning’s ongoing work program. Implementation for this project will be done mostly by the Bureau of Development Services

(BDS). Changes in the Final Plat review and tree violation review process may result in reduced workload and revenue for BDS.

## **Second Stage of Assessment**

The Second Stage Assessment consists of the following steps: Project Development and Analysis; Release of the Proposal including Impact Assessment; Consideration of the Proposal; and finally Adoption and Implementation. During the Second Stage Assessment, in addition to updating information prepared in the First Stage Assessment, several key questions are addressed. These questions are addressed below for the project as a whole. Additional information may be found for specific proposals within the Commentary sections for those specific items.

1. *What regulatory and non-regulatory alternatives were considered? Why is the proposal the preferred solution/response? How does the proposal best respond to the objectives and goals identified in the first stage of the project?*

Because most of these amendments address issues and existing provisions in the Zoning Code, the preferred solution is to correct the issue within the Zoning Code. For this project, no non-regulatory solutions were found for any of the items. However, certain issues that required additional research to develop an effective solution were held back from this package to enable a solution that best responds to the problem. In addition, some of the amendments in RICAP 1 are intended to be interim corrections to existing code problems. These included issues such as the current review of nonconforming uses and the review of tree mitigation and violations related to land divisions. Both of these issues may need a larger, separate legislative project to address the wider range of problems related to the subject. In the interim, the amendments in RICAP 1 provide some flexibility for when these issues occur. Specifically, with the review of trees, Bureau of Planning staff have begun a preliminary scoping process in conjunction with other bureaus to address citywide tree regulations. In the appendix of this document, the original proposed workplan of 46 items as it was presented to the Planning Commission is included.

2. *How were stakeholders and the community consulted throughout the process? What were their responses to the proposed changes and the alternatives considered?*

An initial assessment of all issues listed in the Regulatory Improvement database was made by staff from the Bureau of Planning and the Bureau of Development Services. This assessment resulted in a proposal for the RICAP 1 workplan. These issues were reviewed with the Regulatory Improvement Stakeholder Advisory Team (RISAT). The members of the RISAT represent various interest groups such as small businesses, neighborhood groups, downtown interests, affordable housing, etc. Their role during the selection and later code development process was to provide a link between staff and the interest groups in order to relay concerns that these groups might have with some of the issues, and to provide a forum for the various interests to come together to discuss these concerns. The discussions with the RISAT were held prior to the Planning Commission hearing on July 12, 2005. A hearing notice was sent to a broad spectrum of the community with an interest in legislative

projects and regulatory improvement. At the hearing, several citizens provided testimony on the RICAP 1 workplan. The Planning Commission approved the workplan as it was submitted and directed Planning staff to address the 46 issues selected. During the summer of 2005, staff worked with internal stakeholders and the RISAT to resolve these issues. In three instances, an issue had to be deferred to a future package to allow time for more research. These issues will be part of future workplans. As a result, this document contains code amendments addressing 42 of the original 46 items.

On October 10, 2005, an in-house draft of the code amendments was sent to internal stakeholders and the RISAT to solicit preliminary input on the proposed code changes.

On November 10, 2005, notice of the Planning Commission hearing for these code amendments was sent to over 800 individuals. These individuals represented a broad range of citizens and stakeholders, including those identified as having an interest in the Regulatory Improvement Workplan, and those with an interest in all Planning projects.

On November 15, 2005, staff published the proposed draft, which included the initial staff recommendations for these code changes. Copies were sent to all neighborhood coalition offices and to all who requested one. In addition, the report was posted on the Bureau of Planning website.

The Planning Commission held a public hearing on December 13, 2005, on the proposal. Six people testified in person and several others submitted written testimony. Testimony primarily concerned tree regulations and nonconforming upgrades. The Planning Commission approved the staff proposal with some minor alterations and made a recommendation that it be approved by the City Council.

The Planning Commission's recommended draft was published on January 17, 2006. Notice of the City Council hearing scheduled for March 1, 2006, was sent to the list of interested individuals mentioned above on February 9, 2006. At the hearing, several people provided written and oral testimony, once again concerning tree regulations and nonconforming issues. The City Council requested staff to review some of the larger policy issues resulting from the testimony but approved the code changes as they were presented at the second reading on March 8, 2006.

3. *How does the proposed policy, regulation or requirement provide sufficient flexibility to address a variety of circumstances?*

These code changes have been written to clarify how the regulations apply in a variety of situations. In some cases, such as the review of tree protection plans associated with land divisions, additional mitigation options are being provided to address areas where the lack of flexibility has proved a deterrent to providing desirable development. Additional assessment of the individual code changes is in the Commentary sections of this document accompanying the code language.



4. *What resources are required to implement the proposal and how will any proposed regulation be enforced?*

No new resources are required to implement these code changes, since they clarify existing regulations. The Zoning Code will continue to be enforced by the Bureau of Development Services.

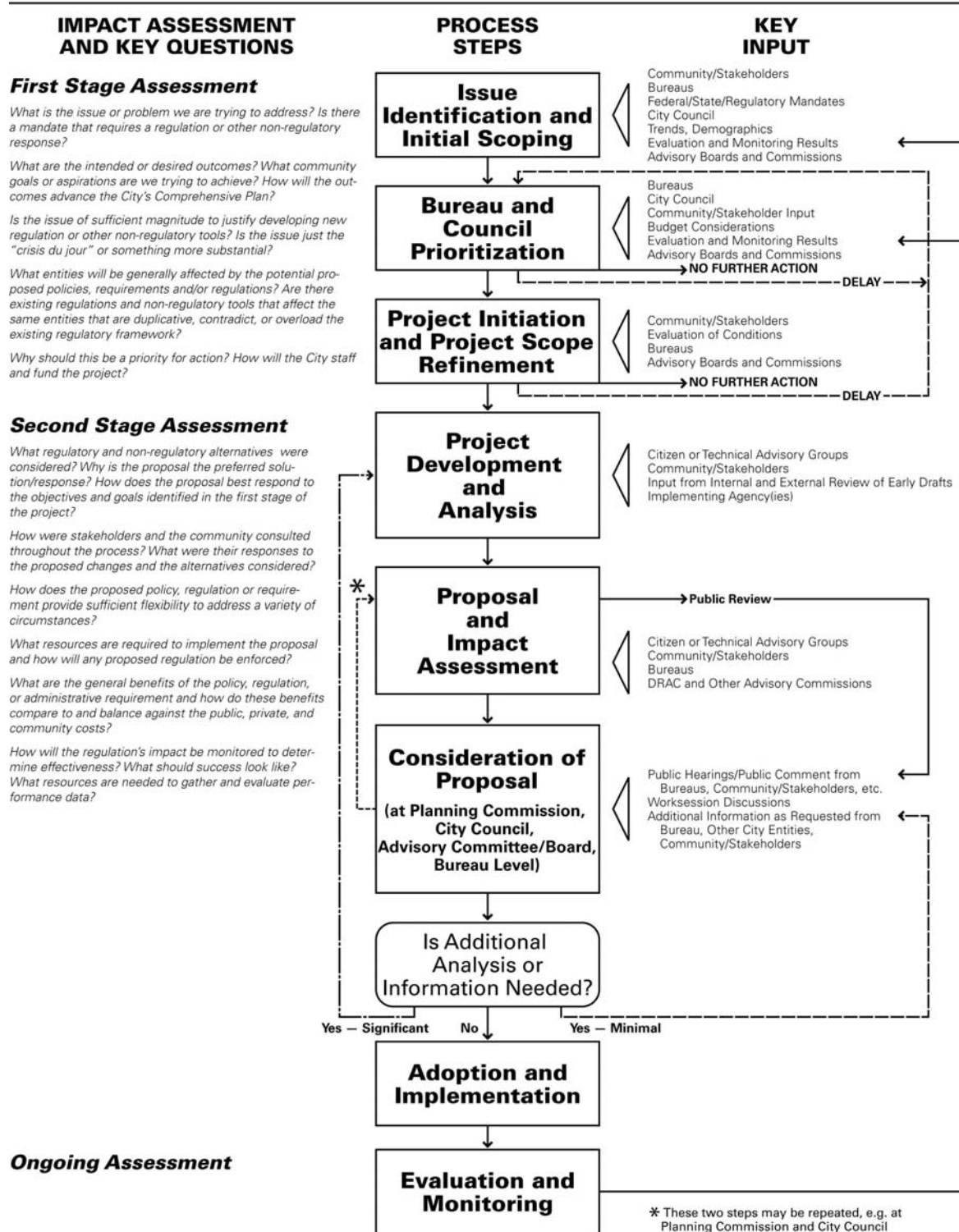
5. *What are the general benefits of the policy, regulation, or administrative requirement and how do these benefits compare to and balance against the public, private, and community costs?*

In general the provisions simplify and clarify the existing Zoning Code making it easier to read and implement. These are the primary goals of the Regulatory Improvement Workplan. Since most of these changes are technical, they do not have any policy ramifications creating public or private costs. The amendments that do contain minor policy changes improve consistency within the Zoning Code, making it easier to implement. Two issues may have an effect on the project review costs. The first alters the Final Plat Review process to change it from a Type I land use decision to a nondiscretionary administrative review. This should reduce some staff time in the processing of final plats and may result in a lowering of fees. The second revises the land use review process for some tree violation cases on smaller sites from a Type III to a Type II review. This will reduce some of the workload constraints created by processing Type III reviews, but may also reduce revenue for BDS if some of the tree violation reviews are charged the Type II fee instead of the Type III fee. It is anticipated that this will have a relatively minor effect. Only three tree violation cases were received in 2005 and one in 2004. It is anticipated that processing more tree violation cases as Type II reviews will speed up the review and allow the mitigation measures to be implemented in a timelier manner, creating a benefit to the city, neighbors, and the developer.

6. *How will the regulation's impact be monitored to determine effectiveness? What should success look like? What resources are needed to gather and evaluate performance data?*

The success of these code changes will be monitored through the ongoing Regulatory Improvement Workplan and the monitoring of comments received through the Regulatory Improvement Requests Database. This database will be used to identify common areas of code confusion and regulatory change requests. Overall success will be determined through this and other feedback from the public.

## Model Process for Consideration and Assessment of Land Use and Development Actions



## **C. Amendments to Title 33, Planning and Zoning**

### ***How changes are shown in this section***

Language to be added to the *Zoning Code* is underlined; language to be deleted is shown in ~~striketrough~~.

The left-hand page provides staff commentary on the changes to code language.

**COMMENTARY****CHAPTER 33.110  
SINGLE-DWELLING ZONES****ITEM #1 - RICAP 1 LIST OF 46 ITEMS: Flag Lot Regulations Purpose Statement.****33.110.240 Alternative Development Options**

- F. Flag lot development standards.** Prior to 2003, flag lots were regulated under a separate chapter, with specific setback and landscaping development standards. The purpose statement for the chapter contained the reasoning for these standards. When the standards were moved to the Alternative Development Standards section of Chapter 33.110 in 2003, the purpose for the regulations did not follow. This has created problems when an adjustment to the standards is requested. This amendment provides a general purpose statement under the Alternative Development Options along with an additional descriptive statement as a preamble to the standards to provide guidance for land use staff processing adjustments.

## CODE AMENDMENTS

### CHAPTER 33.110 SINGLE-DWELLING ZONES

#### 33.110.240 Alternative Development Options

- A. Purpose.** The alternative development options allow for variety in development standards while maintaining the overall character of a single-dwelling neighborhood. These options have several public benefits:
- They allow for development which is more sensitive to the environment, especially in hilly areas and areas with water features and natural drainageways;
  - They allow for the preservation of open and natural areas;
  - They promote better site layout and opportunities for private recreational areas;
  - They promote opportunities for affordable housing;
  - They promote energy-efficient development; and
  - They allow for the provision of alternative structure types where density standards are met.
  - They reduce the impact that new development may have on surrounding residential development.

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

- F. Flag lot development standards** The development standards for flag lots include specific screening and setback requirements to protect the privacy of abutting residences. The following standards apply to development on flag lots:

1. Setbacks. Flag lots have required building setbacks that are the same along all lot lines. The required setbacks are:

Zone	Setback
RF, R20, R10	15 feet
R7, R5, R2.5	10 feet

2. Landscaped buffer area. In the R7 through R2.5 zones, on lots that are 10,000 square feet or less in area, a landscaped area is required around the perimeter of the flag lot to buffer the flag portion from surrounding lots. The pole and the lot line that separates the flag lot and the lot from which it was divided, are exempt from this requirement. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard. See Figure 110-9.

**33.110.245 Institutional Development Standards****C. The standards.****ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Maximum Setbacks and Accessory Structures.**

2. Setbacks on a transit street or in a Pedestrian District. This change is being made in conjunction with the changes made elsewhere in the code to address detached accessory structures and maximum building setbacks. This change insures that institutions are subject to the same standards in the single-dwelling zones as they are in the other zones. See the commentary for 33.120.220 for additional information.

**ITEM #6 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Screening.**

5. Mechanical equipment. The current requirement that mechanical equipment be screened from the ground level of any abutting R-zoned lands is unclear and difficult to measure. This amendment provides specific guidelines to screen rooftop mechanical equipment from R-zone lands without resulting in confusing measurements and inconsistent interpretation. The new standards are similar to those used in the Community Design Standards. However, in this case, the screening is only required adjacent to the R-zoned properties, and only applies to rooftop mechanical equipment located in close proximity to the R-zone.

**CODE AMENDMENTS****33.110.245 Institutional Development Standards****A-B. [No change.]****C. The standards.**

- 1 [No change.]
2. Setbacks on a transit street or in a Pedestrian District.
  - a. Purpose. The purpose of these regulations is to reduce reliance on the automobile and encourage pedestrians and transit riders by ensuring safe and convenient pedestrian access to buildings.
  - b. Building setbacks on a transit street or in a Pedestrian District. Buildings on a transit street or in a Pedestrian District must meet the provisions of 33.130.215.B.1 and B.2.
  - c. Conflicts. [No change.]
- 3-4. [No change.]
5. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened from the ground level of any abutting R-zoned lands. in one of the following ways, if the equipment is within 50 feet of an R-zone:
  - a. A parapet along facades facing the R-zone that is as tall as the tallest part of the equipment;
  - b. A screen around the equipment that is as tall as the tallest part of the equipment; or
  - c. The equipment is set back from roof edges facing the R-zone 3 feet for each foot of height of the equipment.
- 6-9. [No change.]

## COMMENTARY

**ITEM #2 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Setback.****33.110.250 Accessory Structures****C. Setbacks.**

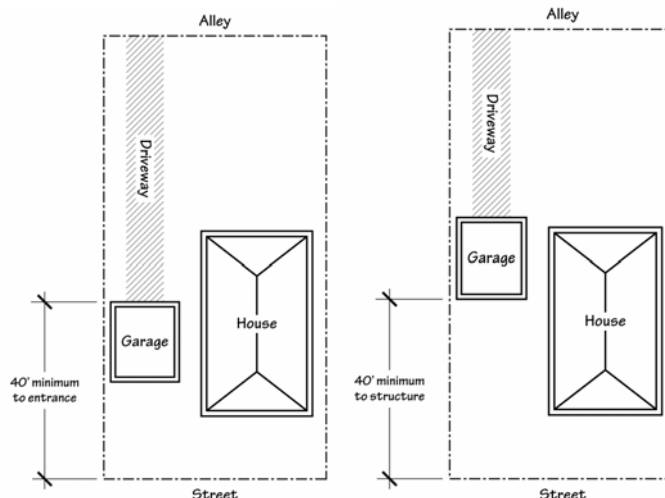
1. Mechanical structures. This amendment brings the Zoning Code into alignment with building code terminology, which uses the term "Mechanical Equipment" instead of "Mechanical Structures."

**ITEM #3 - RICAP 1 LIST OF 46 ITEMS: Detached Garage Setbacks.****33.110.250 Accessory Structures**

**E. Special standards for garages.** *(Note that this change is concurrent with changes from the Living Smart Project. That project alters the location of the Garage standards. The code change listed here will follow that change.)*

3. Side and rear setbacks. In the current code, when a detached garage is in a side or rear setback and faces an alley, the garage can be closer than 40 feet to the front property line, as long as the entrance that faces the alley is 40 feet away. This amendment clarifies the original intent of this provision, which was to allow garages in the back of the lot to encroach on the side and rear setback, regardless of whether the entrance faced the front or the rear of the lot. See the illustrations below. Adding the words "at least" clarifies that garages further than 40 feet from the front property line and further than 25 feet from the side street property line can also qualify.

The illustration on the left indicates how the Zoning Code can currently be read. This would allow a rear access garage within the side setback to be closer to the street than originally intended. The illustration on the right indicates the minimum distance with the new code language.





## CODE AMENDMENTS

### 33.110.250 Accessory Structures

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

**C. Setbacks.**

1. Mechanical ~~equipment structures~~.
  - a. Description. Mechanical ~~equipment includes structures~~ are items such as heat pumps, air conditioners, emergency generators, and water pumps.
  - b. Front setback standard. Mechanical ~~equipment is structures~~ are not allowed in required front building setbacks.
  - c. Side and rear setback standard. Mechanical ~~equipment is structures~~ are allowed in side and rear building setbacks if the following are met:
    - (1) ~~It is~~They are in a fully enclosed building; and
    - (2) The building is no more than 6 feet high.

2-4. [No change]

**D. Building coverage for detached accessory structures.** [No change]

**E. Special standards for garages.**

- 1-2. [No change.]
3. Side and rear setbacks. In the R7, R5 and R2.5 zones, detached garages are allowed in the side and rear building setbacks if all of the following are met.
  - a. The garage ~~entrance~~ is set back at least 40 feet from a front lot line, and if on a corner lot, it is set back at least 25 feet from a side street lot line;
  - b. The garage has dimensions that do not exceed 24 feet by 24 feet;
  - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
  - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.

4-5. [No change.]

**CHAPTER 33.120  
MULTI-DWELLING ZONES**

**ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Maximum Setbacks and Accessory Structures.**

**33.120.220 Setbacks**

- B. Building setback standard.** The intent of the maximum setback standards in certain zones, on transit streets, and in pedestrian districts is to provide a pleasant and efficient environment for pedestrians and transit users by requiring a majority of the primary structures to be close to the street. It is not intended to push buildings that are accessory to residential uses (garages, tool sheds) or institutional/commercial uses (storage units, mechanical buildings) next to the street. This amendment provides an exception so that detached accessory structures are not subject to the maximum setback standards and allows them to be placed in an area of the site appropriate to their subservient function. It also does not allow applicants to intentionally place accessory buildings close to the street to meet the letter but not the intent of the maximum setback standards.

## CODE AMENDMENTS

CHAPTER 33.120  
MULTI-DWELLING ZONES

## 33.120.220 Setbacks

**A. Purpose.** [No change.]

**B. Building setback standard.** The required minimum or maximum building setbacks, if any, are stated in Tables 120-3 and 120-4, and apply to all buildings and structures on the site except as specified in this section. Transit street setbacks apply only to buildings. Setbacks for parking areas are in Chapter 33.266.

1. Exceptions to the required ~~minimum~~ building setbacks.
  - a. Setback averaging. The minimum front building setback and the setback of decks, balconies, and porches may be reduced to the average of the respective setbacks on the abutting lots. See Chapter 33.930, Measurements, for more information.
  - b. Environmental zone. The required minimum front and street building setback and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero.
  - c. Split zoning. Where a site is split between more than one base zone and a building is proposed that will cross an internal lot line that is also a zoning line, no setbacks are required from that lot line.
  - d. Detached accessory structures. The maximum building setbacks do not apply to detached accessory structures. The street-facing facades of detached accessory structures do not count towards meeting maximum setback standards. See Figure 120-3.
2. Building setbacks on a transit street or in a Pedestrian District. [No change. *{with the exception of Figure 120-3 shown on the next page}*]

**ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Maximum Setbacks and Accessory Structures.**

**33.120.220 Setbacks**

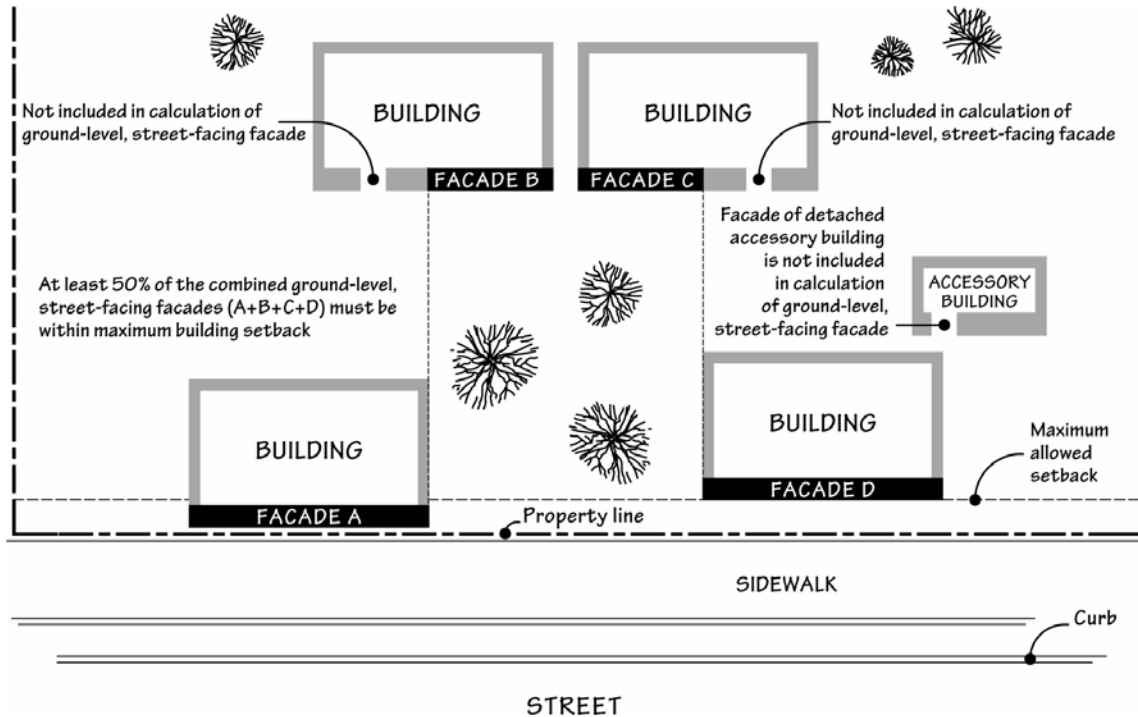
**Figure 120-3**

**Calculating Maximum Building Setback When More Than One Building On Site**

This figure is amended to illustrate that accessory buildings on site do not count toward the calculations of ground-level street-facing façades, nor are they required to meet maximum building setbacks.

## CODE AMENDMENTS

**Figure 120-3**  
**Calculating Maximum Building Setback When More Than One Building On Site**



**COMMENTARY**

**ITEM #6 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Screening.**

**33.120.250 Screening**

*C. Mechanical equipment. See commentary for 33.110.245 for this item.*

## CODE AMENDMENTS

**33.120.250 Screening****A-B. [No change.]**

- C. Mechanical equipment.** Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened ~~from the ground level of any abutting R-zoned lands.~~ in one of the following ways, if the equipment is within 50 feet of an R-zone:
- a. A parapet along facades facing the R-zone that is as tall as the tallest part of the equipment;
  - b. A screen around the equipment that is as tall as the tallest part of the equipment;  
or
  - c. The equipment is set back from roof edges facing the R-zone 3 feet for each foot of height of the equipment.

**D. [No change.]**

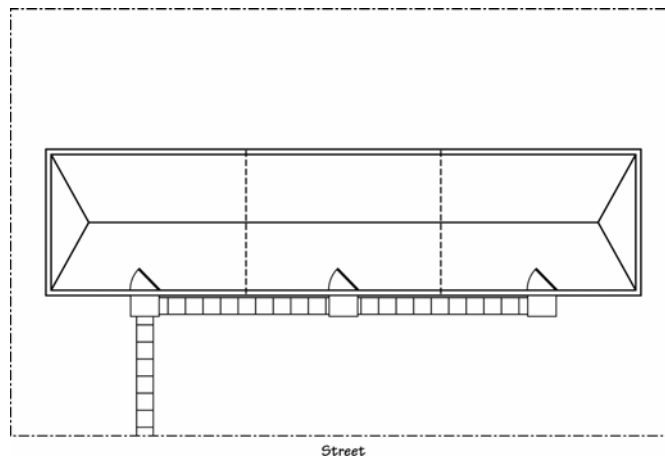
**ITEM #7 - RICAP 1 LIST OF 46 ITEMS: Pedestrian Connection.****33.120.255 Pedestrian Standards**

*(Note: the following code amendments for the pedestrian standards are not creating a new policy, but only clarifying the existing policy.)*

- A. Purpose.** The purpose statement is clarified to refer to abutting streets.
- B. The standards.** The existing pedestrian standards create confusion in implementation, especially if a single building contains an entrance for each tenant, or if multi-dwelling sites have several buildings.

These amendments clarify how the onsite pedestrian circulation system is intended to connect the buildings to the street. This eliminates the confusion over whether a single building with several tenants needs a straight line connection for each tenant. The amendment clarifies the original intent of the code by only requiring a straight line to one of the entrances while ensuring that the internal circulation system serves all additional main entrances.

The illustration below provides an example of a single building with several tenants. The code amendments clarify that straight line connections are not needed for each individual tenant as long as the main entrances are all connected.





**CODE AMENDMENTS**

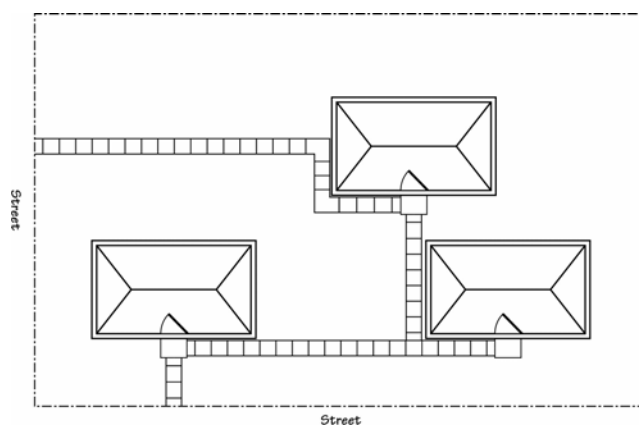
Code language for this amendment begins on the next page.

