

Regulatory Improvement Workplan



Regulatory Improvement Code Amendment Package 2

(RICAP 2)

ADOPTED

Regulatory Improvement Code Amendment Package 2 (RICAP 2) was adopted without change by City Council on November 22, 2006

Ordinance#: 180619

Effective: December 22, 2006

Recommended Draft Report

October 26, 2006



CITY OF PORTLAND, OREGON
BUREAU OF
Planning

**The Portland City Council will hold a public hearing on these
code amendments on:**

Wednesday, November 15, 2006

6:00 PM

City Hall Council Chambers

1221 SW Fourth Avenue

Portland, OR 97204

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Package 2**, please contact:

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A digital copy of this plan can be found at:

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CITY OF PORTLAND, OREGON PLANNING COMMISSION

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October 24, 2006

Mayor Tom Potter and Members of Portland City Council
Portland City Hall
1221 SW Fourth Avenue
Portland, OR 97204

Re: Regulatory Improvement Code Amendment Package 2 (RICAP 2)

Dear Mayor Potter and City Commissioners:

On behalf of the Portland Planning Commission, I am forwarding our recommendations regarding the *Regulatory Improvement Code Amendment Package 2* (RICAP 2). This package is the latest effort of the Regulatory Improvement Workplan (RIW) and contains Zoning Code amendments addressing 19 issues. These amendments include technical and minor policy changes. The items selected were taken from the RICAP 2 workplan approved by the Planning Commission in December, 2005.

We recommend that you adopt RICAP 2 as it is presented. The package satisfies the original goal of the Regulatory Improvement Workplan to clarify provisions of the Zoning Code and eliminate regulations that are hindering desirable development. These amendments improve regulations that have a wide-ranging effect on the city, including development in the mixed commercial (CM) zone, minimum setbacks in certain commercial zones, fence limitations in employment and industrial zones, maximum transit setbacks for institutions in single dwelling zones, and clarifications within the use categories.

The amendments presented here did not generate any public comment at the Planning Commission hearing on October 12, 2006. There was testimony on one issue that is not included with our recommendation. Planning staff recommended reducing the review for a Zoning Map Amendment in conformance with the Comprehensive Plan from a Type III procedure to a Type II procedure. Neighborhood association representatives testified that this would eliminate their ability to appeal a decision in order to bring up policy concerns about infrastructure and services in front of the City Council. They pointed out that there is not another avenue for these policy discussions. We agree with the neighborhood representatives and so do not include this amendment in our recommendation. We have asked staff to do more research on this issue, including a review of Zoning Map Amendment cases and appeals, and return to us with the information as part of a future RICAP package. The additional research will allow us to make a more informed decision on the issue.

Mayor Tom Potter and Members of Portland City Council

October 24, 2006

Page 2 of 2

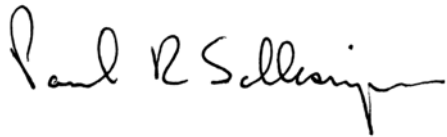
Recommendations

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

1. Pass the Ordinance that amends the Zoning Code as shown in the *Regulatory Improvement Code Amendment Package 2 Recommended Draft*; and
2. Direct the Bureau of Planning to monitor the effect of these amendments as part of their overall monitoring program.

Thank you for considering the recommendations of the Portland Planning Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul R. Schlesinger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Paul Schlesinger, President
Portland Planning Commission

cc: Portland Planning Commission

Acknowledgements

Portland City Council

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Randy Leonard, *Commissioner*
Dan Saltzman, *Commissioner*
Erik Sten, *Commissioner*

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I. Introduction

Project Summary

This report is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number. This report describes the amendments recommended for RICAP 2. For a general overview of the Regulatory Improvement Workplan, see Appendix A.

The workplan for RICAP 2 was adopted by the Planning Commission at a public hearing in December 2005. From this workplan, Planning staff proposed amendments to the Zoning Code to address 20 issues. These amendments were considered by the Planning Commission on October 10, 2006. During the hearing and discussion on the package, the Planning Commission determined that additional research was needed on one item, Zoning Map Amendments, before an amendment could be recommended. As a result, this package includes amendments that address 19 issues in the workplan. The recommended amendments to the Zoning Code are in Section III of this report.

Section II, the Impact Assessment, includes information on the work and outreach done on all the workplan items. The impact assessment followed the procedures outlined in the model process. For more information on this process, see Appendix B.