## COMMENTARY

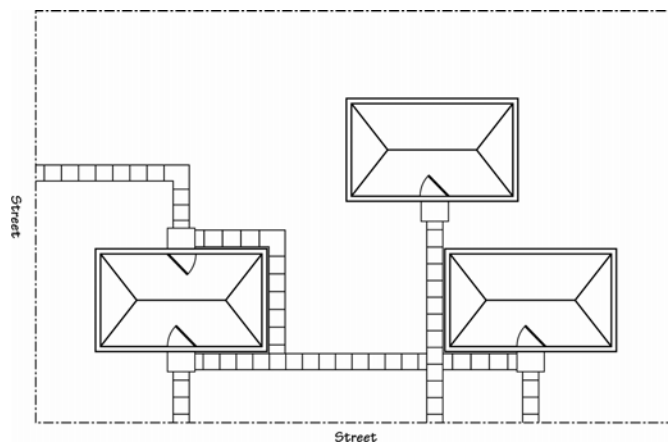
These amendments also clarify the original intent for household living uses: that only one straight line connection is required from the street to a main entrance on a site. This removes the confusion that occurs for multi-dwelling development containing several buildings and entrances. In addition, the household living exception has been incorporated in the standard.

The illustrations below compare two sites with multiple buildings; one with only household living uses and one with other uses (commercial uses, institutions, etc.)

For a site with only household living uses (below), the straight line pedestrian walkway is only required from one building on the site to the closest street. Internal walkways should connect the other buildings. If the site is on a corner, an additional connection (not required to be a straight line) is needed to the other street.



For a site containing uses other than household living (below), there must be a straight line pedestrian walkway to the adjoining street from each building. Internal connections should provide access between buildings. If the site is on a corner, an additional pedestrian connection should provide access to a usable pedestrian entrance to that building.



## CODE AMENDMENTS

**33.120.255 Pedestrian Standards**

- A. Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between ~~the~~abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.
- B. The standards.** The standards of this section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.
1. Connections. Pedestrian connections are required ~~between building entrances and streets~~ as specified ~~below~~in B.1.a.
    - a. Connection between streets and entrances.
      - (1) Sites with one street frontage. There must be a straight line connection between ~~the~~one main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance, ~~whichever is less from the entrance to the closest sidewalk or improved right of way if there are no sidewalks.~~ Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site.
      - (2) Sites with more than one street frontage. Where ~~the site has~~there is more than one street frontage, the following must be met:
        - The standard of B.1.a(1) must be met to connect for the main entrance of each building on the site to and the closest sidewalk or roadway~~improved right of way~~ if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site;
        - An additional connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.
      - ~~(3) Exception for Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance.~~
    - b. Internal connections. The system must connect all main buildings entrances on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2-3. [No change.]

**ITEM #10 - RICAP 1 LIST OF 46 ITEMS: Building Code References.**

**33.120.265 Amenity Bonuses**

**C. The amenity bonus options.**

5. Sound insulation. Within subparagraph 5.a, there is an incorrect reference to the Uniform Building Code (UBC). The UBC has been replaced by the Oregon Structural Specialty Code. This amendment updates the reference.

**CODE AMENDMENTS****33.120.265 Amenity Bonuses**

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

**C. The amenity bonus options.**

1-4. [No change.]

5. Sound insulation. The density bonus for this amenity is 10 percent. To qualify for this bonus, the interior noise levels of multi-dwelling structures must be reduced in 3 ways. The reductions address noise from adjacent dwellings and from outdoors, especially from busy streets.

a. The sound insulation of all party walls, walls between corridors and units, and in floor-ceiling assemblies must comply with a Sound Transmission Class (STC) of 55 (50 if field-tested). STC standards are stated in the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon)~~Chapter 35 of the Uniform Building Code.~~

b-c. [No change.]

6-8. [No change.]

## COMMENTARY

ITEM #1 - RICAP 1 LIST OF 46 ITEMS: Flag Lot Purpose Statement

ITEM #5 - RICAP 1 LIST OF 46 ITEMS: Maximum Building Length in Multi-dwelling Zone

ITEM #8 - RICAP 1 LIST OF 46 ITEMS: Flag Lot Standards in Multi-dwelling Zones

### 33.120.270 Alternative Development Options

See the commentary for 33.110.240 for Item #1. This language amends the Multi-Dwellings chapter to match the changes made to the Single-Dwelling chapter.

- A. **Purpose.** See the commentary for 33.110.240 regarding the new purpose statement for flag lots.
- C. **Attached Houses.** The current maximum building length requirement is unclear when applied to attached houses. This amendment provides a new paragraph to clarify that the combined length of the street-facing walls of the attached houses—not just the length of each attached house—must be considered when applying this standard.
- G. **Flag lot development standards.** See the commentary for 33.110.240. This language amends the Multi-Dwellings chapter to match the changes made to the Single-Dwelling chapter.

An additional amendment is made to clarify that these standards apply to flag lots created before the new Land Division regulations took effect on July 1, 2002. The 2002 regulations eliminated the special provisions for flag lots in multi-dwelling zones.

## CODE AMENDMENTS

### 33.120.270 Alternative Development Options

- A. Purpose.** The alternative development options provide increased variety in development while maintaining the residential neighborhood character. The options are intended to:
- Encourage development which is more sensitive to the environment, especially in hilly areas;
  - Encourage the preservation of open and natural areas;
  - Promote better site layout and opportunities for private recreational areas;
  - Promote more opportunities for affordable housing; and
  - Allow more energy-efficient development.
  - Reduce the impact that new development may have on surrounding residential development.
- B. [No change.]**
- C. Attached houses.** The development standards for attached housing are:
- 1-5. [No change.]
6. Maximum building length. The maximum building length standard stated in Table 120-3 applies to the combined length of the street-facing facades of each unit.
- (Re-number 6. to 7.)
- D-F. [No change.]**
- G. Flag lot development standards.** The development standards for flag lots include specific screening and setback requirements to protect the privacy of abutting residences. The following standards apply to development on flag lots created before July 1, 2002:
1. Setbacks. Flag lots have required building setbacks that are the same along all lot lines. The required setbacks are:

<b>Zone</b>	<b>Setback</b>
R3, R2, R1, RH	10 feet
  2. Landscaped buffer area. In the R3 through RH zones, on lots that are 10,000 square feet or less in area, a landscaped area is required around the perimeter of the flag lot to buffer the flag portion from surrounding lots. The pole and the lot line that separates the flag lot and the lot from which it was divided are exempt from this requirement. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard. See Figure 120-8.

**ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Maximum Setbacks and Accessory Structures.****33.120.275 Development Standards for Institutions****C. The standards.**

2. Setbacks on a transit street or in a Pedestrian District. The amendments are made to bring this section in conformance with the transit street regulations in the rest of the Title. Amendments have been made to the transit street setbacks in the multi-dwelling base zone regulations in previous code packages. As a result, much of the transit street setback language in this section is now duplicative and not necessary for the regulation of institutions. These uses are adequately regulated under the base zone regulations for multi-dwelling zones. In addition, the standard listed in Table 120-5 is the same as the general standard in Table 120-3 and is no longer needed in 120-5. (Paragraph C.1 of this subsection states that when standards are not addressed in the Institutions Section, then the base zone standards apply.) Removing this language simplifies the code. However, the standard for setback conflicts will remain since it is not stated elsewhere in the chapter.



## CODE AMENDMENTS

### 33.120.275 Development Standards for Institutions

- A. Purpose.** The general base zone development standards in the R3 through RX zones are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in multi-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.
- B. Use categories to which these standards apply.** [No change.]
- C. The standards.**
1. The development standards are stated in Table 120-5. If not addressed in this section, the regular base zone development standards apply.
  2. Setbacks on a transit street or in a Pedestrian District.
    - a. ~~Purpose. The purpose of these regulations is to reduce reliance on the automobile and encourage pedestrians and transit riders by ensuring safe and convenient pedestrian access to buildings.~~
    - b. ~~Conflicts.~~ If the minimum setback conflicts with the maximum setback, the maximum setback supersedes the minimum.
  - 3-6. [No change.]

<b>Table 120-5</b> <b>Institutional Development Standards [1]</b> Development standards for Institutional Campuses with Impact Mitigation Plans located in the IR zone are given on Table 120-3.	
Minimum Site Area for New Uses	10,000 sq. ft.
Maximum Floor Area Ratio [2]	2 to 1
Maximum Height [3]	75 ft.
Minimum Building Setbacks [2]	1 ft. back for every 2 ft. of bldg. height, but in no case less than 10 ft.
<del>Maximum Building Setback</del> <del>Transit Street or Pedestrian District</del>	<del>10 ft.</del>
Maximum Building Coverage [2]	70% of site area
Minimum Landscaped Area [2,4]	20% of site area
Buffering from Abutting Residential Zone [5]	10 ft. to L3 standard
Buffering Across a Street from a Residential Zone [5]	10 ft. to L1 standard
Setbacks for All Detached Accessory Structures Except Fences	10 ft.
Parking and Loading	See Chapter 33.266, Parking And Loading
Signs	See Title 32, Signs and Related Regulations

**Notes:**

- [1] The standards of this table are minimums or maximums as indicated. Compliance with the conditional use approval criteria might preclude development to the maximum intensity permitted by these standards.
- [2] For campus-type developments, the entire campus is treated as one site. Setbacks are only measured from the perimeter of the site. The setbacks in this table only supersede the setbacks required in Table 120-3. The normal regulations for projections into setbacks and for detached accessory structures still apply.
- [3] Towers and spires with a footprint of 200 square feet or less may exceed the height limit, but still must comply with the setback standard.
- [4] Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.
- [5] Surface parking lots are subject to the parking lot setback and landscaping standards stated in Chapter 33.266, Parking And Loading.

**COMMENTARY**

**ITEM #2 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Setback**

**33.120.280 Accessory Structures**

**C. Setbacks.**

1. See the commentary for 33.110.250 for this item.

**ITEM #3 - RICAP 1 LIST OF 46 ITEMS - Detached garage setbacks**

**33.120.280 Accessory Structures**

**E. Special standards for garages.**

3. See Commentary for 33.110.250.E for this item.  
*(Note that this change is concurrent with changes from the Living Smart Project. That project alters the location of the Garage standards. The code change listed here will follow that change.)*

## CODE AMENDMENTS

### 33.120.280 Accessory Structures

#### A-B. ~~[[No change.]]~~

#### C. Setbacks.

1. Mechanical ~~equipment structures~~.
  - a. Description. Mechanical ~~equipment includes structures~~ are items such as heat pumps, air conditioners, emergency generators, and water pumps.
  - b. Front setback standard. Mechanical ~~equipment is structures~~ are not allowed in required front building setbacks.
  - c. Side and rear setback standard. Mechanical ~~equipment is structures~~ are allowed in side and rear building setbacks if the following are met:
    - (1) ~~It is~~They are in a fully enclosed building; and
    - (2) The building is no more than 6 feet high.

2-4. [No change]

#### D. [No change]

#### E. Special standards for garages.

- 1-2. [No change.]
3. Side and rear setbacks. In the R3 through RX zones, detached garages are allowed in the side and rear building setbacks if all of the following are met:
  - a. The garage ~~entrance~~ is set back at least 40 feet from a front lot line, and if on a corner lot, it is set back at least 25 feet from a side street lot line;
  - b. The garage has dimensions that do not exceed 24 feet by 24 feet;
  - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
  - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.

4-5. [No change.]

**ITEM #4 - RICAP 1 LIST OF 46 ITEMS**

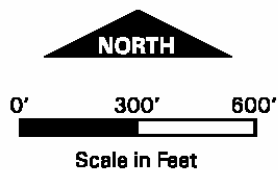
**Map 120-2 RH Areas with Maximum FAR of 4:1**

The St. Johns plan eliminated the RH zoning in the area, so this map is no longer applicable.

## CODE AMENDMENTS

**Map Deleted**

Map Revised xxx xx, 2006



**Map 120-2**  
**RH Areas with**  
**Maximum FAR of 4:1**

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**COMMENTARY**

**CHAPTER 33.130  
COMMERCIAL ZONES**

**ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Max Setbacks and Accessory Structures**

**33.130.215 Setbacks**

**B. Building setback standard**

1. & 2. See Commentary for 33.120.220.B for this item. However, the ordering of the regulations in this section is different from 33.120. In 33.130, the exceptions are located in B.2 instead of B.1. Also note that Figure 130-3 is being replaced as part of this amendment.

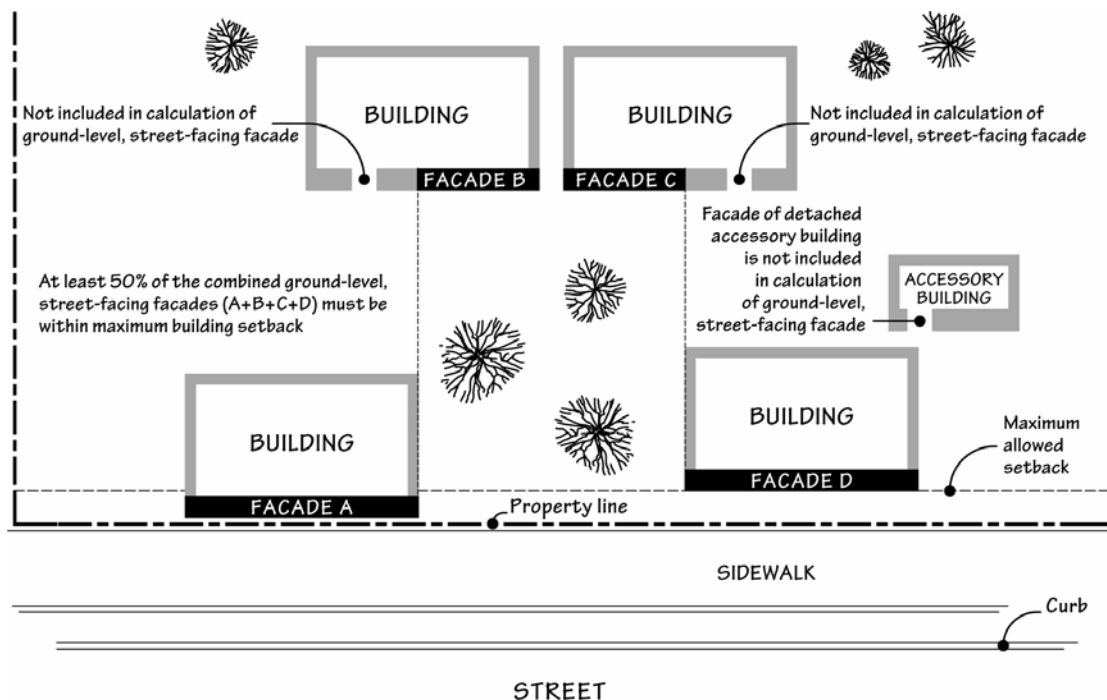
## CODE AMENDMENTS

CHAPTER 33.130  
COMMERCIAL ZONES

## 33.130.215 Setbacks

- A. Purpose.** [No change.]
- B. Building setback standard.** The required minimum and maximum building setbacks, if any, are stated in Table 130-3. The setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.130.245 below, and for parking areas in Chapter 33.266.
- Building setbacks on a transit street or in a Pedestrian District. [No change *{except as proposed to Figure 130-3, below}*].

**Figure 130-3 (revised)**  
**Calculating Maximum Building Setback When More Than One Building On Site**



- Exceptions to the required ~~minimum~~ building setbacks.
  - [No change.]
  - Detached accessory structures. The maximum building setbacks do not apply to detached accessory structures. The street-facing facades of detached accessory structures do not count towards meeting maximum setback standards. See Figure 130-3.
- [No change.]

**COMMENTARY**

**ITEM #6 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Screening**

**33.130.235 Screening**

*C. Mechanical equipment. See Commentary for 33.110.245 for this item.*



## CODE AMENDMENTS

**33.130.235 Screening****A-B. [No change.]**

- C. Mechanical equipment.** Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened ~~from the ground level of any abutting R-zoned lands.~~ in one of the following ways, if the equipment is within 50 feet of an R-zone:
- a. A parapet along facades facing the R-zone that is as tall as the tallest part of the equipment;
  - b. A screen around the equipment that is as tall as the tallest part of the equipment;  
or
  - c. The equipment is set back from roof edges facing the R-zone 3 feet for each foot of height of the equipment.
- D. [No change.]**

**COMMENTARY**

**ITEM #7 - RICAP 1 LIST OF 46 ITEMS: Pedestrian Connection**

**33.130.240 Pedestrian Standards**

**33.130.240.A. Purpose**

See the Commentary for 33.120.250.A for this item.

**33.130.240.B. The standards**

See the Commentary for 33.120.250.B for this item.

## CODE AMENDMENTS

**33.130.240 Pedestrian Standards**

- A. Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between ~~the~~abutting streets and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.
- B. The standards.** The standards of this section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.
1. Connections. Pedestrian connections are required ~~between building entrances and streets~~ as specified ~~below~~in B.1.a.
    - a. Connection between streets and entrances.
      - (1) Sites with one street frontage. There must be a straight line connection between ~~the~~one main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance, ~~whichever is less from the entrance to the closest sidewalk or improved right of way if there are no sidewalks.~~ Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site.
      - (2) Sites with more than one street frontage. Where ~~the site has~~there is more than one street frontage, the following must be met:
        - The standard of B.1.a(1) must be met to connect for the main entrance of each building on the site to and the closest sidewalk or roadway improved right of way if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site;
        - An additional connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.
      - ~~(3) Exception for Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance.~~
    - b. Internal connections. The system must connect all main buildings entrances on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2-4. [No change.]

**COMMENTARY**

**CHAPTER 33.140  
EMPLOYMENT AND INDUSTRIAL ZONES**

**ITEM #9 - RICAP 1 LIST OF 46 ITEMS: Max Setbacks and Accessory Structures**

**33.140.215 Setbacks**

- B. The setback standards.** See Commentary for 33.120.220.B for this item. However, the ordering of the regulations is different from 33.120. In 33.140, the exceptions are located in B.3 instead of B.1. Also note that Figure 140-3 is being replaced as part of this amendment.

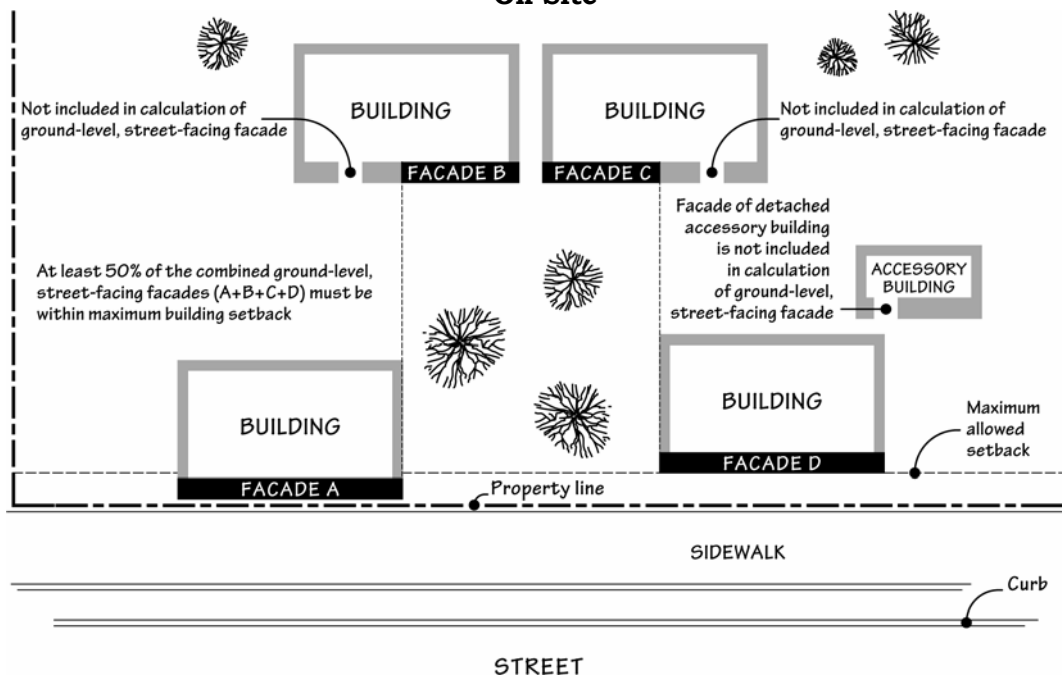
## CODE AMENDMENTS

**CHAPTER 33.140  
EMPLOYMENT AND INDUSTRIAL ZONES**

**33.140.215 Setbacks**

- A. Purpose.** [No change.]
- B. The setback standards.** The required building setbacks are stated in Table 140-3. The setback standards apply to all buildings and structures on the site except as specified in this section. The building setback standards of plan districts supersede the setback standards of this chapter. Setbacks for exterior development are stated in 33.140.245 below, and for parking areas in Chapter 33.266.
1. Setbacks from the lot line. Setbacks are measured from the lot line.
  2. Building setbacks on a transit street or in a Pedestrian District. [No change *{except as proposed to Figure 140-3, below}*].

**Figure 140-3  
Calculating Maximum Building Setback When More Than One Building  
On Site**



- 3 Exceptions to the building setbacks.
  - a-b. [No change.]
  - c. Detached accessory structures. The maximum building setbacks do not apply to detached accessory structures. The street-facing facades of detached accessory structures do not count towards meeting maximum setback standards. See Figure 140-3.
4. [No change.]

**COMMENTARY**

**ITEM #6 - RICAP 1 LIST OF 46 ITEMS: Mechanical Equipment Screening**

**33.140.235 Screening**

*C. Mechanical equipment. See Commentary for 33.110.245 for this item.*

## CODE AMENDMENTS

CHAPTER 33.140  
EMPLOYMENT AND INDUSTRIAL ZONES

## 33.140.235 Screening

## A-B. [No change.]

**C. Mechanical equipment.** Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators, must be screened from the street and any abutting residential zones by walls, fences, or vegetation. Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment placed on roofs must be screened from the ground level of any abutting R-zoned lands, in one of the following ways, if the equipment is within 50 feet of an R-zone:

- a. A parapet along facades facing the R-zone that is as tall as the tallest part of the equipment;
- b. A screen around the equipment that is as tall as the tallest part of the equipment;  
or
- c. The equipment is set back from roof edges facing the R-zone 3 feet for each foot of height of the equipment.

## D. [No change.]

**COMMENTARY**

**ITEM #7 - RICAP 1 LIST OF 46 ITEMS: Pedestrian Connection**

**33.140.240 Pedestrian Standards**

- A. Purpose.** See commentary for 33.120.255.A for this item.
- B. The standards.** See Commentary for 33.120.255.B for this item.



## CODE AMENDMENTS

**33.140.240 Pedestrian Standards**

- A. Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in developments in the employment zones. They ensure a direct pedestrian connection between ~~the abutting streets~~ and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.
- B. The standards.** The standards of this section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.
1. Connections. Pedestrian connections are required ~~between building entrances and streets~~ as specified ~~below~~in B.1.a.
    - a. Connection between streets and entrances.
      - (1) Sites with one street frontage. There must be a straight line connection between ~~the one~~ main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance, ~~whichever is less from the entrance to the closest sidewalk or improved right of way if there are no sidewalks.~~ Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site.
      - (2) Sites with more than one street frontage. Where ~~the site has~~there is more than one street frontage, the following must be met:
        - The standard of B.1.a(1) must be met to connect for the main entrance of each building on the site to and the closest sidewalk or roadway improved right of way if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site;
        - An additional connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.
      - ~~(3) Exception for Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance.~~
    - b. Internal connections. The system must connect all main buildings entrances on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2-4. [No change.]

**COMMENTARY**

**CHAPTER 33.248  
LANDSCAPING AND SCREENING**

**ITEM #45 - RICAP 1 LIST OF 46 ITEMS: Tree Review Violation Mitigation**

**33.248.030 Plant Materials**

**C. Trees.**

1. Planting size. The minimum size requirements listed in this paragraph were intended to apply to tree mitigation plans approved through Chapter 33.853, Tree Review. However, the general language in this chapter has exempted all tree mitigation plans from minimum planting sizes. This amendment states that the exemption applies only to mitigation approved through Environmental Review or Pleasant Valley Resource Review. With this amendment, trees to be planted as a condition of a tree violation must meet the minimum caliper and height requirements shown, as was originally intended. The code is also clarified to indicate areas, such as plan districts, where specific requirements for tree planting can supercede these general requirements.

**CODE AMENDMENTS****CHAPTER 33.248  
LANDSCAPING AND SCREENING****33.248.030 Plant Materials****A-B. [No change.]****C. Trees.**

1. Planting size. Trees may be broadleaf or conifers. Broadleaf trees at the time of planting must be fully branched. Broadleaf trees planted in residential zones must be a minimum of 1.5 inches in diameter. Broadleaf trees planted in all other zones must be a minimum of 2 inches in diameter. Conifer trees at the time of planting must be fully branched and a minimum of 5 feet in height. Specific planting size requirements related to the mitigation, remediation, or restoration of landscaped areas in overlay zones and plan districts supercede the minimums of this Paragraph. These minimum requirements do not apply to trees approved through an Environmental Review, or Pleasant Valley Resource Review to be used for mitigation, remediation, or restoration.
- 2-3. [No change.]

## COMMENTARY

CHAPTER 33.258  
NONCONFORMING SITUATIONS

## ITEM #11 - RICAP 1 LIST OF 46 ITEMS: Nonconforming Uses in Existing Buildings

## 33.258.050 Nonconforming Uses

- D. **Loss of nonconforming use status.** Commonly referred to as a "grandfathered use," a legal nonconforming use that has been discontinued for up to two years may be re-established without any special review. However, if the use is discontinued for more than two years, the re-establishment of the use is prohibited. Economic swings can often leave a viable building vacant for more than two years. It can also be difficult to track older records to document continuous operation. Changes of use without receiving proper City approval can result in the discontinuance of a nonconforming use, even if a building has remained occupied.

This amendment provides more flexibility for a discontinued nonconforming use to be re-established through two changes:

First, the threshold for a use to be re-established by right is increased from 2 years to 3 years. The change provides consistency between this chapter and other portions of the Zoning Code such as expiration of land use approvals and the expiration of a conditional use. It also allows greater flexibility by right during slow economic times and when a new owner or tenant is difficult to find.

Second, an option is provided allowing a nonconforming use that has been discontinued for 3-5 years to request to re-establish its last legal use through a nonconforming situation review. Thus, a use that may have changed from a legal nonconforming to an illegal nonconforming use could ask for re-establishment back to its last legal use. The applicant would need to show that the proposal does not increase its impact above its last legal use. As an example, a legal nonconforming café (Retail Sales And Service use) that was illegally converted to an auto repair use 4 years ago could request a review to re-establish itself as a bookstore (another Retail Sales And Service use), but would have to prove that the impacts of the bookstore would be no greater than the previous café, rather than the auto repair.

Generally, the issue of how to treat nonconforming uses and how the Zoning Code should be applied in some areas is an item of ongoing discussion. While the language presented here provides some additional flexibility, continued research and monitoring, as part of a larger legislative project is required to provide a more comprehensive solution to the nonconforming use regulations. This future project will need to address the relationship between existing zoning regulations versus allowed and prohibited uses including residential structures in industrial zones and the range of nonconforming uses within low- and moderate-density residential zones.

**CODE AMENDMENTS****CHAPTER 33.258  
NONCONFORMING SITUATIONS****33.258.050 Nonconforming Uses**

**A. Continued operation. [No change.]**

**B. Change of use. [No change.]**

**C. Expansions. [No change.]**

**D. Loss of nonconforming use status.**

1. Discontinuance. If a nonconforming use is discontinued for ~~32~~ continuous years, the nonconforming use rights are lost ~~and the re-establishment of a nonconforming use is prohibited~~. If a nonconforming use ceases operations, even if the structure or materials related to the use remain, the use has been discontinued. If a nonconforming use changes to another use without obtaining all building, land use, and development permits that would have been required at the time of the change, the legal nonconforming use has been discontinued. A nonconforming use that has been discontinued for more than 3 continuous years may request re-establishment through a nonconforming situation review. Re-establishment of a nonconforming use that has been discontinued for 5 or more continuous years is prohibited.
2. Accidental destruction. [No change.]
3. Intentional destruction. [No change.]

**33.258.060 Nonconforming Residential Densities [No change.]**

**ITEM #12 - RICAP 1 LIST OF 46 ITEMS: Nonconforming Upgrade menu****33.258.070 Nonconforming Development**

- D. Development that must be brought into conformance.** Although recent changes to the code raised the threshold triggering improvements to nonconforming development from \$25,000 to \$116,000 (adjusted annually), there are situations where applicants remodeling or adding on to a site with nonconforming development have difficulty in meeting the prescribed order of improvements. This amendment provides greater flexibility in the installation of improvements to bring development into conformance. Although it does not waive any of the standards, it allows the applicant to make the decision on what improvements to make to the site first. It is expected that improvements that are easiest to do without adversely impacting existing development would be the improvements favored. These would include installing bike parking, screening, and some landscaping improvements. However, since the amount of improvements required is 10% of the total cost, and is not triggered until the cost exceeds \$116,000, in most cases more major nonconforming upgrades will need to be included in the project to meet the dollar threshold anyway.

An additional clarification is made so that required improvements don't result in an attempt on an applicant's part to pave areas not required to be paved as part of an upgrade.

For reference, the page to the right includes the list of all nonconforming development that must be brought into conformance.

During testimony at the Planning Commission hearing, there was support both for staff's proposal and for a modified version that would establish two tiers of upgrades. The first tier would consist of those considered most important to meeting public goals (including landscaping, bike parking and pedestrian improvements). These would need to be satisfied before items in the second tier could be utilized. During discussion at the hearing, the Planning Commission determined that creating such a two-tier system would create more complexity than the current system and would not provide enough benefit to warrant the additional code language. Therefore, no changes were made to the proposal.

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**CODE AMENDMENTS**


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**33.258.070 Nonconforming Development**

**D. Development that must be brought into conformance.** The regulations of this subsection are divided into two types of situations, depending upon whether the use is also nonconforming or not. These regulations apply except where superseded by more specific regulations in the code.

1. Nonconforming development with a new nonconforming use or new nonconforming residential density. [No change.]
2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made that are over the threshold of Subparagraph D.2.a., below, the site must be brought into conformance with the development standards listed in Subparagraph D.2.b. The value of the alterations is based on the entire project, not individual building permits.

- a. Thresholds triggering compliance. The standards of Subparagraph D.2.b., below, must be met when the value of the proposed alterations on the site, as determined by BDS, is more than \$110,450. The following alterations and improvements do not count toward the threshold:

(1-5) [No change.]

- b. Standards which must be met. Development not complying with the development standards listed below must be brought into conformance or receive an adjustment.
  - (1) Landscaped setbacks for surface parking and exterior improvement areas;
  - (2) Pedestrian circulation systems, as set out in the pedestrian standards that apply to the site;
  - (3) Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with 33.266.220, Bicycle Parking. Sites that do not have accessory surface parking or are inside the Central City Core Area or Lloyd District, as shown on Map 510-8, are not required to meet this standard for long-term bicycle parking, but are required to meet this standard for short-term bicycle parking;
  - (4) Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;
  - (5) Landscaping in existing building setbacks;
  - (6) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
  - (7) Screening; and
  - (8) Required ~~p~~Paving of surface parking and exterior storage and display areas.

**COMMENTARY**

**ITEM #12 - RICAP 1 LIST OF 46 ITEMS: Nonconforming Upgrade menu**

**33.258.070 Nonconforming Development (cont.)**

Note changes for Item 12 are continued on the next page.



## CODE AMENDMENTS

- (9) Exception: Where landscaping in the following areas was conforming after March 16, 2001, and before July 8, 2005, it is exempt from the requirements of D.2.b.1, 4, and 5, above:
- Landscaped setbacks for surface parking and exterior development areas;
  - Interior parking lot landscaping; and
  - Landscaping in existing building setbacks.
  - This exception expires December 31, 2015.
- c. Area of required improvements. [No change.]
- d. Timing and cost of required improvements. The applicant may choose one of the following options for making the required improvements:
- (1) Option 1. Under Option 1, required improvements must be made as part of the alteration that triggers the required improvements. However, the cost of required improvements is limited to 10 percent of the value of the proposed alterations. It is the responsibility of the applicant to document the value of the required improvements. When all required improvements are not being made, the applicant may choose which of the improvements listed in Subparagraph D.2.b. to make the priority for which improvements to make is the same as the order of improvements listed in Subparagraph D.2.b, above. If improvements to nonconforming development are also required by regulations in a plan district or overlay zone, those improvements must be made before those listed in Subparagraph D.2.b.
- (2) Option 2. [No change.]

**E-G.[No change.]**

**33.258.075 Determination of Legal Nonconforming Status Review [No change.]**

**COMMENTARY**

**ITEM #11 - RICAP 1 LIST OF 46 ITEMS: Nonconforming Uses in existing buildings**

**33.258.080 Nonconforming Situation Review**

See previous commentary for Nonconforming Uses in 33.258.050. The full section is shown here to illustrate the approval criteria that a reinstated use has to meet to gain approval.

**CODE AMENDMENTS****33.258.080 Nonconforming Situation Review**

- A. Procedure.** A nonconforming situation review is processed through a Type II procedure.
- B. Approval criteria.** The request will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:
1. With mitigation measures, there will be no net increase in overall detrimental impacts (over the impacts of the ~~last legal~~<sup>previous</sup> use or development) on the surrounding area taking into account factors such as:
    - a. The hours of operation;
    - b. Vehicle trips to the site and impact on surrounding on-street parking;
    - c. Noise, vibration, dust, odor, fumes, glare, and smoke;
    - d. Potential for increased litter; and
    - e. The amount, location, and nature of any outside displays, storage, or activities; and
  2. If the nonconforming use is in an OS or R zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the OS or R zoned area. This is based on taking into account factors such as:
    - a. Building scale, placement, and facade;
    - b. Parking area placement;
    - c. Buffering and the potential loss of privacy to abutting residential uses; and
    - d. Lighting and signs; and
  3. If the nonconforming use is in a C, E, or I zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

**COMMENTARY**

**CHAPTER 33.266  
PARKING AND LOADING**

**ITEM #14 - RICAP 1 LIST OF 46 ITEMS: Parking Requirement Thresholds for Development Type.**

**Note:** This item was addressed by the Infill Design Project, approved by City Council and effective January 20, 2006.

**ITEM #15 - RICAP 1 LIST OF 46 ITEMS: Parking Requirements for Attached Duplexes.**

**33.266.120 Development Standards for Houses, Attached Houses, and Duplexes**

- B. Structures these regulations apply to.** This amendment clarifies that attached duplexes are regulated under this section, while also simplifying the title of the section.

**ITEM #13 - RICAP 1 LIST OF 46 ITEMS: Multi-Dwelling Zone Vehicle Area Limits**

**33.266.120 Development Standards for Houses, Attached Houses, and Duplexes**

**C. Parking area locations.**

- 3. Front yard restrictions.**  
This amendment provides consistency of paving limitations for single-dwelling and duplex housing configurations, regardless of the zone they are located in. The amendment removes the confusion that has occurred in the past when a certain housing type allowed in several zones is required to reconfigure its vehicle paving depending on its location. However, the Portland Office of Transportation will still have jurisdiction over the location of curb cuts.

Note that the changes here include the approved changes resulting from the Infill Design Project. They do not represent any new language in relation to that project.

## CODE AMENDMENTS

CHAPTER 33.266  
PARKING AND LOADING33.266.120 Development Standards for Houses, ~~Attached Houses~~, and Duplexes

**A. Purpose.** [No change.]

**B. Structures these regulations apply to.** The regulations of this section apply to houses, attached houses, duplexes, ~~attached duplexes~~, manufactured homes, and houseboats. The regulations apply to required and excess parking areas. Parking for mobile home parks is regulated in Chapter 33.251.

**C. Parking area locations.**

1-2. [No change.]

3. Front yard restrictions.

- a. ~~In the single dwelling zones, n~~No more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitations in this subparagraph, the following is allowed:

(1) ~~A~~ lot is allowed at least a 9-foot wide vehicle area.

(2) In the multi-dwelling, C, E, and I zones, on sites where the front lot line abuts a shared court, paving blocks or bricks may be used to surface the entire area between the front lot line and the front building line.

- b. ~~In the multi dwelling, C, E, and I zones, no more than 20 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitations in this paragraph, the following is allowed:~~

(1) ~~A~~ lot is allowed at least a 9 foot wide vehicle area.

(2) ~~On lots where the front lot line abuts a shared court, paving blocks or bricks may be used to surface the entire area located between the front lot line and the front building line.~~

- be. For flag lots ~~in all zones~~, where the width of the pole is greater than 30 feet, no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitation of this subparagraph, a flag lot is allowed at least a 12-foot wide vehicle area.

**4. Parking in garages.** [No change.]

**ITEM #10 - RICAP 1 LIST OF 46 ITEMS: Building code References**

**33.266.130 Development Standards for All Other Uses.**

**F. Parking area layouts.**

**Table 266-4: Minimum Parking Space and Aisle Dimensions:** Note #2 at the bottom of Table 266-4 is changed to eliminate the reference to the Uniform Building Code, which is no longer in use.

**ITEM #16 - RICAP 1 LIST OF 46 ITEMS: Dimensions of required perimeter landscaping**

- G. Parking area setbacks and landscaping.** This amendment clarifies the parking area landscaping setback, so that nonlandscaping elements such as protective curbs, bollards, etc. are not placed within the landscaping. The original intent of the provision was to require a 5' width dedicated only to landscaping materials.

## CODE AMENDMENTS

### 33.266.130 Development Standards for All Other Uses

**A-F [No change (except for reference in Table 266-4 below).]**

<b>Table 266-4</b> <b>Minimum Parking Space and Aisle Dimensions [1,2]</b>					
<b>Angle (A)</b>	<b>Width (B)</b>	<b>Curb Length (C)</b>	<b>1 Way Aisle Width (D)</b>	<b>2 Way Aisle Width (D)</b>	<b>Stall Depth (E)</b>
0° (Parallel)	8 ft.	22 ft. 6 in.	12 ft.	20 ft.	8 ft.
30°	8 ft. 6 in.	17 ft.	12 ft.	20 ft.	15 ft.
45°	8 ft. 6 in.	12 ft.	12 ft.	20 ft.	17 ft.
60°	8 ft. 6 in.	9 ft. 9 in.	16 ft.	20 ft.	17 ft. 6 in.
90°	8 ft. 6 in.	8 ft. 6 in.	20 ft.	20 ft.	16 ft.

Notes:

[1] See Figure 266-4.

[2] ~~Dimensions of parking spaces for the disabled are regulated by the Uniform Building Code.~~ See Section 33.266.130.F.3. for information on parking spaces for the disabled.

#### **G. Parking area setbacks and landscaping.**

1. [No change.]
2. Setbacks and perimeter landscaping.
  - a-b. [No change.]
  - c. Setbacks. The minimum required setbacks for surface parking areas are stated in Table 266-5. Protective curbs, tire stops, bollards or other protective barriers are not allowed within the minimum required setbacks.

<b>Table 266-5</b> <b>Minimum Parking Area Setbacks and Landscaping</b>		
<b>Location</b>	<b>All zones except EG2 and IG2</b>	<b>EG2, IG2</b>
Lot line abutting street	5 ft. of L2	10 ft. of L2
Lot line abutting a C, E, or I zone lot line	5 ft. of L2	5 ft. of L2
Lot line abutting a OS or R zone lot line	5 ft. of L3	10 ft. of L3

- c. Perimeter landscaping. [No change.]

## COMMENTARY

CHAPTER 33.274  
RADIO FREQUENCY TRANSMISSION FACILITIES

## ITEM #17 - RICAP 1 LIST OF 46 ITEMS: Radio Frequency Transmission Facilities

## 33.274.040 Development Standards

## A. Purpose.

## C. General Requirements.

9. Landscaping and Screening. The City has been encouraging cell and wireless telephone carriers to locate antenna transmission facilities on existing utility and light poles within the City right-of-way instead of building new towers on private property. Towards that effort, the City created franchise agreements for the carriers and has altered existing conditional use approval criteria for new towers to encourage companies to locate in the right-of-way. This was intended to address the need for additional infill wireless phone coverage as more people use cell phones and related devices, especially within residential areas where towers/monopoles are discouraged.

While some companies are able to locate a transmission facility and its accessory equipment directly on the pole, others need to locate their equipment on private land adjacent to the pole. These adjacent installations are often the size of small mechanical equipment or traffic control boxes. Current regulations for the landscaping and screening of accessory equipment are intended to screen larger equipment shelters and pads. For example, in residential zones, the regulations require a 10' wide landscape strip around the perimeter. However, the equipment affiliated with right-of-way installations has the characteristics of standard mechanical equipment that is accessory to residential uses. Therefore, this amendment requires these facilities to be screened to the same standards as those required for such mechanical equipment.

To aid in the application of the landscaping standards, a bullet in the Purpose statement (33.274.040.A) is being amended to apply to accessory equipment

Note: the existing landscaping requirements are included here to provide context for the new code amendment.

See the Commentary and Code Language under 33.815.225 for additional amendments related to this issue.



## CODE AMENDMENTS

**CHAPTER 33.274  
RADIO FREQUENCY TRANSMISSION FACILITIES**

**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;
- Protect adjacent populated areas from excessive radio frequency emission levels; and
- Protect adjacent property from tower failure, falling ice, and other safety hazards.

**B. [No change.]****C. General requirements.**

1-8. [No change.]

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.
  - (2) Exception. [No change.]
- b. In OS or R zones or within 50 feet of an R zone. A tower and all accessory equipment or structures located in an OS or R zone or within 50 feet of an R zoned site must meet the following landscape standards:
  - (1) Tower landscaping. A landscaped area that is at least 15 feet deep and meets the L3 standard must be provided around the base of the tower.
  - (2) Accessory equipment and structures. A landscaped area that is at least 10 feet deep and meets the L3 standard must be provided around the base of all accessory equipment or structures located at grade.
- c. In all zones, equipment cabinets or shelters located on private property that are associated with Radio Transmission Facilities mounted in a right-of-way must be screened from the street and any adjacent properties by walls, fences or vegetation. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment.

**COMMENTARY****CHAPTER 33.410  
BUFFER ZONE****ITEM #18 - RICAP 1 LIST OF 46 ITEMS: Buffer Overlay Landscaping****33.410.040 Landscaped Areas****33.410.050 Access**

Current standards for sites with a buffer overlay zone require that a 10' landscape area with L3 landscaping (shrubs at least 6 feet tall) be provided where the zone borders an R-zone. This requirement applies even if the development on the site with the buffer zone is a residential use that is similar and compatible with the adjoining development it is being screened from. This discourages residential development that interacts with the surrounding neighborhood. This amendment provides an exception to the L3, high screening landscaping requirements if the development proposed on the site with the buffer zone contains only residential uses.

In addition, some "clean up" work is being done to aid in the implementation of the existing standards. First, the Code Chapter is reformatted so that all the standards are placed within a "Development Standards" section. Second, the two figures, 410-1 & 410-2, have been revised to be realistic in scale and to provide more clarity on when the buffer landscaping is required.

## CODE AMENDMENTS

### 33.410 BUFFER OVERLAY ZONE

- 33.410.010 Purpose
- 33.410.020 Map Symbol
- 33.410.030 Applying the Buffer Zone
- 33.410.040 Landscaped Areas Development Standards
- ~~33.410.050 Access~~
- ~~33.410.060 Exterior Work Activities~~
- ~~33.410.070 Signs~~
- ~~33.410.075 Radio Frequency Transmission Facilities~~
- 33.410.080 Off-Site Impacts

#### **33.410.010 -030 [No change.]**

#### **33.410.040 Development Standards**

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

##### **A. Setbacks and landscaping.**

1. C-zones. In the C zones, a 10-foot setback landscaped to at least the L3 standard is required along all lot lines that:
  - a. Are across a local service street from R-zoned land; or
  - b. Abut the rear lot line of an R-zoned lot. See Figure 410-1.
2. E and I zones. In the E and I zones, a 20 foot setback landscaped to at least the L3 standard is required along all lots lines within the Buffer Overlay Zone. The setback must be landscaped to at least the L3 standard. The setback may be reduced to 10 feet if the setback is landscaped to at least the L4 standard. See Figure 410-2.
3. Exception for residential. Sites where all of the floor area is in Residential uses do not have to landscape the setbacks required by this subsection. However, landscaping requirements of the base zone, other overlay zone, and plan district must be met.

##### **B. Structures and exterior activities.**

1. Structures, exterior storage, and exterior display are prohibited in the setbacks required by Subsection A.
2. Exterior work activities are prohibited in the Buffer Overlay Zone.

**ITEM #18 - RICAP 1 LIST OF 46 ITEMS: Buffer Overlay Landscaping (contd)**

**33.410.040 Landscaped Areas**

**33.410.050 Access**

See previous Commentary Page for information on these changes. The revised Figure 410-1 is shown on the facing page.

## CODE AMENDMENTS

### **C. Access.**

1. Generally. Except as specified in Paragraphs C.2 and 3, access through the setbacks required by Subsection A is prohibited.
2. Pedestrian and bicycle access. Pedestrian and bicycle access is allowed through the setbacks, but may not be more than 6 feet wide.
3. Vehicle access for residential. Sites where any of the floor area is in Residential uses may have vehicle access through the setbacks. The width of the access may be a maximum of 20 percent of the site frontage or 20 feet, whichever is less. As an exceptions, a vehicle access at least 9 feet wide is allowed. The vehicle access may serve only the residential uses; access through the setbacks to vehicle areas serving non-residential uses on the site is prohibited.

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

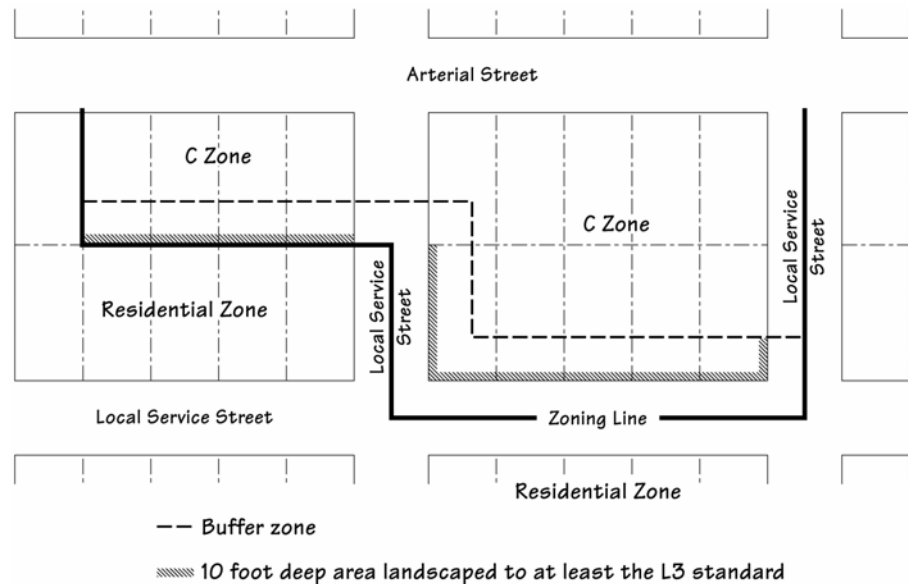
**E. Radio Frequency Transmission Facilities.** Radio Frequency Transmission Facilities that are supported by a tower are prohibited in the Buffer zone.

### **33.410.040 Landscaped Areas**

~~The following landscaped areas must be provided in the Buffer zone. Structures, exterior storage, and exterior display are prohibited in the landscaped areas.~~

- ~~A. C-zoned land.~~** ~~For C-zoned land, a 10-foot deep area landscaped to at least the L3 standard must be provided along all street lot lines that are across a local service street from R-zoned land. See Figure 410-1. The 10-foot deep landscaped area must also be provided wherever the site abuts the rear lot line of an R-zoned lot.~~
- ~~B. E and I zones.~~** ~~For E and I-zoned land, a 20-foot deep area landscaped to at least the L3 standard or a 10-foot deep area landscaped to at least the L4 standard must be provided along all property lines where the Buffer zone is applied. See Figure 410-2.~~

**Figure 410-1 (as revised)**  
**Buffer for C Zones**



**ITEM #18 - RICAP 1 LIST OF 46 ITEMS: Buffer Overlay Landscaping (contd)**

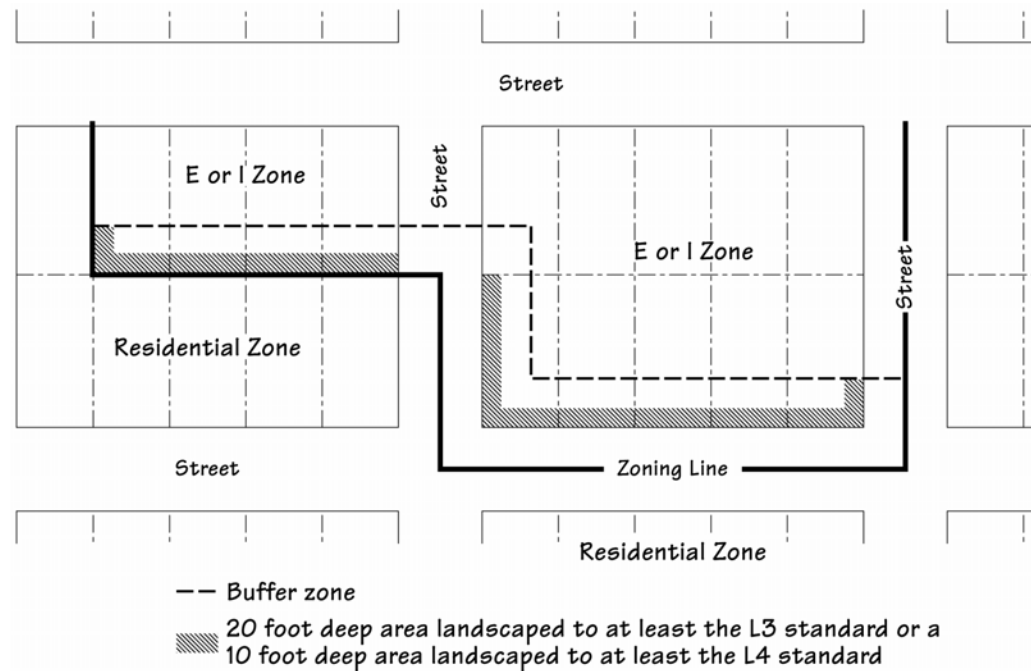
**33.410.040 Landscaped Areas**

**33.410.050 Access**

See previous Commentary Page for information on these changes. The revised Figure 410-2 is shown on the facing page.