Planning Commission Recommendation

The Planning Commission recommends approval of these amendments. This recommendation includes the following actions:

- Adopt this report and ordinance;
- Amend the Zoning Code as shown in this report; and
- Direct staff to continue any monitoring efforts, as necessary.

II. Impact Assessment

An impact assessment is conducted as part of each RICAP project. The assessment identifies and evaluates positive and negative impacts of regulations that may be proposed, and identifies situations where a nonregulatory approach is a better solution. The process chart for impact assessment in Appendix B of this report illustrates the flow and stages of a model assessment process.

In conducting the impact assessment for RICAP 2, we considered each of the issues included in the original RICAP 2 workplan. Only those issues where the Planning Commission has recommended an amendment to the Zoning Code are included in this report. Additional information on these amendments and the other issues included in the original workplan is available in the *RICAP 2 – Proposed Draft Report*, dated August 9, 2006 and the *RICAP 2 – Proposed Workplan* report, dated November 21, 2005.

The item numbers from the original workplan and proposed draft are used throughout this report. To aid in understanding, the item numbers are included on two lists: the list of items where amendments to the code are recommended (Page 7), and the list of all the RICAP 2 workplan items considered and researched (Appendix C).

Issues and Desired Outcomes

The goal of the Regulatory Improvement Workplan is to “update and improve City building and land use regulations that hinder desirable development.” In keeping with this goal, the desired outcomes of the RICAPs are to explore nonregulatory solutions to identified problems and, where a regulatory approach is determined to be best, to keep the regulations simple, clear and easy to implement and enforce.

The issues suggested as candidates for regulatory improvement range from the correction of small technical items to the reconsideration and updating of major policy approaches. RICAPs are intended to accommodate the consideration of items that are at the technical and minor policy end of that continuum. Learning from the experiences of RICAP 1, we focused on looking for themes among the selected items for RICAP 2. We hoped that the analysis could be more comprehensive—yet still efficient and timely—if similar minor policy issues were bundled together. As a result, two "themes" were chosen for RICAP 2: Use Categories and CM zone issues. To round out the package, we also included all of the technical corrections in the Regulatory Improvement Requests (RIR) database, as we typically do.

The results from this first effort at bundling items into themes are mixed. The CM Zone bundle (consisting of items 8, 9, and 10, as identified in the original workplan and listed in Appendix C) has been fairly successful, as amendments have been proposed that address all three items. This success may be because the issues were sufficiently similar. In addition, even though several larger policy questions were discussed and clarified, the proposed solutions are clearly valuable but minor and temporary until the larger issues can be considered in a more comprehensive project.

The results from the Use Category bundle (items 25 through 30 in the original workplan and Appendix C) are somewhat different. During the analysis, four of the six items (25, 26, 27, and 30) proved to be larger and more complex than initially assumed. Although code amendments are not recommended for any of these items at this time, the knowledge gained provides useful data for continuing analysis of the items. The other two Use Category items (28 and 29) are limited enough in scope that clarifying code amendments are recommended for both of them.

Stakeholder Outreach and Feedback

Regulatory Improvement Stakeholder Advisory Team (RISAT)

During the analysis phase of this process, several of the more complex issues were presented to the Regulatory Improvement Stakeholders Advisory Team (RISAT). A list of RISAT members is in the prefatory pages of this report. In March 2006, they discussed decks and building coverage (#23) and CM zone issues (#s 8, 9, and 10). Their April meeting covered setback issues (#s 2, 4, 6, and 7), Zoning Map amendments (#22), and the Use Category group (#s 25-30). In May, they discussed certain conditions of approval (#18), and revisited setback issues. In June, they dealt with replats, lot consolidations, and property line adjustments (#16); revisited the CM zone issues; and reviewed all of the items where staff was proposing no amendments at this time (see Appendix C). During each of these sessions, impact assessment questions were discussed: What is the underlying problem? What are the alternative approaches? How will regulations be enforced? What are the implementation costs? Is this change worth it?

A common conclusion from these discussions was the realization that many of the items are pieces of bigger and more complex issues. This generated an additional impact assessment question: “Is it worth the time, effort, and results of a small (and temporary) fix now, or is it better to wait and include the item in a broader project later?” This question echoes one of the outcomes of RICAP 1: an interest in exploring ways for the City to address some of these larger issues. One suggestion still under consideration is selecting fewer but more complex issues for some of the future RICAPs.