## CODE AMENDMENTS

**Figure 410-2 (as revised)**  
**Buffer in the E and I Zones**



### **33.410.050 Access**

Access through the landscaped area required in 33.410.040 is prohibited except as follows:

- A.** ~~Pedestrian and bicycle access is allowed, but may not be more than 6 feet wide.~~
- B.** ~~Motor vehicle access is allowed only for vehicle areas that serve residential uses. Each site may have a vehicle access that is at least 9 feet wide. The width may be wider, up to a maximum of 20 percent of the site frontage or 20 feet, whichever is less. For mixed use developments, access to the non-residential uses, and to vehicle areas serving the non-residential uses, is prohibited.~~

### **33.410.060 Exterior Work Activities**

~~Exterior work activities are prohibited in the Buffer zone.~~

### **33.410.070 Signs**

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

### **33.410.075 Radio Frequency Transmission Facilities**

~~Radio Frequency Transmission Facilities that are supported by a tower are prohibited in the Buffer zone.~~

### **33.410.080 Off-Site Impacts [No change.]**

**COMMENTARY**

**CHAPTER 33.420  
DESIGN OVERLAY ZONE**

**ITEM #19 - RICAP 1 LIST OF 46 ITEMS: Design Guidelines in Downtown**

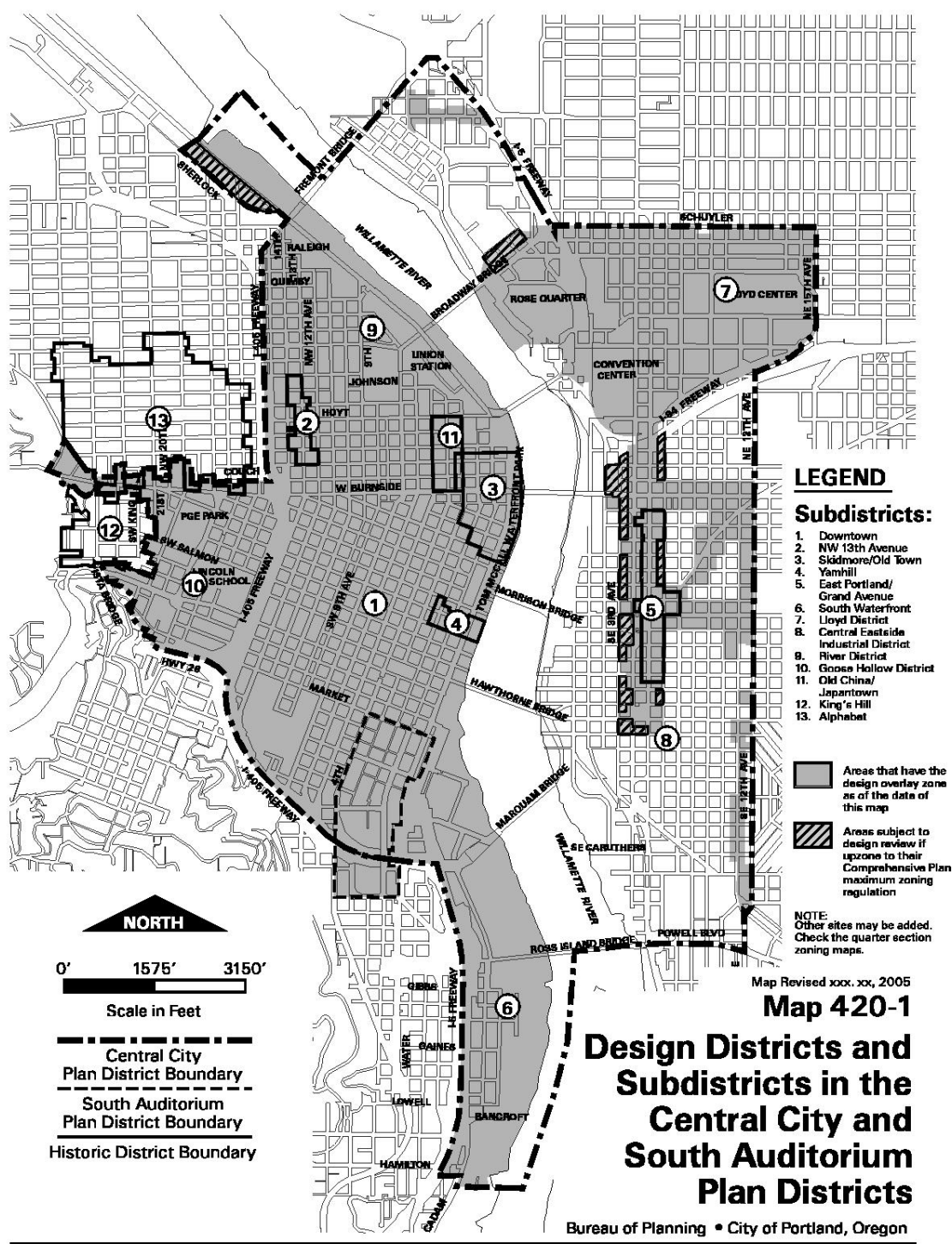
**33.420.051 Design Guidelines**

**Map 420-1**

Section 33.420.051 refers the reader to Map 420-1 to find guidelines specific to a design district. Map 420-1 still contains a reference to the Downtown Design District Boundary, which was originally created in 1983. This was replaced by Central City Fundamental Design Guidelines. Therefore, the reference to the old boundary is no longer needed. This amendment removes the reference to the Downtown Design District on Map 420-1.



## CODE AMENDMENTS



*This revised map eliminates the obsolete Downtown Design District boundary and updates the name for subdistrict 6 from North Macadam to South Waterfront.*

**COMMENTARY**

**CHAPTER 33.510  
CENTRAL CITY PLAN DISTRICT**

**ITEM #20 - RICAP 1 LIST OF 46 ITEMS: South Waterfront Floor Area**

**Development Standards**

**33.510.200 Floor Area Ratios**

**C. Limit on increased floor area.**

3. The South Waterfront Subdistrict contains specific FAR bonuses if certain open space and greenway provisions are met. If the South Waterfront Greenway provisions are met, the total floor area ratio may exceed the 9 to 1 maximum. This amendment clarifies the original intent of the code provision.

**CODE AMENDMENTS****CHAPTER 33.510  
CENTRAL CITY PLAN DISTRICT****Development Standards****33.510.200 Floor Area Ratios****A-B. [No change.]****C. Limit on increased floor area.**

1-2. [No change.]

3. In the South Waterfront Subdistrict the following applies:

- a. Generally. Except as allowed under Subparagraphs 3.b. and c., below, no more than 2:1 FAR may be earned on a site through the use of bonuses. There is no maximum to the amount of floor area that may be transferred to a site. However, the total floor area on a site, including bonus floor area and transferred floor area, may not be more than 9 to 1, except as allowed under C.3.c, below. Adjustments to the regulations of this paragraph are prohibited.
- b. An FAR of more than 2 to 1 may be earned on a site through the use of bonuses if at least 1 to 1 FAR is earned on the site through the use of the open space bonus option, open space fund bonus option, or South Waterfront Willamette River Greenway bonus option. However, the total floor area on the site, including bonus floor area and transferred floor area, may not be more than 9 to 1.
- c. The total floor area on a site, including bonus floor area and transferred floor area, may be more than 9 to 1 if all of the following are met:
  - (1) The floor area above the 9 to 1 ratio must be transferred from the South Waterfront Greenway Area; and
  - (2) The portion of the South Waterfront Greenway Area that floor area is being transferred from must have been dedicated to the City since September 1, 2002.

**D. Transfer of floor area within a project. [No change.]**

**ITEM #10 - RICAP 1 LIST OF 46 ITEMS: Building Code References**

**33.510.200 Floor Area Ratios**

**E. SRO housing transfer of floor area.**

- 3.b. The Building Code has been replaced by the Oregon Structural Specialty Code.  
This amendment updates the reference.

**CODE AMENDMENTS****33.510.200 Floor Area Ratios (contd.)****E. SRO housing transfer of floor area.**

1-2. [No change.]

3. Qualifying SRO projects and restrictions.

a. [No change.]

b. For existing SRO housing, the building must be in full compliance with the Oregon Structural Specialty Code (the Uniform building Code as amended by the State of Oregon)~~building code~~ at the time of transfer of the development rights. If not, the structure must be brought into compliance before an occupancy permit is issued for a development using the transferred floor area.

c-d. [No change.]

## COMMENTARY

CHAPTER 33.521  
EAST CORRIDOR PLAN DISTRICT

## ITEM #23 – RICAP 1 LIST OF 46 ITEMS: Gateway and East Corridor Parking Regulations

**33.521.290 Parking**

In 2004, the Gateway plan district was revised and split into two separate plan districts. The area directly around the Gateway transit station was kept as the Gateway plan district, while the area that straddles East Burnside from Gateway out to the city boundary was renamed the East Corridor plan district. Before these revisions, lots that only had frontage on a light rail alignment were allowed to have vehicle access from that alignment. The plan district amendments removed this option, requiring adjustments for such access. In addition, a provision was added so that vehicle area was not allowed within 100 feet of a light rail alignment.

This has created several problems because many of the smaller and lower-density lots (generally R2 and R2.5) only have frontage on the light rail alignment on Burnside. These areas of East Burnside do not allow on-street parking, and cross streets are often widely spaced, restricting the options for alternative locations for parking. As a result, the only option for these properties is to request an adjustment, which is always granted.

The amendments provide flexibility for these lots in the East Corridor plan district by doing the following:

1. Allowing driveways from the light rail alignment when no other option is available;
2. Allowing driveways between the building and a street (including a light rail alignment) if it provides a straight line connection to a parking area;
3. Increasing flexibility by requiring surface parking areas to be either located 100' feet from a light rail alignment or be placed behind a building (similar to the restrictions in the NW plan district); and
4. Allowing a 1-2 car garage to be within 100' of a light rail alignment as long as it meets the other vehicle area criteria.

Title 17, administered by the Office of Transportation, gives the City authority to determine where on the frontage a driveway should go, considering pedestrian, bicycle, and vehicular safety. No changes are needed for Title 17.

These changes are not included in the Gateway plan district because the plan district does not contain the number of small lots that front only on a light rail alignment, and existing density requirements favor the construction of larger projects that have multiple access options.

## CODE AMENDMENTS

CHAPTER 33.521  
EAST CORRIDOR PLAN DISTRICT

## 33.521.290 Parking

**A. Purpose.** [No change.]

**B. Number of parking spaces.** [No change.]

**C. Location of vehicle areas.**

1. Parking and loading areas~~Vehicle areas~~ are not allowed between a primary structure and any street, except as follows:
  - a. Sites with through lots or with three frontages may have parking and loading~~vehicle~~ areas between a primary structure and one Local Service Transit Street.
  - b. Sites on full blocks may have parking and loading~~vehicle~~ areas between a primary structure and two Local Service Transit Streets.
  - c. ~~Driveways are allowed between a building and a street that is not a light rail alignment if the driveway provides a straight line connection between a street and parking area inside the building. Driveways between a building and a light rail alignment are not allowed.~~
2. For sites with frontage on a light rail alignment, parking and loading ~~Vehicle~~ areas are not allowed on the portion of the site within 100 feet of ~~a street that is a light rail alignment, except as follows:-~~
  - a. Surface parking and loading that is separated from a light rail alignment by buildings containing a primary use is allowed. See Figure 521-2.
  - b. Garages that have dimensions that do not exceed 24 feet by 24 feet are allowed within 100 feet of a light rail alignment.
  - c. In C zones, structured parking and loading is allowed within 100 feet of a light rail alignment if the structure meets the standards of 33.526.280.D, Ground Floor Active Uses along at least 50 percent of the structure's ground floor walls that face the light rail alignment and front onto a sidewalk, plaza, or other public open space.
3. Driveways are subject to the following:
  - a. Sites with frontage on a light rail alignment.
    - (1) Generally, driveways providing access from a light rail alignment are not allowed.
    - (2) Exception. On sites where the only frontage is on a light rail alignment, driveways are allowed to provide vehicle access from a light rail alignment. See Figure 521-2.

**ITEM #23 - RICAP 1 LIST OF 46 ITEMS: Gateway and East Corridor Parking Regulations**

**33.521.290 Parking (cont.)**

See previous commentary page for these code changes.

**Figure 521-2**

A new figure is added to the Code to illustrate where surface parking and a driveway can be placed on a lot with frontage only along a light rail alignment in the East Corridor plan district. As the code language describes, surface parking is allowed more than 100' back from the light rail alignment or behind the building.

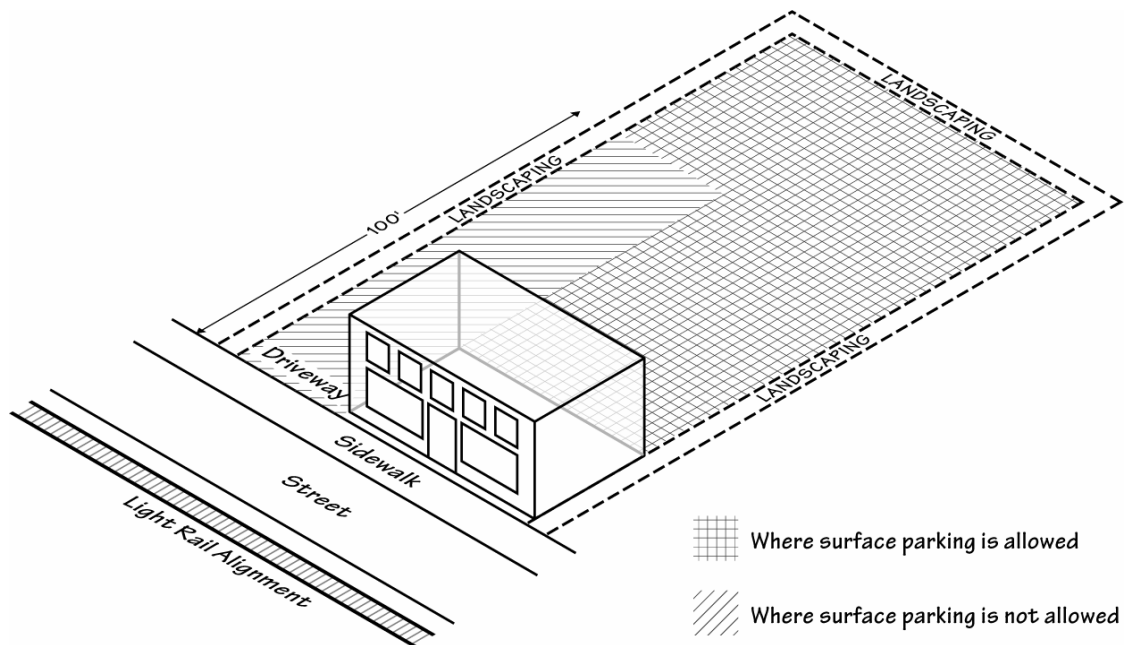


## CODE AMENDMENTS

- b. Driveways are allowed between a primary structure and a street if the driveway provides a straight line connection between the street and the parking or loading areas allowed above. A straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance from the property line to the parking or loading area, whichever is less.
- c. Driveways are allowed in all locations where parking and loading areas are allowed.

**D. ~~Structured parking near light rail.~~** ~~In C zones, areas of structured parking located within 100 feet of a light rail alignment must meet the standards of 33.526.280.D, Ground Floor Active Uses, along at least 50 percent of the structure's ground floor walls that face the light rail alignment and front onto a sidewalk, plaza, or other public open space.~~

**Figure 521-2**  
**Location of surface parking and driveways**  
**along a light rail alignment**



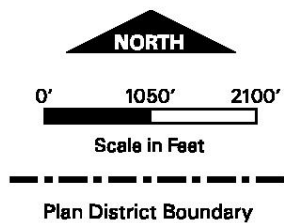
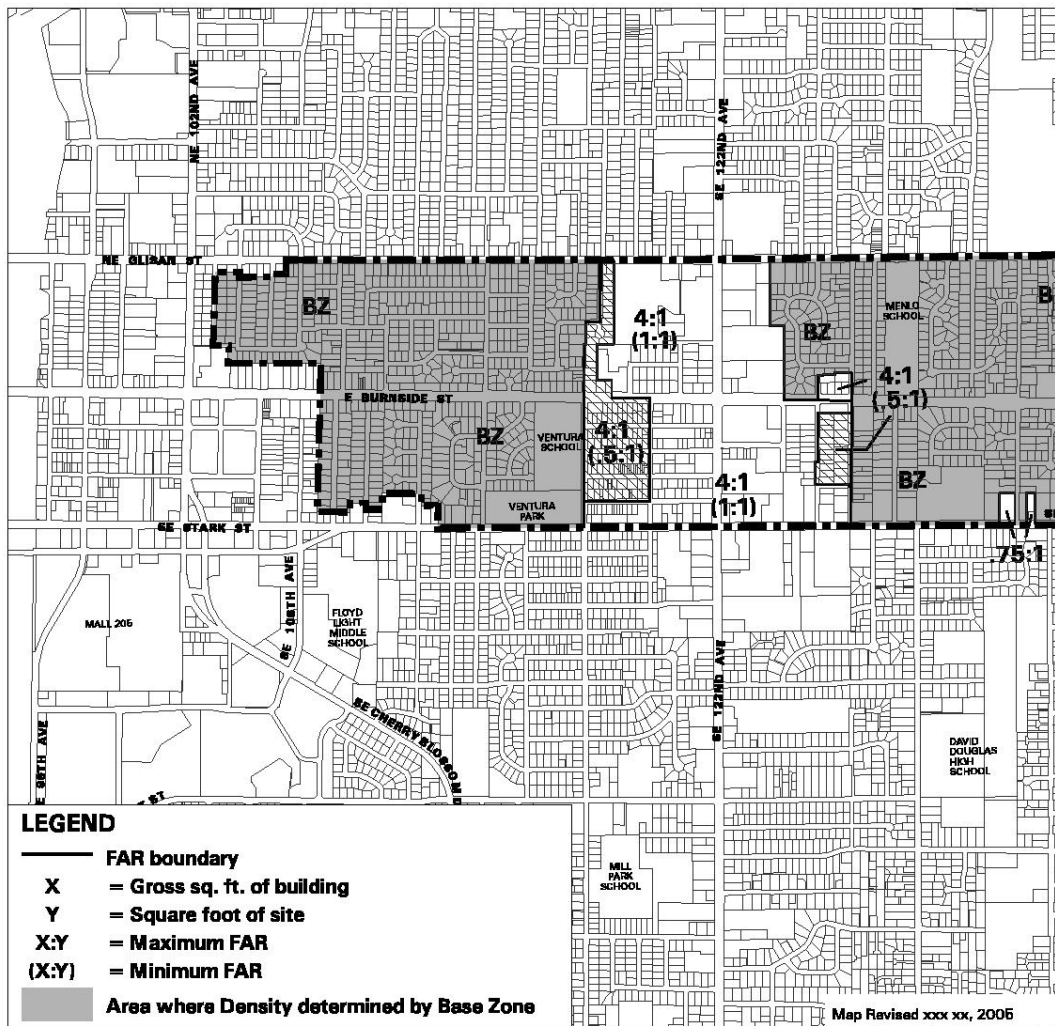
**ITEM #21 - RICAP 1 LIST OF 46 ITEMS: East Corridor (and Gateway) plan district  
Minimum FAR****Map 521-3 East Corridor plan district****Floor Area Ratios (FAR)**

This amendment reduces the minimum FAR from 1:1 to 0.5:1 in all areas zoned R1 in the East Corridor plan district. The R1 base zone contains no minimum FAR requirements. Instead, density in the R1 zone is based on site area. Generally, minimum density in R1 is 1 unit per 1,450 sq. ft. of site area. If the site is less than 10,000 in area, the minimum density is 1 unit per 2,000 sq. ft. The minimum FAR of 1:1 in these areas was adopted as part of the Gateway Planning Regulations Project, effective June 18, 2004.

The minimum FAR standard was adopted to ensure a minimum level of development and to promote higher density near light rail stations. This goal will still be achieved by the higher density zones surrounding the light rail stations. It is difficult to achieve the 1:1 FAR on R1-zoned lots in this area because they are already platted as small lots and the ownership patterns are fragmented. In addition, the R1 zone is strategically placed between higher-density and lower-density areas in the plan district. This amendment will allow the R1 areas to function as a transition between these areas.

(Note, the areas that are changing on the map are shown with the cross-hatching.)

## CODE AMENDMENTS



**Map 521-3**

**East Corridor Plan District**

**Floor Area Ratios (FAR)**

**Map 1 of 2**

Area with R1 zoning proposed to reduce minimum FAR from 1:1 to .5:1

Bureau of Planning • City of Portland, Oregon

**COMMENTARY**

**CHAPTER 33.526  
GATEWAY PLAN DISTRICT**

**ITEM #22 - RICAP 1 LIST OF 46 ITEMS: Gateway plan district and Institutions**

**33.526.120 Retail Sales and Service Uses**

- B.** This provision currently allows Retail Sales And Service Uses on portions of sites zoned Institutional Residential (IR) within 1,000 feet of the proposed Main Street light rail station. This amendment clarifies that the Retail Sales And Service uses must also be part of a Conditional Use Master Plan (CUMP) or an Impact Mitigation Plan (IMP) for the site.

**CODE AMENDMENTS****CHAPTER 33.526  
GATEWAY PLAN DISTRICT****33.526.120 Retail Sales and Service Uses**

- A.** [No change.]
- B.** On portions of sites zoned Institutional Residential, IR, and within 1000 feet of the Main Street LRT Station, Retail Sales And Service uses are allowed up to 10,000 square feet of floor area for each use. The Retail Sales And Service uses must be included in a Conditional Use Master Plan or Impact Mitigation Plan for the site. Retail Sales And Service uses larger than 10,000 square feet of floor area for each use are prohibited.
- C.** [No change.]

**COMMENTARY**

**ITEM #21 - RICAP 1 LIST OF 46 ITEMS: East Corridor (and Gateway) plan district  
Minimum FAR**

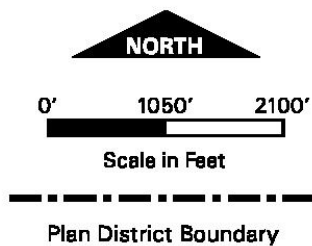
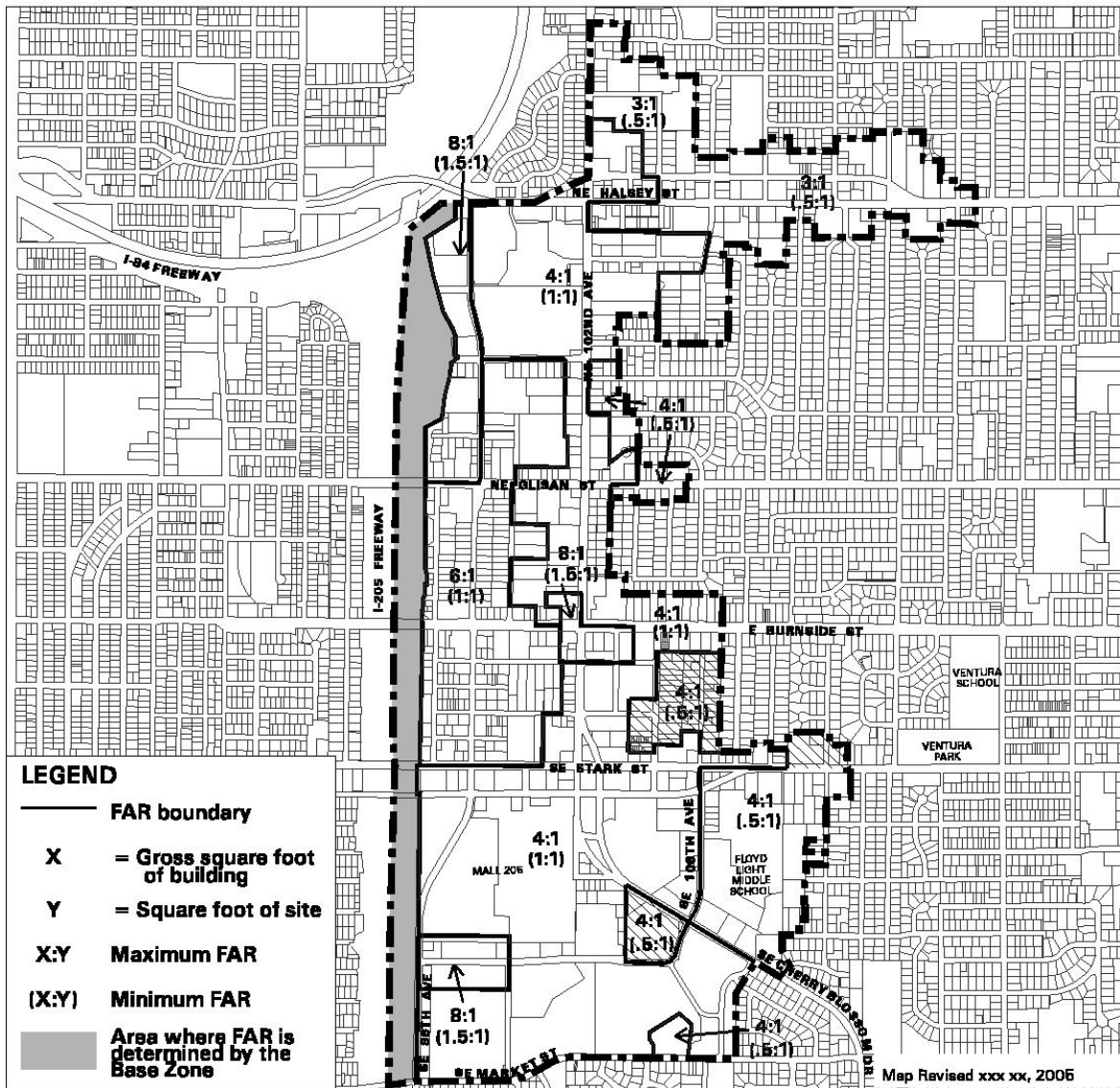
**33.526 Gateway Plan District**

**Map 526-3 Gateway Plan District**

**Floor Area Ratios (FAR).** See commentary for Map 521-3 for minimum FAR.

(Note: the areas that are changing on the map are shown with cross-hatching.)