Public Involvement

The public has been invited to participate in the development of the RICAP 2 workplan and the resulting code amendments in several ways, in addition to the RISAT. Notice was sent to 848 individuals and organizations for the December 13, 2005 Planning Commission hearing on the proposed RICAP 2 workplan. This notice was combined with the notice for the Zoning Code amendments proposed for RICAP 1. During the Planning Commission hearing, citizens were given the opportunity to comment on items proposed for the workplan.

During discussions with the RISAT, members were encouraged to relay information and concerns to and from their respective constituents. Once code amendments were proposed, a notice was sent out to more than 2500 individuals and organizations notifying them of the Planning Commission hearing. This included all owners of property within the CM zone as well as stakeholders in the South Waterfront plan area.

At the Planning Commission hearing on the proposed code amendments, several citizens testified on the item to amend the process for Zoning Map Amendments (Item #22). As a result of this testimony, the Planning Commission recommended that the item be pulled from the list of amendments to allow staff to do further research to address the neighborhood concerns. Based on the additional research and assessment, this item may then be included in a future RICAP package.

Approaches Considered

The decisions to recommend amendments to the Zoning Code or to recommend no amendment are the result of the impact assessment that has been applied to the items. The conclusions can be attributed to the art (more than the science) of a type of cost/benefit analysis implicit in the impact assessment process. Where the expected benefits outweigh the various costs, staff is recommending an amendment to the Zoning Code.

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

1. The assessment indicates that the solution is not worth the costs;
2. The assessment shows that the issue is important, but the solution should be decided as part of a larger review; and
3. More research is needed before a solid recommendation can be made.

Monitoring Effectiveness

Ongoing assessment is an essential component of the City's impact assessment process. The success of the proposed amendments will be monitored through the Planning Bureau's continuing monitoring and evaluation program. Overall success of any amendments will also be monitored through future public feedback on the regulations.

III. Amendments to the Zoning Code

Amendments to the Zoning Code are included in this section, organized by Zoning Code chapter. Even-numbered pages contain commentary about the proposed amendment; amended code language is on the facing, odd-numbered page.

The commentary includes a description of the problem being addressed, the legislative intent of the proposed amendment, and an assessment of the impact of the proposed change.

RICAP 2 Workplan Items to be amended (Note: a list of all workplan items is provided in Appendix C.)

Item Name	Zoning Code Section	Page
Attached Duplex Definition (Item 24)	33.910.030	60
Attached Housing Rear Setback (Item 3)	33.120.270	14
Environmental Overlay Exemptions (Item 13)	33.430.080	42
Fences in Setback (Item 11)	33.140.275	36
Height Limit for Stairwell Enclosure (Item 5)	33.120.215	12
	33.130.210	18
	33.140.210	34
Historic Designation Removal Review (Item 21)	33.846.040	56
Landscaping Requirements for School Sites (Item 12)	33.281.140	40
Maximum Transit Street Setbacks for Institutions (Item 4)	33.110.245	8
	33.815.105	54
	33.848.050	58
Mixed Commercial (CM) Zone (Item 8)	Table 130-3	20
	33.130.253	24
Mixed Commercial (CM) Zone (Item 10)	Table 130-3	20
	33.130.253	24
Nonresidential in CM (Item 9)	Table 130-3	20
	33.130.253	24
Property Line Adjustments (Item 34)	33.667.010	50
Recording Studio Use Classification (Item 29)	33.920.310	66
South Waterfront Urban Design Framework (Item 33)	33.510.205	44
	33.510.252	
Split Zone (Item 17)	33.700.070	52
St. Johns Plan District Height Map (Item 15)	Map 583-2	48
Trade School Use Classification (Item 28)	33.920.250	62
	33.920.300	
Transit Street Building Setbacks (Item 6)	Table 130-3	20
Transit Street Garage Entrance Setback (Item 2)	Table 130-3	20
	33.130.250	22

Item 4: Maximum Transit Street Setbacks for Institutions**CHAPTER 33.110
SINGLE-DWELLING ZONES****33.110.245 Institutional Development Standards**

To encourage pedestrian and transit use, the current zoning code calls for a maximum setback along transit streets; requiring buildings to locate close to the street to provide easy access for those using alternative modes of transportation, particularly transit. In the multi-dwelling residential, commercial, and employment zones, this has resulted in a greater proportion of development located close to these transit streets, providing a greater pedestrian orientation. However, these setbacks may not always be appropriate in single-dwelling residential neighborhoods.

Currently the zoning code requires all new and expanded institutional buildings in single-dwelling residential zones to be within 10 feet of transit streets. To meet the regulation, at least 50% of the ground floor façade must be within the maximum setback. However, there is no such requirement for other types of development in these zones.

New institutions, including colleges, schools, medical centers and religious institutions must go through a Conditional Use review before locating in these zones. The approval criteria for conditional uses mandate physical compatibility with the surrounding area, which can include housing set back 20 feet or more from the street. This creates a conflict for institutions, where the setback standard is a maximum of 10 feet.

In order to meet the approval criterion of physical compatibility with the neighborhood, an additional adjustment has to be requested. While adjustments are typically an effective method to analyze proposals which do not meet particular development standards, that is not the case here. The adjustment criteria focus narrowly on the purposes of the transit street setback requirement. It is, however, preferable to look at the larger context of the existing and desired character of the institutional site and the neighborhood before deciding whether an exception to the maximum setback is appropriate. The Conditional Use review provides for consideration of the larger context.

If institutions propose an expansion or a new building they are required to either meet the maximum transit setback or ask for an adjustment. The maximum transit setback regulation applies even in those cases where the expansion is so small that it doesn't trigger a new Conditional Use review. Small additions of floor area typically don't trigger the Conditional Use review, such as small additions of office or storage space and portable classrooms. Often, the design and function of these buildings warrant that they be placed further away from the street. However, in order to avoid the time and expense of a land use review, the institution may place the addition/building to meet the maximum transit setback, compromising design and creating a negative effect on the surroundings.

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**CHAPTER 33.110
 SINGLE-DWELLING ZONES**

33.110.245 Institutional Development Standards

- A. Purpose.** The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-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.** The standards of this section apply to uses in the institutional group of use categories, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions to institutional uses.
- 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 B2.
 - c. Conflicts.
 - (1) If the depth of the minimum building setback or buffering standards conflicts with the maximum building setback standard, the depth of the maximum building setback standard supersedes the depth of the minimum building setback and buffering standards.
 - (2) If the depth of the minimum setback standard for detached accessory structures conflicts with the depth of the minimum buffering standard, the depth of the minimum buffering standard supersedes the depth of the minimum setback standard for detached accessory structures.

33.110.245 Institutional Development Standards (cont.)

The solution contained in this amendment has three elements:

- First, a maximum transit street setback is retained for institutions in the single-dwelling zones, but is changed to 20 feet to match the maximum setback required in the multi-dwelling zones. The standard in the single-dwelling zones should not be more restrictive than in multi-dwelling zones.
- Second, a provision is added to allow the maximum setback to be modified through a Conditional Use review. This will allow the setback requirement to be reviewed in the context of the site design and neighborhood as a whole. In the review process, the relative merits of strict compliance with the setback standards can be weighed against the effects of building placement on neighborhood compatibility and the ability to achieve the objectives of the transit street setback through other design approaches.
- Third, a provision is added to exempt smaller institutional expansions—those that do not require a Conditional Use review—from the maximum transit street setback. Although it is desirable to design institutions in such a way that they encourage use of alternative modes of transportation, it is unlikely that alterations that fall below the requirements of a conditional use review will have much effect on transit usage.

C. The Standards.

2. Setbacks on a transit street or in a Pedestrian District.

A new subparagraph is added to exempt development not subject to the conditional use review process from meeting the maximum transit street requirement, to fulfill the third bullet point mentioned above.

Table 110-5, Institutional Development Standards

The maximum transit street setback listed in the table is modified to meet the first two bullet points above. First, the maximum setback is increased from 10 to 20 feet to be consistent with maximum setbacks in other residential zones. Second, language is added to allow modification to the setback through the Conditional Use review.

Language to be **added** is underlined
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- d. Exception. Development that is not subject to conditional use review under Section 33.815.040 is exempt from the maximum transit street setback requirement.

3-9. [No Change.]