## CODE AMENDMENTS



## Map 526-3

### Gateway Plan District

### Floor Area Ratios (FAR)

Area with R1 zoning proposed to reduce minimum FAR from 1:1 to .5:1

Bureau of Planning • City of Portland, Oregon

## COMMENTARY

## CHAPTER 33.536

## HOLLYWOOD PLAN DISTRICT

## ITEM #24 - RICAP 1 LIST OF 46 ITEMS: Hollywood PD Drive-Through Limitations

## 33.536.210 Prohibited Development

- D. Drive-through facilities.** The Hollywood plan district has a limited-term provision that allows existing drive-through facilities to be replaced on-site as part of mixed-use, multi-story redevelopment. The sunset provision originally required a full building permit application to be filed no later than May 5, 2003. In 2003, the Zoning Code was amended to extend the sunset provision to May 5, 2005. This amendment eliminates the sunset provision entirely, while keeping the conditions of development.

The original sunset provision was intended to encourage mixed-use redevelopment of up to five catalyst sites within Hollywood. In the review and consideration of the proposed Hollywood and Sandy Plan, consensus was reached that the prohibition of drive-through facilities in the CS zone may effectively freeze suboptimal development in place. It was concluded that the redevelopment of the five sites would be less likely to occur if operation of the existing drive-through facilities was required to cease. As a result, the current regulations allow redevelopment to include a drive-through that would be a very small part of an overall redevelopment that has at least 1.5 FAR and 25% residential floor area. On balance, the community, the Planning Commission and City Council found that the positives of urban-scale development including a drive-through would outweigh the negative impacts of the pedestrian environment that a drive-through facility might create.

Shortly after these regulations were adopted in April 2000, the development market entered a recession. The amendment to extend the sunset provision from 2003 to 2005 was a result of a lack of development during this time.

Currently, two sites have preliminary proposals for redevelopment. These proposals are supportive of the Hollywood and Sandy Plan objectives, but require a rebuilt drive-through to be feasible. Given that the May 2005 sunset date has now passed, consideration was given to either extending the deadline or eliminating the sunset provision entirely. The conclusion reached is that eliminating the sunset provision for the continued operation of drive-through facilities will facilitate the desired redevelopment of these key sites and that the public benefits of a mixed-use development outweigh the cost of keeping the drive-through.

None of the existing drive-throughs have access to or from Sandy Blvd., although some have frontage on Sandy. In response to concerns raised by the Portland Office of Transportation, an additional condition is added to restrict the new drive-through from having direct access to Sandy.

Input for this amendment was given by the Hollywood Boosters, Hollywood Neighborhood Association, and the Bureau of Development Services.



## CODE AMENDMENTS

CHAPTER 33.536  
HOLLYWOOD PLAN DISTRICT

## Development Standards

**33.536.200 Purpose [No change.]****33.536.210 Prohibited Development**

- A. Purpose.** These regulations limit auto-oriented development and ensure transit-supportive levels of residential development in the commercial core of the plan district and in the areas closest to the Hollywood Transit Center. The regulations also support existing businesses with drive-through facilities by creating limited opportunity for these facilities to redevelop as part of development that fosters an urban mix and intensity of uses.

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

- D. Drive-through facilities.** Drive-through facilities are prohibited, except that in Subdistrict B, drive-through facilities may be allowed if they meet all of the regulations of this subsection:

1. There was a legal drive-through facility on the site on May 5, 2000;
2. The new drive-through is on the same site and the existing drive-through will be removed;
3. The replaced drive-through facility will be part of a new development on the site that meets the following:
  - a. After the new development is built, the FAR on the site must be at least 1.5:1; and
  - b. At least 25 percent of the new floor area must be in residential uses;
4. The drive-through facility must either:
  - a. Meet the standards of Chapter 33.224, Drive-Through Facilities; or
  - b. Meet the following:
    - (1) The service area must be within the primary structure on the site;
    - (2) The service area must have useable floor area above it on the second story; and
    - (3) The stacking lanes must meet the standards of Section 33.224.050, Stacking Lane Standards, and must be enclosed within the primary structure on the site; ~~and~~
- ~~5. A complete application for a building permit must be submitted before May 5, 2005.~~
5. Access to and from NE Sandy Blvd for the drive-through is prohibited.

**COMMENTARY****CHAPTER 33.610  
LOTS IN RF THROUGH R5 ZONES****ITEM #25 - RICAP 1 LIST OF 46 ITEMS: Land Constraints to Minimum Density****33.600's Land Divisions**

When new land division regulations went into effect in mid-2002, adjustments to minimum density were prohibited. Exemptions to minimum density were allowed on sites within environmental overlay zones, potential landslide hazard areas, and flood hazard areas. In addition, the planned development review allowed alternative development options to meet density. These provisions generally provided regulatory mechanisms to meet our minimum density so the prohibition on adjustments was generally not a problem.

However, certain parts of the city have other natural constraints that make it difficult or impossible to meet minimum density. For example, some areas of the Johnson Creek plan district have soils that prevent management of stormwater on-site, and there is no reasonable way to move the water off-site.

As staff researched this issue, several options were developed to allow some reduction in minimum density for these cases. Staff is still researching and analyzing which of these mechanisms would be the most efficient and effective.

These issues will continue to be researched as part of the RICAP 2 package. Therefore, no amendments were considered as part of the RICAP 1 package.

**CODE AMENDMENTS**

No language is proposed at this time for Item #25.

**COMMENTARY**

**CHAPTER 33.630  
TREE PRESERVATION**

**ITEM #27 - RICAP 1 LIST OF 46 ITEMS: Industrial Lands Tree Preservation**

**ITEM #28 - RICAP 1 LIST OF 46 ITEMS: Tree Preservation for Land Divisions (with site having partial E-zoning)**

**33.630.010 Purpose**

There are no amendments to the Purpose section; it is included here to aid understanding.

**33.630.300 Mitigation Options**

New land division regulations that went into effect in mid-2002 require tree preservation. In some instances it has been difficult for an applicant to save the trees on the site because of unusual land constraints; and there has been no option to mitigate tree removal.

In employment or industrial zones, trees from a previous homestead or other development may be located on the site in a way that hinders reasonable development. Because there is not an adequate mitigation option, these trees are often removed before a land division is requested, which eliminates the opportunity to review for mitigation.

When a portion of a site is in an environmental zone, and trees located in the nonenvironmental zone must be preserved, it can sometimes force the removal of trees in the environmental zone in order to attain a buildable area.

These new mitigation options provide the opportunity for the land division applicant to create a tree preservation and mitigation plan that provides flexibility to the applicant while ensuring goals to preserve as many trees as possible, and/or to focus tree preservation on trees that are located within an environmental resource.

## CODE AMENDMENTS

### CHAPTER 33.630 TREE PRESERVATION

#### 33.630.010 Purpose

The regulations of this chapter preserve trees and mitigate for the loss of trees to:

- Protect public health through the absorption of air pollutants and contamination;
- Provide buffering from noise, wind, and storms;
- Provide visual screening and summer cooling;
- Reduce urban heat island impacts;
- Maintain property values;
- Maintain wildlife habitat; and
- Maintain the beauty of the City and its natural heritage.

The preservation of trees on a land division site also will:

- Preserve trees when it is feasible to preserve trees and still meet the other regulations of this Title;
- Reduce erosion, siltation, and flooding;
- Filter stormwater and reduce stormwater runoff;
- Stabilize slopes; and
- Retain options for property owners to preserve trees and vegetation at the time of development.

#### 33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A.** As many trees as possible are preserved; and
- B.** The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.
- C.** It is not possible under any reasonable scenario to meet Section 33.630.100 and ~~meet~~ one of the following:
  1. ~~Meet minimum~~ Minimum density;
  2. ~~Meet all~~ All service requirements of Chapters 33.651 through 33.654, including connectivity;
  3. ~~Implementation of~~ an adopted street plan; ~~or~~
  4. On sites 15,000 square feet or less in area, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;
  5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or
  6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.

**COMMENTARY**

**CHAPTER 33.631  
SITES IN FLOOD HAZARD AREAS**

**ITEM #29 - RICAP 1 LIST OF 46 ITEMS: Land Division Flood Hazard**

**33.631.010 Purpose**

**33.631.020 Where the Standard and Approval Criteria Apply**

These two sections of code refer to "Standards" and "Approval Criteria" that an application for a land division must meet to gain approval. However, there are no standards listed. This amendment deletes the word "standard."

**CODE AMENDMENTS****CHAPTER 33.631  
SITES IN FLOOD HAZARD AREAS**

## Sections:

- 33.631.010 Purpose
- 33.631.020 Where the Approval Criteria Apply
- 33.631.100 Flood Hazard Area Approval Criteria

**33.631.010 Purpose**

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

**33.631.020 Where the ~~Standard and~~ Approval Criteria Apply**

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

**33.631.100 Flood Hazard Area Approval Criteria [No change.]**

**COMMENTARY****CHAPTER 33.654  
RIGHTS-OF-WAY****ITEM #26 - RICAP 1 LIST OF 46 ITEMS: Ownership Provisions for Alleys in Single-Dwelling Zones****33.654.150 Ownership, Maintenance, and Public Use of Rights-of-Way**

Up until recently, driveways providing vehicular access to more than two lots were considered alleys and, if privately owned, were required to be placed in a tract under common ownership. A recent Zoning Code amendment was intended to allow private vehicular access serving up to five lots to be placed within an easement. However, the amendment still generated confusion, because current code is not clear in distinguishing between a driveway serving multiple lots and an alley. In other parts of the Zoning Code, a driveway serving more than two lots was defined as an alley.

This amendment clarifies the ownership provisions in the Rights-of-Way chapter to spell out that an alley serving five or fewer lots can be in an easement. "Right-of-Way" is also clarified in the Definitions Chapter (33.910) so that an alley in an easement falls under the definition of a right-of-way. Since there are no other instances where we allow a right-of-way in an easement, this will have a limited application. As a result of this change, the Code now aligns with the general policy that a driveway can only serve 1-2 lots. If it is 3 or more lots it must be an alley. However, the alley may be placed in an easement if it serves 5 or fewer lots.



## CODE AMENDMENTS

CHAPTER 33.654  
RIGHTS-OF-WAY**33.654.150 Ownership, Maintenance, and Public Use of Rights-Of-Way**

- A. Purpose.** To protect long-term access and both public and private investment in the street system, the rights and responsibilities for the street system must be clear. Public ownership of streets is preferred to provide long-term access to sites and meet connectivity goals. However, where a dead-end street serves a limited number of units, the public benefit may be very limited and the maintenance costs may be relatively high. In that limited situation, private streets may be appropriate. Where public ownership is not feasible, property owners must know their maintenance responsibilities and what public use to expect on rights-of-way.
- B. Ownership.** Ownership of rights-of-way is determined through the following standards:
- 1-6. [No change.]
  7. Alleys.
    - a. Alleys serving more than 5 lots may be dedicated to the public or owned in common by the owners of property within the land division site, or the Homeowners' Association. ~~If the alley is not dedicated to the public and it will serve more than 5 lots, it must be in a tract.~~
    - b. Alleys serving 5 or fewer lots may be dedicated to the public, placed in an easement, or owned in common by the owners of the property within the land division site or the Homeowners' Association.
  8. Public rights-of-way. All elements of public rights-of-way must be dedicated to the public, except as allowed by paragraph B.10, below.
  9. Private rights-of-way. For rights-of-way held in common ownership or owned by the Homeowners' Association, all elements of the right-of-way must be in a tract, except as allowed by paragraph B.10, below. ~~This standard does not apply to alleys serving five or fewer lots.~~
  10. Right-of-way elements in easements. Right-of-way elements may be in an easement if the following standards are met:
    - a. Temporary turnarounds. [No change.];
    - b. Street elements. [No change.];
    - c. Alleys. Alleys serving five or fewer lots may be placed in an easement.

## COMMENTARY

## CHAPTER 33.660

## REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

## ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process

**33.660.200's Review of Final Plat**

State law was recently amended so that the review of final plats was no longer considered to be a land use review. This change aligns the City's final plat review process with State statute by allowing a final plat to be approved through an administrative nondiscretionary process.

The City's current final plat review process is already a technical review in that final plats are allowed to vary by small pre-determined amounts stated as standards in the existing code. Changes beyond those amounts trigger a discretionary review.

In keeping with the new law for final plats, these amendments move the final plat process from a Type I process to a non-discretionary, administrative procedure. However, so that neighbors and others interested in the land division are kept aware of the progress of the plat, a notice will be provided. The notification requirement is placed within an administrative rule administered by the Director of the Bureau of Development Services. Notification is to be given to nearby property owners and recognized organizations. The notice is sent out upon receipt of the completed application. The establishment of this administrative rule underwent a separate parallel public review process soon after approval of the RICAP 1 project.

The changes to the Zoning Code are as follows:

1. **Create a new chapter, 33.663, Final Plats**, that consolidates the final plat process for land divisions in all zones, except for those in mobile home parks and for large sites in industrial zones. This process removes the Type I process and replaces it with a nondiscretionary, administrative procedure meeting the existing specific standards.
2. **Remove the Final Plat process and requirements from Chapter 33.660, Review of Land Divisions in Open Space and Residential Zones**. In addition, the purpose statement is revised to reflect the removal of the final plat process from this chapter.
3. **Remove the Final Plat process and requirements from Chapter 33.662, Review of Land Divisions in Commercial, Employment and Industrial Zones**.
4. **Amend Chapter 33.670, Review of Land Divisions of Mobile Home Parks**, to remove the Type I process and replace it with a nondiscretionary, administrative procedure meeting the existing specific standards. Some additional clean-up amendments are made to place "Application Requirements" in the correct place in the chapter.

## CODE AMENDMENTS

### CHAPTER 33.660 REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

#### Sections:

##### General

33.660.010 Purpose

33.660.020 Where These Regulations Apply

##### Review of Preliminary Plan

33.660.110 Review Procedures

33.660.120 Approval Criteria

##### ~~Review of Final Plat~~

~~33.660.210 Review Procedures~~

~~33.660.215 Voiding of Final Plat Application~~

~~33.660.220 Approval Standards~~

~~33.660.230 Staged Final Plat~~

##### Review of Changes to an Approved Preliminary Plan

33.660.300 When Review is Required

33.660.310 Review Procedures

33.660.320 Approval Criteria

##### ~~Changes to Final Plat~~

~~33.660.610 Changes to Final Plat Before Recording~~

~~33.660.620 Changes to Final Plat After Recording~~

#### General

#### **33.660.010 Purpose**

These regulations ensure that land divisions in residential and open space zones will be processed with the appropriate level of city and public review. This chapter establishes clear procedures and approval criteria for the land division proposal. ~~These regulations assign each phase of a land division request to an appropriate procedure type for review, and establish criteria for each phase and each review.~~

#### **33.660.020 Where These Regulations Apply**

The regulations of this chapter apply to proposals for land divisions on sites in Open Space and Residential Zones.

#### Review of Preliminary Plan

#### **33.660.110 Review Procedures [No change.]**

#### **33.660.120 Approval Criteria [No change.]**

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.660.200's Review of Final Plat**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

### Review of Final Plat

#### **~~33.660.210 Review Procedures~~**

~~Final Plats are reviewed through a Type I procedure. The decision of the Director of BDS is final.~~

#### **~~33.660.215 Voiding of Final Plat Application~~**

~~A complete application for Final Plat review will be voided where:~~

- ~~A. The Director of BDS has sent written comments to the applicant, requesting additional information; and~~
- ~~B. The applicant has not provided the requested information within 180 days of the date the Director's letter was mailed.~~

#### **~~33.660.220 Approval Standards~~**

~~These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of this chapter. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:~~

- ~~A. **Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:~~
  - ~~1. A decrease in the number of lots by one, if minimum density requirements continue to be met;~~
  - ~~2. A increase or decrease in the width or depth of any lot by less than 5 percent;~~
  - ~~3. A decrease in the area of any lot by less than 5 percent;~~
  - ~~4. An increase in the area of any lot;~~
  - ~~5. An increase or decrease of up to 5 percent in the area of a stormwater tract;~~
  - ~~6. An increase of up to 5 percent in the area of a shared parking tract;~~
  - ~~7. An increase in the area of the following tracts or easements:~~
    - ~~a. Environmental resource tracts;~~
    - ~~b. Tree preservation tracts;~~
    - ~~c. Flood hazard easements or tracts;~~
    - ~~d. Landslide hazard easements or tracts; and~~
    - ~~e. Recreation area tracts.~~

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

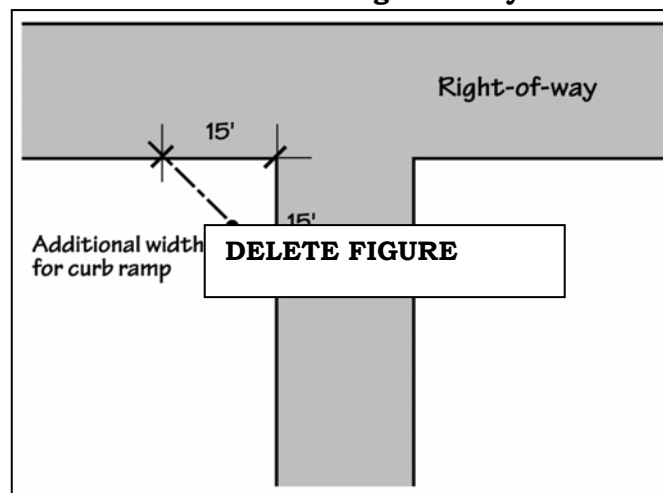
**33.660.200's Review of Final Plat**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

- ~~8. Moving a public or private right of way if approved by the appropriate service bureau;~~
  - ~~9. Changes to a stormwater facility if approved by the appropriate service bureau;~~
  - ~~10. An increase of up to 5 percent in the area approved for clearing and grading.~~
  - ~~11. A decrease in the area approved for clearing and grading.~~
  - ~~12. Increasing the width of a right of way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 660-1.~~
  - ~~13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and~~
  - ~~14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.~~
- B. Conditions of approval.** ~~The Final Plat must comply with all conditions of approval that apply to Final Plat approval. All other conditions of approval remain in effect;~~
- C. Services.** ~~All services must meet the requirements of the City Code;~~
- D. Dedications, tracts, and easements.**
- ~~1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and~~
  - ~~2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;~~
- E. Sureties.** ~~All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval; and~~

**Figure 660-1**  
**Allowed Increase to Right of Way Width**



**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.660.200's Review of Final Plat**

See previous commentary: continuation of Item #30.



## CODE AMENDMENTS

### **~~F. Maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs).~~**

~~All maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs) must be reviewed and approved by the Bureau of Development Services and the City Attorney prior to Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval.~~

### **~~33.660.230 Staged Final Plat~~**

~~If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Each stage must meet the all of the Final Plat approval standards of Section 33.660.220.~~

## **Review of Changes to an Approved Preliminary Plan**

### **33.660.300 When Review is Required**

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.660.300 through 33.660.320. Some changes, listed in Section-33.663.200, listed in Section-33.663.200, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.663.200, and is not specifically allowed by the Preliminary Plan approval, review is required.

### **33.660.310 Review Procedures [ No change.]**

### **33.660.320 Approval Criteria [No change.]**

## **Changes to Final Plat**

### **~~33.660.610 Changes to Final Plat Before Recording~~**

~~Before the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to an approved Preliminary Plan. Where review of the changes is required by Section 33.660.300, When Review is Required, the revised Final Plat must undergo Final Plat review again.~~

### **~~33.660.620 Changes to Final Plat After Recording~~**

~~After the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as a new land division. However, a change to an approved tree preservation plan may be approved as set out in Chapter 33.852, Tree Review.~~

**COMMENTARY**

**CHAPTER 33.662  
REVIEW OF LAND DIVISIONS IN COMMERCIAL, EMPLOYMENT,  
AND INDUSTRIAL ZONES**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.662.200's Review of Final Plat**

See previous commentary: continuation of Item #30. The changes made to this chapter are similar to those made in 33.660, Review of Land Divisions in Open Space and Residential Zones, shown on the previous pages.

## CODE AMENDMENTS

### CHAPTER 33.662 REVIEW OF LAND DIVISIONS IN COMMERCIAL, EMPLOYMENT, AND INDUSTRIAL ZONES

#### Sections:

##### General

33.662.010 Purpose

33.662.020 Where These Regulations Apply

##### Review of Preliminary Plan

33.662.110 Review Procedures

33.662.120 Approval Criteria

##### ~~Review of Final Plat~~

~~33.662.210 Review Procedure~~

~~33.662.215 Voiding of Final Plat Application~~

~~33.662.220 Approval Standards~~

~~33.662.230 Staged Final Plats~~

##### Review of Changes to an Approved Preliminary Plan

33.662.300 When Review is Required

33.662.310 Review Procedures

33.662.320 Approval Criteria

##### ~~Changes to Final Plat~~

~~33.662.610 Changes to Final Plat Before Recording~~

~~33.662.620 Changes to Final Plat After Recording~~

#### General

#### **33.662.010 Purpose**

These regulations ensure that land divisions in non-residential zones will be processed with the appropriate level of city and public review. This chapter establishes clear procedures and approval criteria for all phases of the land division proposal.

#### **33.662.020 Where These Regulations Apply [No change.]**

#### Review of Preliminary Plan

#### **33.662.110 Review Procedures [No change.]**

#### **33.662.120 Approval Criteria [No change.]**

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.662.200's Review of Final Plat**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

### Review of Final Plat

#### **~~33.662.210 Review Procedure~~**

~~Final Plats are reviewed through a Type I procedure. The decision of the Director of BDS is final.~~

#### **~~33.662.215 Voiding of Final Plat Application~~**

~~An application for Final Plat review will be voided where:~~

- ~~A. The Director of BDS sends a letter to the applicant, requesting additional information; and~~
- ~~B. The applicant does not provide the requested information within 180 days of the date the Director's letter is mailed.~~

#### **~~33.662.220 Approval Standards~~**

~~These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of this chapter. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:~~

- ~~A. **Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:~~
  - ~~1. A decrease in the number of lots by one;~~
  - ~~2. A change in the depth or width of a lot;~~
  - ~~3. A decrease in the area of any lot by less than 5 percent;~~
  - ~~4. An increase in the area of any lot;~~
  - ~~5. Moving a public or private right of way, if approved by the appropriate service bureau;~~
  - ~~6. An increase or decrease in the area or a change in the location of a shared parking tract;~~
  - ~~7. An increase in the area of the following tracts or easements:~~
    - ~~a. Environmental resource tracts;~~
    - ~~b. Tree preservation tracts;~~
    - ~~c. Flood hazard easements or tracts; or~~
    - ~~d. Landslide hazard easements or tracts.~~
  - ~~8. An increase or decrease of up to 5 percent in the area of a stormwater tract.~~

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

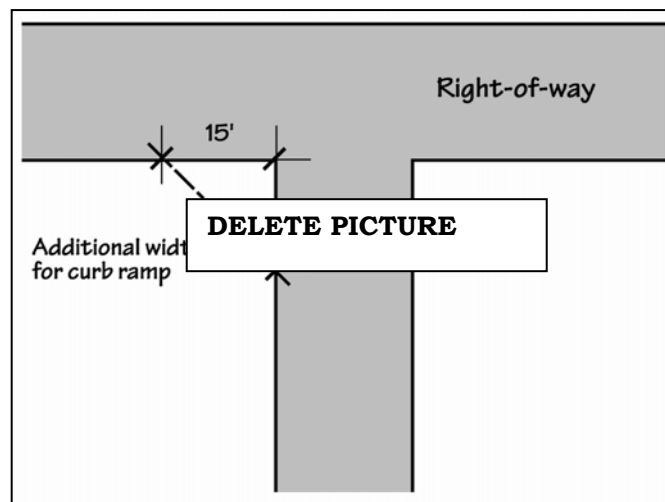
**33.662.200's Review of Final Plat**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

9. ~~Changes to a stormwater facility if approved by the appropriate service bureau;~~
10. ~~An increase of up to 5 percent in the area approved for clearing and grading;~~
11. ~~A decrease in the area approved for clearing and grading;~~
12. ~~Increasing the width of a right of way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 662-1.~~
13. ~~Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and~~
14. ~~Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.~~

**Figure 662-1**  
**Allowed Increase to Right-of-Way Width**



**B. ~~Conditions of approval.~~** All conditions of approval that apply to the Final Plat must be met. All other conditions of approval remain in effect;

**C. ~~Services.~~** All services must meet the requirements of the City Code;

**D. ~~Dedications, tracts, and easements.~~**

1. ~~Dedications.~~ All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and
2. ~~Tracts and easements.~~ All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements must be met.

**E. ~~Sureties.~~** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval; and

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.662.200's Review of Final Plat**

See previous commentary: continuation of Item #30.



## CODE AMENDMENTS

### **~~F. Maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs).~~**

~~All maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs) must be reviewed and approved by the Bureau of Development Services and the City Attorney and prior to Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval.~~

### **~~33.662.230 Staged Final Plat~~**

~~If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Each stage must meet the all of the Final Plat approval standards of Section 33.662.220.~~

## **Review of Changes to an Approved Preliminary Plan**

### **33.662.300 When Review is Required**

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.662.300 through 33.662.320. Some changes, listed in Section ~~33.663.2002.220~~, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section ~~33.663.20062.220~~, and is not specifically allowed by the Preliminary Plan approval, review is required.

### **33.662.310 Review Procedures [No change.]**

### **33.662.320 Approval Criteria [No change.]**

## **Changes to Final Plat**

### **~~33.662.610 Changes to Final Plat Before Recording~~**

~~Before a Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to the approved Preliminary Plan. Where review of the changes is required by Section 33.662.300, When Review is Required, the revised Final Plat must undergo Final Plat review again.~~

### **~~33.662.620 Changes to Final Plat After Recording~~**

~~After the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as a new land division.~~

**COMMENTARY**

**CHAPTER 33.663  
FINAL PLATS**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.663 Final Plat**

See previous commentary: continuation of Item #30. This is the new chapter addressing Final Plats mentioned in the commentary on page 100.

In general, the standards for the review of the final plat have been imported from 33.660 and 33.662 to create this new chapter. The only exception is that slight differences between the two chapters were noted in the section on conformance with the preliminary plan. Generally, the standards in the Open Space and Residential zones were more specific in those few cases, so they were used in the new section.

In addition to the Zoning Code language provided here, an administrative rule is being created to require the director of the Bureau of Development Services to provide a notice of the final plat. Notification is given to nearby property owners and recognized organizations. The notice is sent out upon receipt of the completed application. The establishment of this administrative rule underwent a separate parallel public review process soon after approval of the RICAP 1 project.

## CODE AMENDMENTS

### CHAPTER 33.663 FINAL PLATS

*(This is a new chapter, so is not underlined for readability)*

#### Sections:

##### General

33.663.010 Purpose

33.663.020 Where These Regulations Apply

##### Review of Final Plats

33.663.100 Review Procedures

33.663.110 Voiding of Final Plat Application

##### Standards for Approval

33.663.200 Approval Standards

33.663.210 Staged Final Plat

##### Changes to Final Plat

33.663.310 Changes to Final Plat Before Recording

33.663.320 Changes to Final Plat After Recording

### General

#### **33.663.010 Purpose**

These regulations ensure that Final Plats are processed with the appropriate level of city review. This chapter contains clear procedures and approval standards for Final Plats.

#### **33.663.020 Where These Regulations Apply**

- A. Generally.** The regulations of this chapter apply to proposals for Final Plats in all zones, except those listed in Subsection B. and C.
- B. Final Plats of Mobile Home Parks.** The regulations for the review of Final Plats of Mobile Home Parks are in Chapter 33.670, Review of Land Divisions of Mobile Home Parks.
- C. Final Plats for Large Sites in Industrial Zones.** The regulations for the review of Final Plats for Large Sites in Industrial Zones are in Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones.

### Review of Final Plats

#### **33.663.100 Review Procedure**

Final Plats are reviewed through a non-discretionary, administrative procedure. The decision of the Director of BDS is final and is indicated through a signature on the Final Plat.

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.663 Final Plat**

See previous commentary: continuation of Item #30. This is the new chapter addressing final plats.

## CODE AMENDMENTS

### 33.663.110 Voiding of Final Plat Application

A complete application for Final Plat review will be voided where:

- A. The Director of BDS has sent written comments to the applicant, requesting additional information; and
- B. The applicant has not provided the requested information within 180 days of the date the Director's letter was mailed.

### Standards for Approval

### 33.663.200 Approval Standards

These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of Chapter 33.660 or Chapter 33.662. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:

- A. **Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:
  - 1. A decrease in the number of lots by one, if minimum density requirements continue to be met;
  - 2. An increase or decrease in the width or depth of any lot by less than 5 percent;
  - 3. A decrease in the area of any lot by less than 5 percent;
  - 4. An increase in the area of any lot;
  - 5. An increase or decrease of up to 5 percent in the area of a stormwater tract;
  - 6. An increase of up to 5 percent in the area of a shared parking tract;
  - 7. An increase in the area of the following tracts or easements:
    - a. Environmental resource tracts;
    - b. Tree preservation tracts;
    - c. Flood hazard easements or tracts;
    - d. Landslide hazard easements or tracts; and
    - e. Recreation area tracts.

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

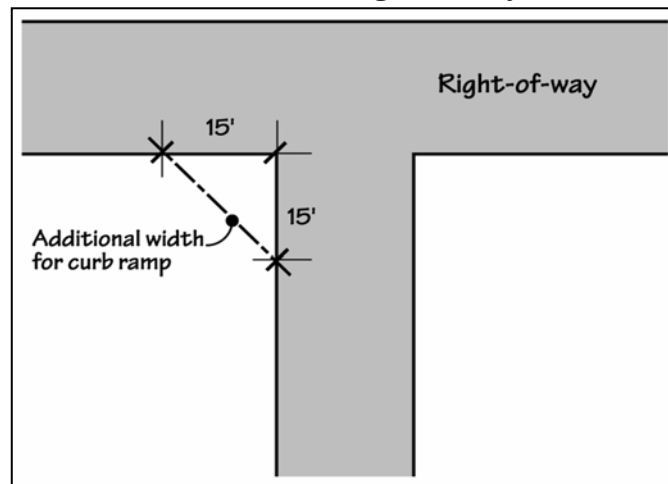
**33.663 Final Plat**

See previous commentary: continuation of Item #30. This is the new chapter addressing final plats.

## CODE AMENDMENTS

8. Moving a public or private right-of-way if approved by the appropriate service bureau;
9. Changes to a stormwater facility if approved by the appropriate service bureau;
10. An increase of up to 5 percent in the area approved for clearing and grading.
11. A decrease in the area approved for clearing and grading.
12. Increasing the width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 663-1.
13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and
14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

**Figure 663-1**  
**Allowed Increase to Right-of-Way Width**



- B. Conditions of approval.** The Final Plat must comply with all conditions of approval that apply to the Final Plat. All other conditions of approval remain in effect;
- C. Services.** All services must meet the requirements of the City Code;
- D. Dedications, tracts, and easements.**
  1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and
  2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.663 Final Plat**

See previous commentary: continuation of Item #30. This is the new chapter addressing final plats.



## CODE AMENDMENTS

- E. Sureties.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval;
- F. Maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs).** All maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs) must be reviewed and approved by the Bureau of Development Services and the City Attorney prior to Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval; and
- G. Variations beyond the limits allowed in this Section.** If the Final Plat contains variations that exceed the limits listed in this section and that were not specifically allowed under the Preliminary Plan approval, the land division is subject to a review of changes to an approved preliminary plan stated in Section 33.660.300 for land divisions in Open Space and Residential zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones. If a Land Use Review is required for the changes to the approved preliminary plan, the revised Final Plat must also undergo a Final Plat Review.

### **33.663.210 Staged Final Plat**

If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Staged Final Plats are defined in Chapter 33.633, Phased Land Divisions and Staged Final Plats. Each stage must meet the all of the Final Plat approval standards of Section 33.663.200.

## **Changes to Final Plat**

### **33.663.310 Changes to Final Plat Before Recording**

Before the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to an approved Preliminary Plan. Where a land use review of the changes is required by Section 33.660.300 for land divisions in Open Space and Residential Zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones, the revised Final Plat must undergo Final Plat review again.

### **33.663.320 Changes to Final Plat After Recording**

After the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as a new land division. However, a change to an approved tree preservation plan may be approved as set out in Chapter 33.853, Tree Review.

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process****33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: continuation of Item #30. These amendments bring the final plat review process for mobile home parks into alignment with final plats for standard land divisions. However, because the land division process for mobile home parks has some differences with other land divisions, the overall procedure is kept within this chapter.

In addition, Section 33.670.120 is being moved to 33.670.030 as a housekeeping measure because the application requirements listed within that section apply to both preliminary and final plat submissions.

## CODE AMENDMENTS

### CHAPTER 33.670 REVIEW OF LAND DIVISIONS OF MOBILE HOME PARKS

Sections:

General

33.670.010 Purpose

33.670.020 Where These Regulations Apply

33.670.030 Application Requirements

Review of Preliminary Plan

33.670.110 Review Procedures

~~33.670.120 Application Requirements~~ **(Move this to .030 above, because it applies to both Preliminary and Final Plats)**

33.670.130 Approval Criteria

[No other change to section numbering]

#### General

**33.670.010 Purpose [No change.]**

**33.670.020 Where These Regulations Apply [No change.]**

**33.670.030 Application Requirements**

A complete application for a land division of a mobile home park under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8-1/2 by 11 inches in size, and be suitable for reproduction.

**A. Preliminary Plan.** An application for Preliminary Plan must include all of the following:

1. Application form. Three copies of the completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;
2. Written statement. Two copies of a written statement that includes the following:
  - A complete list of all land use reviews requested;
  - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
  - A description of how all approval standards are met;
  - Additional information needed to understand the proposal;
  - Names and addresses of land division designer or engineer and surveyor;
  - Proposed maintenance agreements or Conditions, Covenants and Restrictions; and
  - If more than 3 lots are proposed, the proposed name of the land division;
  - Proposed names of all streets;

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

3. Vicinity map. Three copies of a vicinity map. The map must cover an area extending at least 200 feet in each direction from the land division site, and show the following existing conditions for both the site and the vicinity:
  - Streets;
  - Pedestrian and bicycle facilities and connections; and
  - Location of utilities and services;
4. Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
  - a. Surveyed information:
    - Boundary lines of the site with dimensions and total site area;
    - Proposed lot layout with sizes, dimensions, and lot and block numbers;
    - Proposed tract layout with sizes, dimensions, purpose, and name;
    - Proposed layout and widths of all rights-of-way including dimensioning and roadway width;
    - Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way;
    - Proposed location, dimensions, and purpose of all easements;
    - North arrow and scale of map;
    - Identification as the Preliminary Plan Map;
    - Stamp of surveyor;
    - If more than 3 lots are proposed, the proposed name of the land division;
    - Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified; and
    - Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
  - b. Additional information:
    - Zoning and Comprehensive Plan designations;
    - Location, dimensions, and purpose of existing easements on and abutting the site;
    - Existing and proposed services and utilities; and
    - Any information necessary to show that the approval criteria are met.
5. Fees. The applicable filing fees.

**B. Final Plat.** An application for a Final Plat must include all of the following:

1. Final Plat survey. Copies of a final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following information must be on the Final Plat survey:

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: continuation of Item #30.

## CODE AMENDMENTS

a. The statements:

- "This plat is subject to the conditions of City of Portland Case File No. LUR..."; and
- "Additional City review is required for any changes made to this plat after the signature date of the BDS representative. Such changes may require an additional review procedure"; and

b. Easements and tracts, including their purpose;

2. Supplemental plan. A supplemental plan, the number determined by the Director of BDS, that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. This includes the information from the Preliminary Plan that shows the proposal does not move the site out of conformance, or further out of conformance, with the standards of Chapter 33.251, Manufactured Homes and Mobile Home Parks;
3. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval;
4. Maintenance agreements and CC&Rs. Three copies of each required maintenance agreement or Conditions, Covenants and Restrictions;
5. Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions; and
6. Fees. The applicable filing fees.

### Review of Preliminary Plan

#### **33.670.110 Review Procedures**

Review of Preliminary Plans is processed through a Type I procedure.

#### **33.670.120 ~~Application Requirements~~**

~~A complete application for a land division of a mobile home park under the provisions of this chapter consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 1/2 by 11 inches in size, and be suitable for reproduction.~~

**~~A. Preliminary Plan.~~** ~~An application for Preliminary Plan must include all of the following:~~

1. ~~Application form. Three copies of the completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;~~

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: continuation of Item #30.



## CODE AMENDMENTS

2. ~~Written statement. Two copies of a written statement that includes the following:~~
  - ~~A complete list of all land use reviews requested;~~
  - ~~A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;~~
  - ~~A description of how all approval standards are met;~~
  - ~~Additional information needed to understand the proposal;~~
  - ~~Names and addresses of land division designer or engineer and surveyor;~~
  - ~~Proposed maintenance agreements or Conditions, Covenants and Restrictions; and~~
  - ~~If more than 3 lots are proposed, the proposed name of the land division;~~
  - ~~Proposed names of all streets;~~
  
3. ~~Vicinity map. Three copies of a vicinity map. The map must cover an area extending at least 200 feet in each direction from the land division site, and show the following existing conditions for both the site and the vicinity:~~
  - ~~Streets;~~
  - ~~Pedestrian and bicycle facilities and connections; and~~
  - ~~Location of utilities and services;~~
  
4. ~~Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:~~
  - a. ~~Surveyed information:~~
    - ~~Boundary lines of the site with dimensions and total site area;~~
    - ~~Proposed lot layout with sizes, dimensions, and lot and block numbers;~~
    - ~~Proposed tract layout with sizes, dimensions, purpose, and name;~~
    - ~~Proposed layout and widths of all rights-of-way including dimensioning and roadway width;~~
    - ~~Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way; and~~
    - ~~Proposed location, dimensions, and purpose of all easements;~~
    - ~~North arrow and scale of map;~~
    - ~~Identification as the Preliminary Plan Map;~~
    - ~~Stamp of surveyor; and~~
    - ~~If more than 3 lots are proposed, the proposed name of the land division;~~
    - ~~Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;~~
    - ~~Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;~~

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: ontinuation of Item #30.

## CODE AMENDMENTS

~~b. Additional information:~~

- ~~• Zoning and Comprehensive Plan designations;~~
- ~~• Location, dimensions, and purpose of existing easements on and abutting the site;~~
- ~~• Existing and proposed services and utilities; and~~
- ~~• Any information necessary to show that the approval criteria are met.~~

~~5. Fees. The applicable filing fees.~~

**B. Final Plat.** ~~An application for a Final Plat must include all of the following:~~

~~1. Final Plat survey. Copies of a final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following information must be on the Final Plat survey:~~

~~a. The statements:~~

- ~~— “This plat is subject to the conditions of City of Portland Case File No. LUR...”; and~~
- ~~— “Additional City review is required for any changes made to this plat after the signature date of the BDS representative. Such changes may require an additional review procedure”; and~~

~~b. Easements and tracts, including their purpose;~~

~~2. Supplemental plan. A supplemental plan, the number determined by the Director of BDS, that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. This includes the information from the Preliminary Plan that shows the proposal does not move the site out of conformance, or further out of conformance, with the standards of Chapter 33.251, Manufactured Homes and Mobile Home Parks;~~

~~3. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval;~~

~~4. Maintenance agreements and CC&Rs. Three copies of each required maintenance agreement or Conditions, Covenants and Restrictions;~~

~~5. Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions; and~~

~~6. Fees. The applicable filing fees.~~

### **33.670.130 Approval Criteria [No change.]**

**COMMENTARY**

**ITEM #30 - RICAP 1 LIST OF 46 ITEMS: Final Plat Review Process**

**33.670 Review of Land Divisions of Mobile Home Parks**

See previous commentary: continuation of Item #30.

The approval standards of final plats for mobile home parks are not changing but are provided here to illustrate the technical standards that are reviewed for the Final Plat.

The Director of the Bureau of Development Services is setting up an administrative rule to provide notice of receipt of the final plat. See the commentary for the final plat chapter, 33.663, for additional information.

## CODE AMENDMENTS

### Review of Final Plat

#### **33.670.210 Review Procedure**

Final Plats are reviewed through a non-discretionary, administrative procedure~~Type-I procedure~~. The decision of the Director of BDS is final.

#### **33.670.215 Voiding of Final Plat Application [No change.]**

#### **33.670.220 Approval ~~Standards~~Criteria**

The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standard~~criteria~~ have been met. The approval standards~~criteria~~ are:

- A. Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan;
- B. Conditions of approval.** The Final Plat must comply with all conditions of approval that apply to Final Plat approval. All other conditions of approval remain in effect;
- C. Dedications, tracts, and easements.**
  - 1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and
  - 2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;
- D. Sureties.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval; and
- E. Maintenance agreements and CC&Rs.** All maintenance agreements and Conditions, Covenants and Restrictions must be reviewed and approved by the Director of BDS and the City Attorney prior to Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval.

**[No changes to any other Sections of this Chapter.]**

**COMMENTARY**

**CHAPTER 33.730  
QUASI-JUDICIAL PROCEDURES**

**ITEM #31 - RICAP 1 LIST OF 46 ITEMS: Administrative Procedure for Sending Notices**

**33.730.030 Type III Procedure**

**33.730.031 Type IV Procedure**

- D. **Notice of a request.** Under both of the review processes listed above, the language states that notice of a land use proposal will be sent to all properties within 400 feet of the site when inside the Urban Growth Boundary, etc. The intent of the code is to send this notice to all owners of property within the required distances. This distinction is stated in other sections of the code, such as for Type I, Type II, Type IIx reviews, and under the instructions for written notice requirements. This amendment brings the wording for the Type III and Type IV reviews in line with the rest of the Zoning Code.

## CODE AMENDMENTS

### CHAPTER 33.730 QUASI-JUDICIAL PROCEDURES

#### **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, all ~~property owners~~properties 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.
2. Posting notice on the site. [No change.]

**E-I. [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, all ~~property owners~~properties 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. [No change.]

**E-I. [No change.]**

**ITEM #32 - RICAP 1 LIST OF 46 ITEMS: Neighborhood Notice Requirement****33.730.045 Neighborhood Contact Requirement**

- B. Requirements.** The original issue requested with the RICAP 1 workplan was to clarify that a neighborhood contact was required only when stated elsewhere in the code. It has been pulled from this set of code amendments to allow it to be combined with a recent request to review whether this section is in the correct location in the Zoning Code. This change will be part of a future RICAP project and so no change is proposed in RICAP 1 at this time.

**ITEM #33 - RICAP 1 LIST OF 46 ITEMS: Type IV review****33.730.080 Posting Requirements**

During Phase 2 of the Historic Resources Code Amendment project, a new Type IV process was created for certain demolitions. This process requires posting at the site and directs applicants to this section for the posting requirements. However, this section has not been updated to reflect the new Type IV review. This amendment corrects this error.



**CODE AMENDMENTS****33.730.045 Neighborhood Contact Requirement**

[This item is pulled for a future RICAP project.]

**33.730.080 Posting Requirements**

Posting of notice on the site is required for land use applications processed through a Type III or Type IV procedure. The requirements for the posting of notice are stated below.

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

## COMMENTARY

33.750  
FEES

ITEM #34 - RICAP 1 LIST OF 46 ITEMS: Fees Modification

ITEM #35 - RICAP 1 LIST OF 46 ITEMS: Fees for Concurrent Reviews

ITEM #36 - RICAP 1 LIST OF 46 ITEMS: Fee Waivers

ITEM #37 - RICAP 1 LIST OF 46 ITEMS: Fee Refunds

**33.750 Fees****33.750.030 Land Use Procedures**

Currently, the rules regarding land use fees, fee waivers, fee refunds, etc. are all in the Zoning Code. As a result, any change to the application and waiver of fees requires a full legislative review. These provisions would be better administered by BDS if they were placed within an Administrative Rule. Changes to an Administrative Rule still require a public hearing. The actual calculation of fees is currently done under an Administrative Rule.

This amendment removes the specifics for fee procedures, refunds and waivers from the Zoning Code and places the administrative responsibility under the Director of the Bureau of Development Services (BDS). BDS is in charge of implementing the code and can better monitor fee requirements and workload generation. BDS is setting up the Administrative Rule for fees related to land use procedures, waivers and refunds. This Administrative Rule underwent a separate hearing process by BDS, once approval was secured for these code changes.

The new Administrative Rule will make some minor changes to rules regarding concurrent land use applications and fee refunds to clarify existing procedures. In addition, the new Administrative Rule will not include the section for "Adjustments to avoid environmental impacts," since this is an old process that has been superseded by a modification procedure within the Environmental Overlay Zone Chapter.

**CODE AMENDMENTS****CHAPTER 33.750  
FEES**

## Sections:

- 33.750.010 Purpose
- 33.750.020 Fee Schedule and Procedures
- ~~33.750.030 Land Use Procedures~~
- ~~33.750.040 Verbatim Transcripts and Photocopies~~
- ~~33.750.050 Fee Waivers~~
- ~~33.750.060 Fee Refunds~~

**33.750.010 Purpose**

Application fees aid in defraying the City's cost for processing applications. Fees charged are not intended to exceed the average cost for processing the type of review requested.

**33.750.020 Fee Schedule and Procedures**

~~All~~ Required fees for land use reviews and appeals of land use decisions are stated in the Fee Schedule for Title 33, available at the Development Services Center. Rules and Procedures for the payment of fees, refunds, and waiver of fees are determined by the Director of BDS.

**Sections 33.750.030 through 33.750.060 are removed from this Chapter but are not shown here to conserve space. These procedures are being placed into an Administrative Rule under the authority of the Director of BDS. A hearing for this Administrative Rule will be held separately.**

**COMMENTARY**

**CHAPTER 33.800  
GENERAL INFORMATION ON LAND USE REVIEWS**

**ITEM #38 - RICAP 1 LIST OF 46 ITEMS: Hazardous Materials Review**

**33.800.020 Explanation of Discretionary Reviews**

As an example of a review that may require considerable discretion or potential impacts, the siting of a firm which uses hazardous materials is used. The Zoning Code no longer regulates firms using hazardous materials, because other portions of the City Code now regulate these firms. Thus, a different discretionary review example is needed. This amendment substitutes "firm which uses hazardous materials," with "school in a residential zone," which is also a review requiring considerable discretion.

**CODE AMENDMENTS****CHAPTER 33.800  
GENERAL INFORMATION ON LAND USE REVIEWS****33.800.010 General [No change.]****33.800.020 Explanation of Discretionary Reviews**

A discretionary review is one that involves judgement or discretion in determining compliance with the approval requirements. The review is discretionary because not all of the approval requirements are objective. That is, they are not easily definable or measurable. The amount of discretion and the potential impact of the request varies among different reviews. Some have less discretion or impact, such as the reduction of a garage setback for a house on a hillside. Others may involve more discretion or potential impacts, such as the design review of a new downtown building or the siting of a new school in a residential zone~~firm which uses hazardous materials~~. Discretionary reviews must provide opportunities for public involvement.

**COMMENTARY**

**CHAPTER 33.815  
CONDITIONAL USES**

**ITEM #39 - RICAP 1 LIST OF 46 ITEMS: Conditional Use Reviews**

**33.815.040 Review Procedures**

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

This is simply a re-arrangement of Subparagraph g. This amendment does not change any text within this section, but corrects the format of Subparagraph g.

## CODE AMENDMENTS

CHAPTER 33.815  
CONDITONAL USES**33.815.040 Review Procedures**

[No change.]

**A. Proposals that affect the use of the site. [No change.]****B. Proposals that alter the development of an existing conditional use.**

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

1. Conditional use review not required. A conditional use review is not required for alterations to the site that comply with Subparagraphs a through G. All other alterations are subject to Paragraph 2., below. Alterations to development are allowed by right provided the proposal:

a-f. [No change.]

- g. Will not result in a net loss in the number of parking spaces. However, sites with 16 or more spaces may decrease the number of spaces ~~except~~ as follows:

~~(1) Sites with 16 or more spaces may decrease the number of spaces as follows:~~

(1) • No reduction in shared parking spaces is allowed;

(2) • 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and

(3) • An individual or cumulative removal of parking spaces in excess of 5 spaces is prohibited. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present.

2. Conditional use required. [No change.]

**ITEM #17 - RICAP 1 LIST OF 46 ITEMS: Radio Frequency Transmission Facilities****33.815.225 Radio Frequency Transmission Facilities**

- B. This amendment provides more specific approval criteria for radio frequency towers locating near or within R and OS zones. These criteria will encourage applicants to employ certain screening measures to help shield the tower and antennas from adjoining properties. Many methods, such as locating the antennas within a church steeple or integrating them into a flag pole can reduce the visual impacts of the facility. These additional criteria also ensure that a tower facility will be placed on a site so that the impacts on the surrounding property are minimized. This can be especially important on larger sites such as school and church properties.

See the Commentary and Code Language under 33.274 for additional amendments related to Issue #17.



## CODE AMENDMENTS

### 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.** [No change.]
- B.** Approval criteria for 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. The applicant must prove that a tower is the only feasible way to provide the service, including documentation as to why the proposed facility cannot feasibly be located in a right-of-way;
  - 2. The tower, including mounting technique, must be sleek, clean, and uncluttered;
  - 3. The visual impact of the tower on the surrounding area must be minimized. This can be accomplished by one or more of the following methods:
    - a. Limiting the tower height as much as possible given the technical requirements for providing service and other factors such as whether the tower will provide co-location opportunities;
    - b. Planting trees around the tower as a way to soften its appearance. The variety and spacing of the trees will be determined based on the site characteristics, tower height, and other co-location factors; ~~or~~
    - c. Shielding the tower and antennas from view by enclosing or concealing them within another structure that has less visual impact;
    - d. Placing the tower away from land uses that are more sensitive to the visual impacts, such as adjoining residences or open spaces; or
    - ee. Other methods that adequately minimize visual impact;
  - 4. Accessory equipment associated with the facility must be adequately screened. If a new structure will be built to store the accessory equipment, the new structure must be designed to be compatible with the desired character of the surrounding area;
  - 5. Public benefits of the use outweigh any impacts which cannot be mitigated; and
  - 6. The regulations of Chapter 33.274, Radio Frequency Transmission Facilities are met.
- C-D.** [No change.]

**COMMENTARY**

**CHAPTER 33.833  
GATEWAY MASTER PLAN REVIEW**

**ITEM #40 - RICAP 1 LIST OF 46 ITEMS: Gateway Master Plan**

**33.833 Gateway Master Plan**

**33.833.110 Approval Criteria**

- E. The Gateway Master Plan process allows an applicant to locate uses on a portion of the site where the uses would not otherwise be allowed by the underlying zoning. However, the approval criteria require a detailed and fairly rigorous traffic and transportation analysis. Such an analysis is appropriate where the proposal is for more intensity than would be normally allowed on the site by right. However, if the proposal is simply re-arranging uses (and amount of floor area) that would otherwise be allowed on the site by right, requiring the traffic analysis is too onerous a burden and will be a disincentive to use the Gateway Master Plan.

This amendment clarifies the original intent by only requiring the traffic and transportation analysis if the Master Plan takes advantage of a floor area bonus or transfer above what would be allowed under the base zoning.

## CODE AMENDMENTS

### CHAPTER 33.833 GATEWAY MASTER PLAN REVIEW

#### 33.833.010 [No change.]

#### 33.833.100 [No change.]

#### 33.833.110 Approval Criteria

Requests for Gateway master plan review will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met. The proposed Gateway master plan must:

- A. Be consistent with the Gateway plan district purposes and Urban Design Concept;
- B. Meet the Gateway Design Guidelines;
- C. Be consistent with the policy and objectives of the Gateway Regional Center Policy of the Outer Southeast Community Plan;
- D. Comply with the Portland Master Street Plan: Gateway District;
- E. The following criterion applies to proposals that will result in more floor area on the site than allowed by the base zone; this includes additional floor area transferred from other sites and that earned from bonuses: Provide adequate and timely infrastructure to support the proposed uses in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;
- F. Result in more than one use, such as Residential, Retail Sales And Service, or Office uses, on the site;
- G. Provide adequate open area to serve the users of the site. The open area must be configured, designed, and located so that it connects to the surrounding area; and
- H. Guarantee that required housing that is deferred will be built.
- I. Ensure that the appearance, location, and amount of nonresidential uses on residentially zoned portions of the site will not, by themselves or in combination with other nearby development and uses, decrease the desirability of adjacent residentially zoned areas for the retention of existing housing or development of new housing. Considerations include the proposed amounts of each use, building scale and style, setbacks, location of parking and vehicle access, landscaping, and other design features.