Table 110-5 Institutional Development Standards [1]	
Minimum Site Area for New Uses	10,000 sq. ft.
Maximum Floor Area Ratio [2]	0.5 to 1
Maximum Height [3]	50 ft.
Minimum Building Setbacks [2]	1 ft. back for every 2 ft. of bldg. height, but in no case less than 15 ft.
Maximum Building Setback Transit Street or Pedestrian District	40 ft. 20 ft. or per CU/IMP review
Maximum Building Coverage [2]	50% of site area
Minimum Landscaped Area [2, 4]	25% of site area to the L1 standard
Buffering from Abutting Residential Zone [5]	15 ft. to L3 standard
Buffering Across a Street from a Residential Zone [5]	15 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: [No change]

Item 5: Height Limit for Stairwell Enclosure

CHAPTER 33.120 MULTI-DWELLING ZONES

33.120.215 Height

C. Exceptions to the maximum height.

2. Rooftop mechanical equipment. This amendment resolves a conflict between the Zoning Code and building regulations. Current height standards allow rooftop projections such as mechanical equipment and elevator shafts to exceed maximum height limits. Elevator shafts may exceed the height limit by 16 feet and all other rooftop equipment can exceed the height limit by 10 feet. However, stairwells that provide access to rooftops must meet height limits. The Oregon Structural Specialty Code (the Building Code as amended by the State of Oregon) requires all stairwell exits on top of a building to be enclosed. As a result, applicants must request an adjustment or modification from the Zoning Code in order to meet the Oregon Structural Specialty Code. Rooftop stairwell access generally needs to be tall enough to allow passage out onto the roof, which can be attained within the 10 foot exception. This amendment allows rooftop stairwell enclosures to project above the height limit in the same manner as all other mechanical equipment.

The same change is proposed in the commercial and industrial chapters, 33.130 and 33.140.

Language to be **added** is underlined
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**CHAPTER 33.120
MULTI-DWELLING ZONES**

33.120.215 Height

A. Purpose. [No change.]

B. Maximum height. [No change.]

C. Exceptions to the maximum height.

1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.
2. Rooftop access and mechanical equipment. All rooftop mechanical equipment and enclosures of stairwells that provide rooftop access must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Rooftop ~~e~~Elevator mechanical equipment may extend up to 16 feet above the height limit. Stairwell enclosures, and o~~o~~ther rooftop mechanical equipment which cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit.
3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

Item 3: Attached Housing Rear Setback

33.120.270 Alternative Development Options

C. Attached houses

4. Building Setbacks.

- a. Perimeter building setbacks. The setback standards in the multi-dwelling zones are based on the area of the plane of the building wall (see 33.930, Measurements). It is not clear how to apply the standard to attached houses: the setback standard could be read as applying either to each individual unit or to the combined areas of all the units.

These amendments clarify that the setback standards apply to the combined areas of the plane of the building walls, not each unit. The combined area is used because one purpose of the setback standard is to reflect the general building scale and placement of multi-dwelling development in the city's neighborhoods. By requiring the same setbacks for similar-sized buildings, regardless of where the lot lines are, this purpose is met.

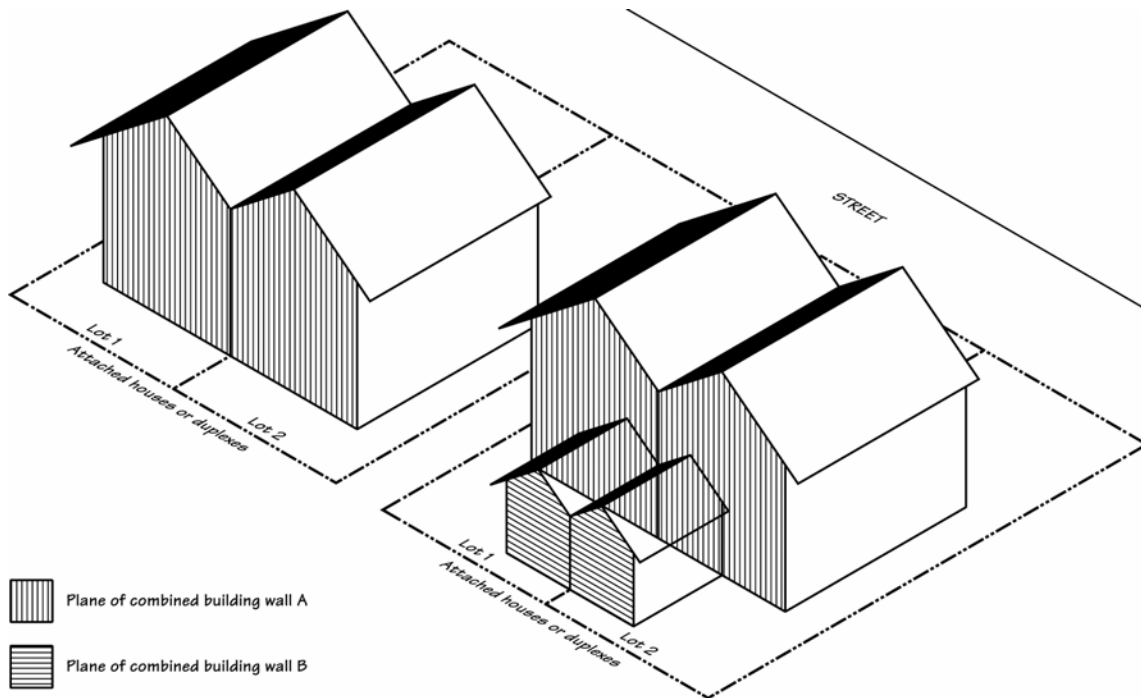
This clarification is consistent with how the building length standard applies to attached houses (33.120.270.C.6).