#### 33.833.200 [No change.]

**COMMENTARY**

**CHAPTER 33.846  
HISTORIC REVIEWS**

**ITEM #41 - RICAP 1 LIST OF 46 ITEMS: Historic Review Approval Criteria**

**33.846.030 Historic Designation Review**

- C. Approval Criteria.** The approval criteria for the Historic Designation Review state that a proposed resource must meet three of the listed approval criteria. However, the criteria are organized in such a way that it is not clear how the three criteria are selected. By reformatting the criteria, this amendment clarifies that more than one approval criteria can come from each subparagraph. This was the original intent. The content of the approval criteria is essentially left unchanged with this amendment.

## CODE AMENDMENTS

CHAPTER 33.846  
HISTORIC REVIEWS

## 33.846.030 Historic Designation Review

- A. Purpose.** [No change.]
- B. Review procedure.** [No change.]
- C. Approval criteria.** Proposals to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District will be approved if the review body finds that all of the following approval criteria are met:
1. ~~Significant Value~~General criteria. The resource ~~has~~must have significant historical or architectural value, demonstrated by meeting at least three of the following: ~~based on the criteria of this subsection. To be designated, the resource must meet at least three of the criteria stated in this paragraph.~~
    - a. ~~Architectural criteria include whether the resource:~~
      - a.(1) ~~The resource r~~Represents a significant example of a development, architectural style, or structural type once common or among the last examples in the region;
      - b.(2) ~~The resource r~~Represents a significant work of a developer, architect, builder, or engineer noted in the history or architecture of the region; ~~or~~
      - c.(3) ~~The resource r~~Represents a particular material, method of construction, quality of composition, or craft work which is either associated with the region's history or which enriches the region's character; ~~r~~
    - b. ~~Historical criteria include:~~
      - d.(1) ~~The resource is associated~~An association with significant culture, activities, events, persons, groups, organizations, trends, or values that are ~~is~~ a significant part of history;
      - e.(2) ~~The resource is associated~~ A significant association with broad patterns of cultural, social, political, economic, or transportation history of the region, state, or nation;
    - f.(3) ~~The resource s~~Significantly contributes to the historic or cultural development of the area or neighborhood; ~~or~~
    - g.(4) ~~The resource s~~Symbolizes a significant idea, institution, political entity, or period; ~~r~~
    - he. ~~The resource~~ Integrity criterion: rRetains sufficient original design characteristics, craft work, or material to serve as an example of a significant architectural period, building type, or style; ~~r~~
  - d. ~~Environmental criteria include:~~

**ITEM #41 - RICAP 1 LIST OF 46 ITEMS: Historic Review Approval Criteria**

**33.846.030 Historic Designation Review (cont.)**

## CODE AMENDMENTS

- ~~i.(1)~~ The resource sSignificantly contributes to the character and identity of the neighborhood district or city; ~~or~~
  - ~~j.(2)~~ the resource includes significant site development or landscape features that make a contribution to the historic character of a resource, neighborhood, district, or the city as a whole;~~;~~
  - ~~e.~~ Ensemble criteria include:
  - ~~k.(1)~~ The resource represents a style or type of development which is, or was, characteristic of an area and which makes a significant contribution to the area's historic value; or
  - ~~l.(2)~~ The resource contributes to the character of a grouping of resources that together share a significant, distinct, and intact historic identity.
2. Appropriate level of protection. The proposed designation is appropriate, considering the historical or architectural value of the resource and other conflicting values. Levels of protection are Historic Landmark designation, Conservation Landmark designation, Historic District designation, Conservation District designation, and no designation; and
  3. Owner consent. [No change.]

**COMMENTARY**

**CHAPTER 33.848  
IMPACT MITIGATION PLANS**

**ITEM #42 - RICAP 1 LIST OF 46 ITEMS: Impact Mitigation Plans**

**33.848.030 When an Impact Mitigation Plan is Required**

- A. In an IR Zone.** The current code allows an applicant the option of choosing to amend or update an Impact Mitigation Plan (IMP) with a Conditional Use Master Plan (CUMP). However, it is also the intent to allow an applicant to ask to replace the IMP with a CUMP even if the IMP is not in need of an update or amendment. This code amendment provides the needed clarification.



**CODE AMENDMENTS****CHAPTER 33.848  
IMPACT MITIGATION PLANS****33.848.010-020 [No change]****33.848.030 When an Impact Mitigation Plan is Required**

- A. In an IR Zone.** Development occurring in the IR zone in advance of the approval of an impact mitigation plan is subject to the conditional use requirements of the IR zone unless the institution has an approved master plan and the development is consistent with the master plan. When the institution has an approved master plan the institution may continue to develop in accordance with the master plan until such time as the master plan is due to be updated or until the institution desires a development that is not consistent with the master plan. In the IR zone a master plan which is due to be updated, or which the institution wishes to amend, must be replaced by an impact mitigation plan, or by an amended or new conditional use master plan. An institution can also choose to replace an existing impact mitigation plan with a new conditional use master plan. An impact mitigation plan must be approved in accordance with the regulations of this Chapter. A conditional use master plan must be approved in accordance with the regulations of Chapter 33.820.
- B. When required as part of another land use review.** The review body as part of a land use review, may require an impact mitigation plan when the facility has the potential for creating significant impacts on nearby residential areas or on City infrastructure or services.
- C. Voluntarily.** An applicant may also voluntarily submit an impact mitigation plan as part of a land use review.

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**COMMENTARY**

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**CHAPTER 33.853  
TREE REVIEW****ITEM #43 – RICAP 1 LIST OF 46 ITEMS: Tree Review and Violations****ITEM #44 – RICAP 1 LIST OF 46 ITEMS: Tree Review Violation Approval Criteria**

In general, the amendments to this Chapter are intended to create a violation review process that more closely matches the severity of each violation. Although not the same as the recent changes to the "violations" sections of the Environmental Overlay Zone, these revisions use the same philosophy. In addition, these amendments provide some additional options for providing mitigation in a violation case.

**33.853.010 Purpose**

No changes are made to the Purpose section; it is included here to aid understanding.

**33.853.020 When Review is Required**

As above, no change is made, but the code is included here to aid understanding of when a Tree Review process applies and to clarify the amendments made in the "Procedures" section.

**33.853.030 Procedure**

- A. Scenic Overlay Zone.** This amendment does not change the type of review but separates out the procedure for clarification.
- B. Rocky Butte plan district.** This amendment does not change the type of review but separates out the procedure for clarification.
- C. Changing tree preservation or mitigation methods for a land division.** This section clarifies the previous language and provides a more equitable "stepped" approach to requests to change a tree preservation or mitigation plan. In this case, for tree plans that were originally processed as part of a Type I land division, changes to the plans will also be a Type I review, as opposed to the Type II review that is currently required. Tree plans originally processed as part of a Type II, IIX, or III land division can be changed through a Type II process, the same as the current regulations.

## CODE AMENDMENTS

### CHAPTER 33.853 TREE REVIEW

#### **33.853.010 Purpose**

The tree review process evaluates whether mitigation proposed for tree removal is both appropriate and adequate, considering the purpose of the regulations that limit removal. Tree review also evaluates whether changes to tree preservation plans are appropriate, and determines the appropriate mitigation for trees lost due to violations of tree regulations. The review allows flexibility for unusual situations and allows for the purpose of the tree regulations to be met using creative or innovative methods.

#### **33.853.020 When Review Is Required**

Tree review is required in the following situations:

- A. Scenic Overlay Zone.** Trees in the Scenic Overlay Zone that do not qualify for removal under 33.480.040.B.2.g, Preservation of Trees, or 33.480.040.B.2.h, Tree Replacement, may be removed if approved through tree review.
- B. Rocky Butte plan district.** Trees in the Rocky Butte plan district that do not qualify for removal under Subsection 33.570.040.C, Exempt From Review, may be removed if approved through tree review as provided in this chapter.
- C. Changing tree preservation or mitigation methods for a land division.** Changes to a tree preservation or mitigation method, including a tree preservation plan, tree preservation tract, or mitigation plan, may be approved through tree review if the Final Plat of the land division has been approved and recorded. However, if the tree preservation or mitigation was required through environmental review, changes are subject to Chapter 33.430, Environmental Overlay Zones. Changes to tree preservation or mitigation methods where the Final Plat has not been approved and recorded are reviewed under the 600 series of chapters of this Title for Land Divisions and Planned Developments.
- D. Violations.** Corrections to violations of tree protection and tree preservation regulations of this Title, except for violations of the Environmental Overlay Zone and the Greenway Overlay Zone, are reviewed through tree review. Corrections to violations of tree preservation plans and of methods of tree preservation or mitigation approved through a land division review are reviewed through tree review.

#### **33.853.030 Procedure**

- A. Scenic Overlay Zone.** Requests for Tree Review in the Scenic Overlay Zone are processed through a Type II procedure.
- B. Rocky Butte plan district.** Requests for Tree Review in the Rocky Butte plan district are processed through a Type II procedure.
- C. Changing tree preservation or mitigation methods for a land division.** Requests to change a tree preservation plan or mitigation methods approved through a land division are processed as follows:

## COMMENTARY

ITEM #43 - RICAP 1 LIST OF 46 ITEMS: Tree Review and Violations

ITEM #44 - RICAP 1 LIST OF 46 ITEMS: Tree Review Violation Approval Criteria

- D. **Violations.** Currently, all violations are required to be processed through a Type III review. This "one size fits all" approach can require a disproportionately major process for a relatively minor violation. This results in a longer time before mitigation measures can be approved and implemented, which can have a detrimental effect on the surrounding area.

With this amendment, violations involving the removal of one moderate size or a few small trees will be processed through a Type II procedure, which still provides neighborhood notice and allows for an appeal to the Land Use Hearings Officer. Violations involving smaller land divisions originally processed through a Type I or Type IIx review will also be processed through the Type II procedure. This matches the scope and public process of the original review. A land division site that originally went through a Type III review process will still need to go through a Type III review if the violation removes more than 12" of trees, either through the removal of several smaller trees or one larger tree.

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1. Changes to the locations of dry-wells and soakage trenches shown on a tree preservation plan approved through a land division are processed through a Type I procedure.
2. If the original tree preservation plan was part of a Type I land division procedure, then changes to tree preservation or mitigation methods are processed through a Type I procedure.
3. If the original tree preservation plan was part of a Type II, Type IIx or Type III land division procedure, then changes to tree preservation or mitigation methods are processed through a Type II procedure.

**D. Violations.** Corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation or mitigation methods approved through a land division, are processed as follows:

1. If the violation is for the removal of no more than 12 diameter inches of trees, it is processed through a Type II procedure.
2. If the violation is for the removal of more than 12 diameter inches of trees, the following apply:
  - a. If the original procedure to approve the tree protection, preservation, or mitigation plan was a Type III procedure, the violation is processed through a Type III procedure.
  - b. All other violations are processed through a Type II procedure.

~~Corrections to violations of tree protection and tree preservation regulations of this Title are processed through a Type III procedure. Corrections to violations of tree preservation plans and of methods of tree preservation or mitigation approved through a land division are processed through a Type III procedure. Changes to the locations of dry wells and soakage trenches shown on a tree preservation plan approved through a land division are processed through a Type I procedure. All other tree reviews are processed through a Type II procedure.~~

**COMMENTARY**

**ITEM #43 - RICAP 1 LIST OF 46 ITEMS: Tree Review and Violations**

**ITEM #44 - RICAP 1 LIST OF 46 ITEMS: Tree Review Violation Approval Criteria**

**33.853.040 Approval Criteria.**

- C. Corrections to violations.** This provides an option for an applicant to propose to save other trees on the site, (that had been originally proposed for removal) as mitigation for the trees that have been removed illegally. If the applicant proposes this option, they will still need to show how this better meets the original approval criteria. In addition, the total diameter of the alternate trees to be saved must exceed the diameter of the total trees cut in the violation.

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### 33.853.040 Approval Criteria

- A. Trees in the Scenic Overlay Zone or Rocky Butte plan district.** [No change.]
- B. Changes to tree preservation or mitigation methods.** [No change.]
- C. Corrections to violations.** For corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation plans or the approved method of tree preservation or mitigation, the applicant must show the review body that all of the following approval criteria are met:
1. Mitigation Plan;
    - a. The applicant's mitigation plan meets the purpose of the regulation that was violated. Where the violation is of a tree preservation plan or the approved method of tree preservation or mitigation, the mitigation plan meets the purpose of the regulation that required the preservation plan; and
    - b. The mitigation plan includes replacement of trees cut, or the preservation and protection of additional trees on the site not originally proposed for preservation. If replacement of trees is proposed, tThe plan must at a minimum, meet the requirements of Table 853-2. If additional trees on the site are proposed for preservation and protection, the total diameter of additional trees preserved must exceed the total diameter of trees cut.

<b>Table 853-2</b> <b>Tree Replacement for Violations</b>	
<b>Size of tree removed (inches in diameter)</b>	<b>Number of Trees to be Planted</b>
6 to 12	3 trees
13 to 18	5 trees
19 to 24	7 trees
25 to 30	10 trees
over 30	15 trees

2. Replacement trees must be planted as follows:
  - a. On the site where the violation occurred;
  - b. If it is not possible to plant the trees on the site where the violation occurred, then the trees must be planted on other property owned by the applicant within the City of Portland, this includes property owned by a Homeowners' Association to which the applicant belongs;
  - c. If it is not possible to plant the trees on the site where the violation occurred, or on other property owned by the applicant within the City of Portland, then the trees must be planted in a City of Portland park, as approved by the Bureau of Parks and Recreation, or on a site approved by the Bureau of Environmental Services.
3. Replacement trees must meet the requirements of Section 33.248.030, Plant Materials.

**COMMENTARY**

**CHAPTER 33.910  
DEFINITIONS**

**ITEM #10 - RICAP 1 LIST OF 46 ITEMS: Building Code References**

**33.910.030 Definitions**

**Mobile Home.** Within this definition, there is an out-of-date reference to the Building Code. The Building Code has been replaced by the Oregon Structural Specialty Code. This amendment updates the reference.

**ITEM #26 - RICAP 1 LIST OF 46 ITEMS: Ownership Provisions for Alleys in Single-Dwelling Zones**

**33.910.030 Definitions**

In conjunction with the amendments to Chapter 33.654, this amendment provides a clarification in the definition of "Right-of-Way", so that an alley in an easement still falls under the definition of a right-of-way. Since there are no other instances where we allow a right-of-way in an easement, this will have a limited application, but will aid the application of standards in 33.654 which allow an alley serving five or fewer lots to be located in an easement.

**ITEM #46 - RICAP 1 LIST OF 46 ITEMS: Floor Area Definition**

This issue will involve researching the true intent of each reference to "Floor Area," including "Floor Area Ratio." Other terms, such as "Gross Building Area" and "Net Building Area," which have been defined more recently, may be more appropriate than "Floor Area" in many Zoning Code references. However, due to time constraints, staff was not able to research all the instances of the use of the phrases Floor Area and Floor Area Ratio for RICAP 1. This item is being deferred to RICAP 2.



## CODE AMENDMENTS

CHAPTER 33.910  
DEFINITIONS

## 33.910.030 Definitions

## Residential Structure Types

- **Mobile Home.** A dwelling unit constructed off of the site and which is not constructed to the standards of the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon)~~uniform building code~~. Mobile homes include residential trailers and manufactured homes.
- **Manufactured Home.** A manufactured home is a mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976.
- **Residential Trailer.** A mobile home which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), in effect after June 15, 1976. This definition includes the State definitions of residential trailers and mobile houses, as stated in Oregon Revised Statutes (ORS) 446.

## Transportation-Related Definitions

- **Alley.** A right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access; however, where vehicle access from the street is not allowed or not possible, the alley may provide primary vehicle access.
- **Rail Right-of-way.** A public or private right-of-way, for the purpose of allowing rail travel.
- **Right-of-way.** An area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract, or easement.
- **Roadway.** The portion of a right-of-way that is improved for motor vehicle travel. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.
- **Street.** A right-of-way that is intended for motor vehicle, pedestrian or bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. For the purposes of this Title, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or the interstate freeways and the Sunset Highway including their ramps.



**APPENDIX****D. Appendices**

- 1. Ordinance #179980 ..... 166**
- 2. RICAP 1 Proposed Workplan as approved at the Planning  
Commission Hearing on July 12, 2005 ..... 178**

**Ordinance No. 179980**

Amend Title 33, Planning and Zoning, to update and improve land use regulations and procedures through the Regulatory Improvement Code Amendment Package 1 (RICAP1) (Ordinance; Amend Title 33)

The City of Portland Ordains:

**Section 1.** The Council finds:

**General Findings**

1. On June 26th, 2002, the City Council adopted Resolution 36080, which authorized the Mayor to develop a process to streamline and update the City's building and land use regulations and to improve regulatory-related procedures and customer services.
2. On August 13, 2003, Council adopted the FY 2003-2004 Regulatory Improvement Workplan and directed the Bureau of Planning (BOP) and the Bureau of Development Services (BDS) to take over the responsibility of coordinating future regulatory improvements.
3. On October 13, 2004, staff from BOP and BDS presented City Council with the *Regulatory Improvement Workplan: Progress Report and Process Update* detailing the accomplishments during the 2002-2004 time frame. Staff also presented a new process for coordinating future regulatory improvement workplans, which Council accepted.
4. The new workplan process tracks requests for improvements with an online database and establishes an ongoing stakeholder advisory group. The new process also combines the old Code Maintenance and Policy Package legislative projects into one project, the Regulatory Improvement Code Amendment Package (RICAP).
5. During 2004, BOP staff created the online database to track requests for improvement to codes and processes. This database was made available to the public in December 2004.
6. In late 2004, BOP and BDS established the Regulatory Improvement Stakeholder Advisory Team (RISAT), including participants from city bureaus and the community. This group advises staff reviewing the requests for regulatory improvement in the database.
7. During the spring of 2005, BOP and BDS staff worked with the RISAT to prioritize the items in the database, and proposed the first Regulatory Improvement Code Amendment Package (RICAP) workplan.
8. On June 23, 2005, the Planning Commission held a hearing to discuss and take testimony for the RICAP 1 workplan. The workplan consisted of 46 issues proposed for further research in order to find potential solutions. The Planning Commission voted to approve the workplan as presented by Planning staff.
9. During the summer 2005, Planning staff worked with BDS and members of the RISAT to address the 46 issues in the workplan.

## APPENDIX

10. Three of the 46 issues are being deferred to future workplans, and one issue has been resolved through a separate legislative package. The resulting code language addresses 42 of the 46 issues identified in the workplan.
11. The RICAP 1 package contains code amendments that affect Title 33, Planning and Zoning.
12. On October 26, 2005, notice of the proposed RICAP 1 code amendments was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
13. On December 13, 2005, the Planning Commission held a hearing on the code language proposed under the RICAP 1 workplan. BOP staff presented the proposal and public testimony was received. The Commission voted to forward the staff recommendations for the package to City Council with only minor changes.
14. On March 1, 2006, City Council held a hearing on the Planning Commission recommendation for the RICAP 1 Code Language. BOP staff presented the proposal and public testimony was received.
15. On March 8, 2006, Council voted to adopt the amendments to the Zoning Code in RICAP 1.

### Statewide Planning Goals Findings

16. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. The following goals and policies are relevant and applicable to Regulatory Improvement Code Amendment Package 1 (RICAP 1).
17. **Goal 1, Citizen Involvement**, requires the provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement:
  - On August 13, 2003, the City Council voted to adopt the 2003-2004 Regulatory Improvement Workplan. This workplan included a directive for the Bureau of Planning (BOP) and the Bureau of Development Services (BDS) to take over the responsibility to coordinate the implementation of future regulatory improvements.
  - In November 2004, staff from BOP and BDS established a Regulatory Improvement Stakeholder Advisory Team (RISAT). Members are made up of a variety of citizens representing business, downtown, and neighborhood interests as well as the Development Review Advisory Committee.
  - In December 2004 an online database to allow employees and the public to view and make regulatory improvement suggestions was made available through the Bureau of Planning's website.
  - On April 25, 2005, BOP staff attended the City-Wide Land Use Group meeting to inform them of the new database and the establishment of the Regulatory Improvement Stakeholder Advisory Team.

## APPENDIX

- During 2005, staff from BOP and BDS met monthly with the RISAT to review the selections proposed for the Regulatory Improvement Code Amendment Package 1 (RICAP 1) workplan and subsequent code language. Staff requested the RISAT to disseminate the information about RICAP 1 amongst their constituents to invite comment.
  - On June 14, 2005, BOP sent notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested persons to notify them of the Planning Commission hearing for the RICAP 1 workplan.
  - On June 23, 2005, staff from BOP published the *Regulatory Improvement Code Amendment Package 1 – Proposed Workplan*. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
  - On July 12, 2005, the Planning Commission held a public hearing on the RICAP 1 Proposed Workplan during which citizens testified on several issues. The Planning Commission voted to adopt the workplan, directing BOP staff to work on code amendments on the 46 issues listed in the workplan.
  - On November 10, 2005, BOP sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons to notify them of the Planning Commission hearing for the proposed code changes for RICAP 1.
  - On November 15, 2005 staff from BOP published the *Regulatory Improvement Code Amendment Package 1: Proposed Draft – Code Language*. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
  - On December 13, 2005, the Planning Commission held a public hearing during which citizens testified. At the close of the hearing, the Planning Commission recommended approval of staff's proposal with minor changes.
  - On March 1, 2006, the City Council held a public hearing on the proposal, during which citizens provided oral and written testimony.
18. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because development of the recommendations followed established city procedures for legislative actions, while also improving the clarity and comprehensibility of the City's codes.
19. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. In general, the amendments are supportive of this goal because they provide clarification to existing regulations pertaining to open space, scenic and historic areas, and natural resources, without changing policy or intent. Specifically, an amendment to the Historic Designation Review section clarifies the application of approval criteria to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District.

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20. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

All of the amendments support Goal 9 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

The following amendments are directly supportive of Goal 9:

- **Upgrades to Nonconforming Development.** This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site.
- **Radio Frequency Transmission Facilities.** This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- **Hollywood Plan District Drive-Through.** This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district.
- **Tree Preservation Plans and Land Divisions.** A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.
- **Final Plat Review Process.** The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

21. **Goal 10 Housing** requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal as they foster the provision of housing in the City of Portland and therefore support Goal 10 and its policies.

The following amendments are directly supportive of Goal 10:

- **Buffer Overlay Zone Landscaping.** This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods.
- **East Corridor Plan District Parking Requirements.** This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- **East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR).** This amendment lowers some minimum FARs in these districts allowing for a greater variety

## APPENDIX

of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.

- **Final Plat Review Process.** The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

22. **Goal 12, Transportation,** requires provision of a safe, convenient and economic transportation system. In general the amendments are consistent with this goal, because they do not change policy or intent of any of the existing regulations pertaining to transportation.

The following amendments are directly supportive of Goal 12: :

- **East Corridor Plan District Parking Requirements.** This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- **Ownership Provisions for Alleys in Single Dwelling Zones.** This amendment clarifies city policy for when alleys need to be publicly owned, privately owned, or placed in an easement.
- **Pedestrian Standards.** This collection of amendments clarifies the City's existing policy for requiring pedestrian connections from adjacent streets, to encourage a safe and convenient pedestrian network on sites.

### Metro Urban Growth Management Functional Plan Findings

23. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 1 – Code Language.
24. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development) and Goal 10 (Housing), several of the amendments in RICAP 1 foster economic growth, and facilitate the development of housing within the City, in compliance with this Title.
25. **Title 2, Regional Parking Policy,** calls for more compact development by establishing region-wide parking policies. One amendment specifically addresses this title by providing greater flexibility to the parking regulations in the East Corridor plan district, while maintaining the plan district's intended vehicle area limitations.
26. **Title 7, Affordable Housing,** recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally the proposed amendments are consistent with this Title because they do not change policy or intent of existing regulations relating to affordable housing, including those listed as being in compliance with Statewide Planning Goal 10 (Housing). The Final Plat Review Process amendment specifically supports this Title by clarifying and simplifying the final plat process. This amendment



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removes unwanted barriers to the effective division of land, in conformance with the provision 3.07.730.D.6 of Title 7 addressing Local Regulatory Constraints.

### Portland Comprehensive Plan Goals Findings

27. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
28. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the RICAP 1 – Code Language.
29. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.
30. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers.

The amendments support this goal because they are aimed at updating and improving the City's land use regulations and procedures that hinder desirable development. By improving regulations, the City will better facilitate the development of housing and employment uses. The following amendments specifically support Goal 2 and its relevant policies by facilitating the development of housing and employment uses at appropriate locations and intensities:

- **Upgrades to Nonconforming Development.** This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site.
- **Radio Frequency Transmission Facilities.** This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- **Buffer Overlay Zone Landscaping.** This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods, while insuring that the buffering objective, 2.23 is still met.
- **Hollywood Plan District Drive-Through.** This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district, meeting objectives 2.19, Infill and Redevelopment and 2.22 Mixed Use.
- **Tree Preservation Plans and Land Divisions.** A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.

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- Final Plat Review Process. The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

31. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods.

The following amendments are directly supportive of Goal 3.

- Detached Garage Setbacks. This amendment clarifies the provision allowing detached garages in the side and rear setback, and ensures that development patterns of older neighborhoods are retained.
- East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR). This amendment lowers some minimum FARs in these districts allowing for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.

32. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the regions' housing market by providing housing of different types, density, sizes, costs, and locations that accommodates the needs, preferences, and financial capabilities of current and future households. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the provision of a variety of housing.

The following amendments are directly supportive of Goal 4:

- Buffer Overlay Zone Landscaping. This amendment provides an exception to the buffer landscaping requirements for residential development locating in Commercial or Employment zones. This encourages new residential development to integrate into existing neighborhoods.
- East Corridor Plan District Parking Requirements. This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.
- East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR). This amendment lowers some minimum FARs in these districts allowing for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.
- Final Plat Review Process. The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

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33. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development.

In general, all of the amendments support Goal 5 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

Specifically, the following amendments support of Goal 5:

- **Upgrades to Nonconforming Development.** This amendment allows applicants to determine the order of priority when providing upgrades to nonconforming development if a complete upgrade is not required. The menu approach removes regulatory complexity for owners wishing to improve their site, and facilitates revitalization of existing sites.
- **Radio Frequency Transmission Facilities.** This amendment provides alternatives to the accessory equipment screening requirement when the antennas are located within the right-of-way. The amendment should encourage more facilities to be located in the right-of-way allowing increased wireless telecommunication coverage throughout the city.
- **Hollywood Plan District Drive-Through.** This amendment provides additional flexibility to redevelop certain sites in the plan district, while maintaining the goals of the district.
- **Tree Preservation Plans and Land Divisions.** A collection of five amendments allow applicants to propose alternative mitigation plans as part of their land divisions, and allows for the quicker resolution of a violation to a tree preservation plan.
- **Final Plat Review Process.** The final plat review process is amended to reflect the technical nature of the review and to be consistent with Oregon State Statutes that state a final plat review is not a land use decision, nor a limited land use decision. This change will accelerate the final plat review process, and allow new lots to be recorded faster.

34. **Goal 6, Transportation**, calls for the development of a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation.

Specifically, the following amendments support of Goal 5:

- **East Corridor Plan District Parking Requirements.** This amendment provides more flexibility for parking areas and driveways in smaller projects locating on the light rail alignment along East Burnside Street. This helps to remove regulatory barriers to common housing configurations, while maintaining the plan district's intended vehicle area limitations.

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- Ownership Provisions for Alleys in Single Dwelling Zones. This amendment clarifies city policy for when alleys need to be publicly owned, privately owned, or placed in an easement.
  - Pedestrian Standards. This collection of amendments clarifies the City's existing policy for requiring pedestrian connections from adjacent streets, to encourage a safe and convenient pedestrian network on sites.
35. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process as described under Statewide Planning Goal 1.
36. **Goal 10, Plan Review and Administration**, is broken down into several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria with specific land use reviews reflect the findings that must be made to approve the request. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city.

These amendments are supportive of Policy 10.10 because they clarify and streamline many of the regulations in the Zoning Code. They also respond to identified current and anticipated problems, including barriers to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.

Several amendments support Policy 10.9 by clarifying and addressing the approval criteria that apply to the Gateway Master Plan Review, Historic Review, and Conditional Use Review for Radio Frequency Transmission Facilities.

37. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban design.

The following amendments specifically address this goal:

- East Corridor and Gateway Plan District Minimum Floor Area Ratios (FAR). This amendment supports the goals 12.2, Enhancing Variety and 12.6, Preserve Neighborhoods by lowering some minimum FARs in these districts to allow for a greater variety of housing configurations, and a better transition between higher density growth areas and lower density established neighborhoods.
- Historic Review Approval Criteria This amendment to the Historic Designation Review section supports goal 12.3 Historic Preservation by clarifying the application of approval criteria to designate a historic resource as a Historic Landmark, Conservation Landmark, Historic District, or Conservation District.

## APPENDIX

- Pedestrian Standards. This collection of amendments supports Goal 12.4, Provide for Pedestrians, by clarifying the City's existing policy requiring pedestrian connections from adjacent streets and encourages a safe and convenient pedestrian network on sites

### Hollywood and Sandy Plan Findings

38. The Hollywood and Sandy Plan, adopted on April 5, 2000 contains policies, objectives and actions for the Sandy Boulevard and Broadway main streets, and the Hollywood Town Center to help achieve and implement the Hollywood and Sandy vision principles and urban design concept. The following policies are applicable to the RICAP 1 – Code Language.
39. **Policy 1: Land Use, Urban Design and Historic Preservation**, calls for promoting a mix of employment, housing and retail uses to ensure a pedestrian oriented and thriving main street environment and to enhance Hollywood's identity as a vital and attractive town center. The amendment to the Hollywood Drive Through provision meets this policy by only allowing the continuation of an existing drive-through in new development if it is integrated into a mixed use project meeting certain development standards.
40. **Policy 2: Housing**, calls for maintaining and enhancing existing housing while encouraging new housing along and near the Sandy boulevard and Broadway Main Streets, and in the Hollywood Town Center. The amendment to the Hollywood Drive Through provision continues an incentive for certain sites to redevelop as long as they provide new housing as part of their redevelopment, which will encourage housing above commercial spaces in Hollywood.

**APPENDIX**

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 1 (RICAP 1), Recommended Draft – Code Language*, dated January 17, 2006;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 1 (RICAP 1): Recommended Draft – Code Language*, dated January 17, 2006;
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 1 (RICAP 1): Recommended Draft – Code Language*, dated January 17 2006, as legislative intent and further findings; and
- d. The effective date for these amendments shall be 45 days from the date of City Council approval, to allow BDS time to establish Administrative Rules to aid in implementing these amendments.

Passed by the Council: March 08, 2006

**GARY BLACKMER**

Auditor of the City of Portland  
By /S/ Colleen Phillips

Prepared by: Phil Nameny, Bureau of Planning  
February 7, 2006

Deputy

**APPENDIX**

BACKING SHEET INFORMATION

AGENDA NO. 266 304-2006

ACTION TAKEN:

MARCH 01, 2006 PASSED TO SECOND READING MARCH 08, 2006 2:00 PM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 179980

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
ADAMS	X	
LEONARD	X	
SALTZMAN	X	
STEN	X	
POTTER	X	

## APPENDIX

RICAP 1  
Proposed Workplan

Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
1	17634	Flag lot regulation purpose statement	In CM2003, the flag lot development standards were added to Alternative Development Option (33.110.240.F and 33.120.270.G). These development standards (previously included in 33.277, Residential Flag Lots) had been deleted through the Land Division Rewrite, and were later found to be needed to address development on existing flag lots. However, CM03 failed to include anything regarding the purpose of these regulations. The result is when applicants adjust these standard, the only purpose statement available is the general one that applies to all the alternative development options (see 33.110.240.A). This general purpose statement doesn't speak to the reason that increased setback and landscaping on flag lots is required.	Include a purpose statement for these regulations that capture the original 33.277 intent. This could be a new paragraph within the flag lot regulations (i.e., 33.110.240.F.1, Purpose).	33.110.240	Minor Policy Change
2	32925	Mechanical Equipment Setback	Replace term "mechanical structures" with "mechanical equipment" which reflects standard building code terminology.	Edit Section 33.110.250 C. 1 as follows: C. Setbacks 1. Mechanical Equipment. a. Description. Mechanical equipment include items... b. ...equipment is... c. equipment is...	33.110.250	Consistency Change
3	33070	Detached garage setbacks	When a detached garage is placed in a side or rear setback, the code requires that the "garage entrance" must be 40 feet from the front lot line. In an alley access situation, the structure could be closer than 40 feet as long as the "garage entrance" was 40 feet away.	Modify 33.110.250. E.3.a to be consistent with the code language in 33.110.250.4.C (2) (i.e. refer to "structure" instead of "garage entrance")	33.110.250	Technical Correction
4	32947	St. Johns Plan District FAR Map	The St. John's Plan downzoned areas from RH to R1. However, the maximum FAR maps listed at the end of Chapter 33.120 still list these areas as zoned RH, which would provide a potential increase in FAR	Alter map 120-2 to remove the areas in the St. Johns Plan District that no longer have an RH zone designation.	33.120.	Consistency Change
5	32421	Maximum building length in Multi-dwelling zone	It is unclear how to apply the maximum building length requirement to attached housing units that cross property lines.	Clarify that the maximum building length does apply to attached housing developments, whether each unit is located on its own site or not.	33.120.230	Clarification
6	32924	Mechanical Equipment Screening	The requirement that mechanical equipment be screened from the ground level of any abutting R-zoned lands is unclear and needs specific measurement points such as from the closest property line, furthest property line or from the middle of street where the zone line runs.	Consider amending base zone standards-- 33.120.250.C, 33.130.235.C, 33.140.235.C. Add clear requirement or replace with Community Design Standard that addresses visual impacts of roof-mounted equipment (Section 33.218.150.H).	33.120.250	Technical Correction
7	33488	Pedestrian Connection	The Pedestrian Standards that require a connection to the street continue to confuse staff and the public. The last sentence about sites with all household living is confusing.	Clarify these regulations. See attached P/Z staff meeting minutes for suggestions.	33.120.255	Clarification

Updated 6/20/05



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Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
8	33004	Flag lot standards in multi-dwelling zones	The Alternative Development Options in the multi-dwelling zones includes flag lot development standards. These standards only apply to lots created under the old code because the new code does not allow flag lots in the multi-dwelling zones. This lack of clarity in the base zone has caused confusion for both staff and the public.	Clarify that the flag lot standards in the base zone regulation only apply to lots created under the provisions of the pre-July 2002 land division regulations.	33.120.270	Clarification
9	17238	Maximum Setbacks and accessory structures	Accessory structures are subservient to the primary use. In residences they often include garages, tool sheds etc. In commercial zones, they can include storage units, freezer cabinets etc. The maximum setbacks in CS and CM zones, and the transit street setbacks in other zones apply to all structures on the site, and can force these subservient elements to the front of a lot. This is counter to the intent of the transit street setback goal, which is intended to push the main use/building up to the street.	Provide an exception to the maximum street setback for detached accessory structures such as garages, mechanical equipment buildings etc.	33.130.215	Minor Policy Change
10	25602	Building Code references	The Uniform Building Code (UBC) has been replaced. Oregon adopted the 2003 International Building Code with amendments added by the State of Oregon.	Replace Uniform Building Code (UBC) with the Oregon Structural Specialty Code (OSSC) reference.	33.229.040	Technical Correction
11	34203	Nonconforming Uses in existing buildings	There are numerous commercial/industrial buildings throughout the City that may not be utilized or require extensive "grandfather" documentation and/or a Nonconforming Situation Review because residential zoning was applied to the property after the building was legally constructed.	Consider amending the code to allow, without documentation and reviews, continued use of legally constructed commercial buildings.	33.258.050	Minor Policy Change
12	31628	Nonconforming upgrade menu	The frequent changes in the code often cause problems for development because development becomes non-conforming with standards soon after completion and some upgrades are hard to implement after the fact due to site constraints and lease contracts etc.	Additional Flexibility should be provided in the non-conforming development section by allowing the list of nonconforming upgrades to be used as a menu, rather than a priority list. If one item cannot be met, the applicant could select another, rather than having to go through an Adjustment process.	33.258.070	Minor Policy Change

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Proposed Workplan

Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
13	32616	Multi Dwelling Zone vehicle area limits	Parking and Loading: The amount of paving in the front setback area should be tailored to the type of development on the site, and not the zone in which the development is located. If the 40% paving limit in the front setback of a house, attached house or duplex is appropriate in a Single-Dwelling zone, why isn't it as appropriate for the same development in a Multi-Dwelling zone. Given the desired character of the Single-Dwelling and Multi-Dwelling zones, it would seem the paving limitation would be more restrictive in the Single-Dwelling zones than the Multi-Dwelling zones, but that's not the case with the existing standard. Applying this standard to duplexes in Multi-Dwelling zones has been difficult, as the 20% limitation does not allow two side by side parking spaces on the size lots on which duplexes are typically built.	Increase the allowed paving within the front yard for houses, attached houses and duplexes in Multi-Dwelling zones to 40%	33.266.120	Minor Policy Change
14	32639	Parking Requirement thresholds for development type	Development Standards for Parking. The 266 standards are split into those for "houses, attached house, duplexes" and those for "all other uses". This mixes references of development types with references of use types.	Consider changing the headings for these two sets of standards so that comparable terms are being used.	33.266.120	Clarification
15	33491	Parking requirements for Attached duplexes	It is not clear exactly what standards should apply to attached duplexes for parking. Since they are attached, they end up being four units on two lots, which looks like multi-family housing. But they are defined as duplexes, which subjects them to the single dwelling paving and driveway standards.	Clarify that attached duplexes fall under the house vehicle standards, 33.266.120.	33.266.120	Clarification
16	34622	Dimensions of required perimeter landscaping	The perimeter parking lot landscaping requirements provide a dimensional requirement (usually 5') but are silent about whether that area must be open dirt or whether parking curbs can be counted in the dimension. As a result, parking curbs are often in the landscaped area.	Modify the code to state that the minimum perimeter landscaping dimension does not include parking curbs or other features that are part of the vehicle maneuvering area.	33.266.130	Technical Correction
17	34632	Radio Frequency Transmission Facilities	Recent changes in the City's franchise agreements now allow RF transmission facilities to locate on existing utility poles in the right of way. However, the adjoining accessory equipment is often located on adjoining private property. The RF chapter needs some revisions to be able to provide incentives for locating smaller equipment boxes etc. In addition, CU approval criteria don't always adequately address placement/visual impact issues.	Two items: 1. Develop a performance based set of development standards for associated electronic equipment on private property supporting antennae in the public rights of way. 2. Revise approval criteria so that specific placement of a facility on a site can be better evaluated.	33.274.	Minor Policy Change

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Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
18	17234	Buffer Overlay Landscaping	For C-zoned sites with the Buffer Overlay, the Zoning Code requires a 10' landscape area at the L3 standard for all street lot lines that are across a local street from R-zoned land and rear lot lines that abut R-zoned land. There is no exception for residential development which means a 10'/L3 landscaped area is required for the front lot line of a house or an Adjustment must be sought.	Provide an exception to the landscape requirement for residential development on C-zoned land with the Buffer Overlay.	33.410.040	Minor Policy Change
19	33533	Design Guidelines in Downtown	Please note that 33.420.051, regarding the applicable design review overlay zones, steers you to Map 420-1. That map indicates that the Downtown Design District, created in 1983, remain in effect. However, the 2001 version of the Central City Fundamental Design Guidelines replaced the Downtown Design Guidelines, and includes a revised map. In the back of the Central City Fundamental Design Guidelines is the adopting ordinance, which spells this out in detail. Should the Downtown Design District still be referenced??	It appears that the changes in 2001 did not get fully integrated into Map 420-1. Perhaps, any reference to the original Downtown Design District should be updated to reflect the more recent Central City Fundamental Design Guidelines.	33.420.051	Technical Correction
20	32582	South Waterfront Floor Area	Section 33.510.200.C.3 appears to have some contradictory FAR language. Under 33.510.200.C.3.a, it states "However the total floor area on a site, including bonus floor area and transferred floor area may not be more than 9 to 1." This seems to contradict 33.510.200.C.3.c which allows floor area more than 9 to 1 if certain provisions are met.	Clarify the maximum floor area including bonuses in 33.510.200.C.3	33.510.200	Clarification
21	32952	East Corridor Plan District minimum FAR	The East Corridor and Gateway Plan Districts have requirements for minimum Floor Area Ratios (FAR) in certain residential zones. The area between Burnside and Stark, west of 122nd has a minimum FAR of 1:1. This is an area of existing single family housing and consists of existing platted lots of 2,500 and 5,000 square feet. It is difficult to redevelop these lots at the minimum FAR without combining them into a larger parcel. This is difficult to do with multiple owners	Consider having a lower minimum FAR for lots under a certain threshold (i.e for lots under 10,000 square feet).	33.521.220	Minor Policy Change
22	17632	Gateway Plan District & Institutions	It is not clear if an institution utilizing the Retail Sales And Service provision needs to include this use in its Conditional Use Mater Plan (CUMP) or Impact Mitigation Plan (IMP).	Determine if other regulations already address this and if not, clarify that the Retail Sales And Service must be included in the CUMP or IMP.	33.526.120	Clarification

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Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
23	17626	Gateway and East Corridor parking regulations	The parking location regulations in the Gateway and East Corridor Plan Districts have become too restrictive and eliminated any option for vehicle area on lots that front only on Burnside.	Clarify the language relating to parking and vehicle locations, provide some of the same flexibility that was provided prior to the Gateway plan district re-write.	33.526.340	Minor Policy Change
24	26113	Hollywood Plan District drive-through limitation	The deadline date of May 5, 2005 will hinder redevelopment of existing drive-through sites in the Hollywood Plan District. This date was extended once already. The other provisions that apply to sites with drive-through development will remain unchanged. Those provisions achieve Hollywood Plan goals of urban scale development (1.5 FAR) and mixed residential/commercial development.	Consider removing Section 33.536.210.D.5 or extend the deadline.	33.536.210	Minor Policy Change
25	33430	Land constraints to Minimum Density	There are sites, proposed for land divisions that are currently zoned for a single-dwelling density that cannot be achieved due to natural constraints and lack of services. The most common problem is related to minimum density and stormwater disposal. Adjustments to minimum density are prohibited. The applicants should not be forced to request Comprehensive Plan Map and Zoning Map Amendment Reviews (fee \$23,255) to "downzone" the property.	Consider the following solutions: (1) remove prohibition of Adjustment to the minimum density standard or (2) create Land Division exception to minimum density standard based upon carrying capacity of land and services.	33.610.100	Minor Policy Change
26	16783	Ownership provisions for alleys in Single-Dwelling zones	PP#3 altered the ownership provision of alleys (33.654) to allow alleys serving 5 or fewer lots to be in an easement. However, similar cleanup was not done in the single and R2.5 zones and additional clean up is needed because the definition of alley requires it to be owned in common or dedicated (leading to it being in a tract). Code provisions needing review (33.610, 33.611 and 33.654).	Go through Zoning Code to clean up, perhaps distinguishing between a shared driveway (which can have easements) and an alley, and insuring that other parts of the code meet the intent of PP#3	33.610.200	Consistency Change
27	33356	Industrial Lands Tree Preservation	There have been several instances where high-priority economic development projects have been delayed by Chapter 33.630. Is tree preservation appropriate for industrial and commercially zoned lands where it is extremely difficult to design develop around a group of trees?	Research the legislative history of the Tree Preservation/Land Division chapter to see what was intended for Commercial and Industrial Lands. If it wasn't the intent to force these types of land divisions into altering their development, consider removing or altering the tree preservation requirement for land divisions on sites zoned industrial, employment and commercial. When applicable, the tree preservation/planting requirements of overlay zones, such as the greenway and environmental zones would still apply.	33.630.	Minor Policy Change

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Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
28	33498	Tree Preservation for land divisions	During a land division, it seems unfair not to allow the applicant to get credit under 33.630 for saving all of the trees in the e-zone. For example, several situations have occurred where the applicant was keeping all proposed development out of the e-zone. The tree preservation requirements, however, are stricter outside the e-zone, which makes it difficult to do this.	The code should allow trees saved in environmental zone to count towards overall tree preservation requirements.	33.630.	Minor Policy Change
29	26650	Land Division Flood Hazard	Section 33.631.020 is titled "Where the Standard and Approval Criteria Apply." This is a misnomer. There are no standards that apply to sites in Flood Hazard Areas.	Remove reference to standards.	33.631.020	Technical Correction
30	34576	Final Plat Review Process	Currently the land division process is a two-step process - a tentative plan approval and a final plat review. Final plats are reviewed through a Type I process. However, Zoning guidelines have specific standards that the final plat must meet to gain approval. Legislation is being considered in Salem to remove final plats from the "land use" category, and allow them as administrative decisions. If it passes, the city would be allowed to change our code to match state allowance	Consider changes that would scale back the procedural requirements on Final Plats to those of an administrative decision once that is allowed through ORS. This will help make the land division timeline shorter, but does not affect the land divisions, since the approval decision occurs at the tentative plan approval stage.	33.660.210	Minor Policy Change
31	32680	Administration Procedure for Noticing	Type III Procedures: Notice of a Request. Type I and Type II noticing requirements state that notice be mailed to property owners, while the Type III (and Type IV) states that the notice be mailed to properties.	For clarity and consistency with language found elsewhere in the Code, language in the Type III (and IV) section should state that Notice of Requests for Type III (and IV) land use review proposals are mailed to "property owners."	33.730.030	Technical Correction
32	33079	Neighborhood Notice Requirement	Section 33.730.045 gives people the impression that a neighborhood notice is required for all land use reviews. It is not clear in this section that the notice requirement is only required for certain land use reviews.	Amend 33.730.045 to clarify when a neighborhood notice is required.	33.730.045	Clarification
33	22577	Type IV review	The Historic Code Amendment package added a new type of review, called a Type IV review. While 33.30.031.D requires a posting meeting the standards of 33.730.080, the wording in 33.730.080, Posting Requirements, has not been updated to acknowledge the Type IV review	Add "Type IV" to the opening paragraph on 33.730.080 (i.e. Posting ... is required ... processed through a Type III or Type IV procedure.)	33.730.080	Consistency Change
34	17210	Fees Modification	Any modification to the fee regulations requires a legislative land use decision, which is time consuming and cumbersome	Investigate optional locations in the City Code, such as Title 33.750.010 where land use review fees could be located and remove them from the Zoning Code.	33.750.010	Technical Correction
35	31982	Fees for Concurrent reviews	Flexibility in the fees for concurrent reviews is needed and the current regulations do not allow any.	Delete the Zoning Code language that specifies how fees for concurrent land use reviews are charged and regulate this matter through the BDS fee ordinances.	33.750.030	Technical Correction

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Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
36	33719	Fee Waivers	Section 33.750.050.D allows a fee waiver for a setback Adjustment that is concurrent with an Environmental Review. This seems to be a code section that pre-dates the current option to use the Modifications option when doing and Environmental Review. This section of code is no longer needed.	Consider deleting section 33.750.050.D.	33.750.050	Consistency Change
37	17633	Fee refunds	The language is ambiguous as to what is meant by "notices" which determines if a 50% refund will be given. This is compounded by the Type II procedure when other bureaus are notified, which is the other threshold for the refund, at the same time the public notice goes out. Also the "no refunds" paragraph seems to contradict the 50% refund language.	Clarify the reference to notices so it is clear when a refund will be given.	33.750.060	Clarification
38	33060	Hazardous Materials Review	Chapter 800 obliquely refers to the Hazardous Substance Review, which was removed from the Zoning Code in 2003.	Remove the text "siting a firm which uses hazardous materials" as an example of a discretionary review and substitute another example.	33.800.020	Technical Correction
39	33075	Conditional Use Reviews	Code Maintenance 2004 made changes to the thresholds that require a new review when an existing CU is expanding or making alterations. Specifically, 33.815.040.B.1.g has a (1) but no (2). A similar change occurred in the CU Master Plan chapter and resulted in 33.820.B.7 having an a. but no b.	Correct these to code sections and conform them to the accepted Zoning Code standard.	33.815.040	Technical Correction
40	32914	Gateway Master Plan	Approval criteria in the Gateway Master Plan require traffic level of service and capacity compliance when no new floor area is being added above what is allowed by the base zone.	Revise the approval criteria to delete capacity and level of service for Gateway Master Plan reviews that do not include additional floor area beyond that allowed by the base zone.	33.833.110	Minor Policy Change
41	26359	Historic Review Approval Criteria	The approval criteria for the Historic Designation Review state that the resource must meet three of the listed approval criteria. However, the organization of the approval criteria is confusing and doesn't make clear that more than one approval criteria can come from each paragraph.	Re-list the approval criteria into one complete list, instead of splitting them up in separate paragraphs. See the attachment for more detail.	33.846.030	Technical Correction
42	32529	Impact Mitigation Plans	Impact Mitigation Plan: When an IMP is required. In an IR zone, when a master plan is due to be updated or amended, an applicant has the option to complete either an IMP or conditional use master plan. What is not specified is if an institution has an existing IMP, can the IMP be replaced with a conditional use master plan?	Need to clarify whether an IR use with an existing IMP can have the IMP replaced with a conditional use master plan, or do they have to wait for it to be updated or amended?	33.848.030	Clarification

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**RICAP 1**  
**Proposed Workplan**

Line #	RIR Item #	Item Label	Problem Statement	Requested Action	Title 33 Section	Complexity
43	33337	Tree Review and Violations	Current code requires a Type III review to correct any violation of required tree protection/preservation measures (generally required via a land division review). E-zone regs are being amended to offer a balanced procedure for resolving violation. Minor tree removal is addressed administratively. A similar approach should be offered to sites outside of e-zones.	Chapter 33.853 should be modified to offer a range of remedies, depending upon the seriousness of the violation.	33.853.	Minor Policy Change
44	33340	Tree Review Violation Approval Criteria	The current approval criteria are extremely rigid and do not offer any flexibility to approve different methods of mitigation other than tree replacement, per the replacement table. The criteria does not offer a protect/preservation other tree option or use of creative approach such as eco-roof installation.	Amend approval criteria to offer more options or flexibility in mitigating for tree removal.	33.853.040	Minor Policy Change
45	39108	Tree Review Violation Mitigation	The Tree Review Chapter, 33.853 directs applicants who are correcting a violation through a mitigation plan to the landscaping chapter, 33.248. However, this chapter exempts mitigation plans from meeting any minimum tree size standards. It is likely that this was not the policy intention.	Correct the code references so that replacement trees proposed under a tree review correction to a violation meet minimum size standards.	33.853.040	Clarification
46	17642	Floor Area Definition	The definition of floor area is pretty specific to mean only the square footage above ground. However there are circumstances in the code where "floor area" is used several different ways. As part of FAR (floor area ratio), it limits the amount of floor area that may be built above ground. In other places, it means the total square footage in a building, including both above and below ground (e.g., parking ratios).	Locate where the term is throughout the code and clarify its intended use. Consider a solution similar to that in the Central City Plan District where "floor area" refers to the square footage above ground, "gross building area" refers to all the square footage in a building (above and below ground), and "net building area" to refer to gross building area minus parking.		Clarification

Updated 6/20/05









CITY OF PORTLAND, OREGON  
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**Planning**