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33.120.270 Alternative Development Options

- A. Purpose.** [No change]
- B. General requirements for all alternative development options.** [No change]
- C. Attached houses.** The development standards for attached housing are:
1. – 3. [No change]
 4. Building setbacks.
 - a. Perimeter building setbacks. The front, side, and rear building setbacks around the perimeter of an attached housing project are those of the base zone. The setback standards stated in Table 120-4 apply to the combined areas of the plane of each unit's building wall facing the property line. See Figure 120-XX and Section 33.930.080, Determining the Plane of a Building Wall.
 - b. – c. [No change]
 5. – 7. [No change]

Figure 120-XX
Measuring Setback Standard for
Attached Houses and Duplexes



A and B are two examples of building wall planes.

33.120.270 Alternative Development Options (cont.)

F. Attached duplexes.

2. Building setbacks. See previous commentary. The same setback issue applies when reviewing attached duplexes. This amendment clarifies the measurements of setbacks for attached duplexes.

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D. Detached houses. [No change]

E. Additional standards for attached houses, detached houses, and duplexes accessed by common greens, shared courts, or alleys. [No change]

F. Attached duplexes. [No change]

1. [No change]

2. Building setbacks. The setback standards stated in Table 120-4 apply to the combined areas of the plane of each unit's building wall facing the property line. See Figure 120-XX and Section 33.930.080, Determining the Plane of a Building Wall.

a. Interior (noncorner) lots. On interior lots, the side building setback on the side containing the common wall is reduced to zero.

b. Corner lots. On corner lots, either the rear setback or nonstreet side setback may be reduced to zero. However, the remaining nonstreet setback must comply with the requirements for a standard rear setback. See Figure 120-7.

3. – 4. [No change]

G. Duplexes on corners. [No change]

H. Planned Development. [No change]

I. Flag lot development standards. [No change]

Item 5: Height Limit for Stairwell Enclosure

CHAPTER 33.130 COMMERCIAL ZONES

33.130.210 Height

B. Height standard.

2. Rooftop mechanical equipment. This amendment resolves a conflict between the Zoning Code and building regulations. Current height standards allow rooftop projections such as mechanical equipment and elevator shafts to exceed maximum height limits. Elevator shafts may exceed the height limit by 16 feet and all other rooftop equipment can exceed the height limit by 10 feet. However, stairwells that provide access to rooftops must meet height limits. The Oregon Structural Specialty Code (the Building Code as amended by the State of Oregon) requires all stairwell exits on top of a building to be enclosed. As a result, applicants must request an adjustment or modification from the Zoning Code in order to meet the Oregon Structural Specialty Code. Rooftop stairwell access generally needs to be tall enough to allow passage out onto the roof, which can be attained within the 10 foot exception. This amendment allows rooftop stairwell enclosures to project above the height limit in the same manner as all other mechanical equipment.

The same change is proposed in the multi-dwelling and industrial chapters, 33.120 and 33.140.

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

CHAPTER 33.130 COMMERCIAL ZONES

33.130.210 Height

A. Purpose. [No change.]

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

1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other items similar with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
2. Roof top access and mechanical equipment. All rooftop mechanical equipment and enclosures of stairwells that provide rooftop access must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Rooftop ~~Elevator~~ mechanical equipment may extend up to 16 feet above the height limit. Stairwell enclosures and o~~Other~~ rooftop mechanical equipment which cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit.
3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

- Items:**
- 2 Transit Street Garage Entrance Setback**
 - 6 Transit Street Building Setbacks**
 - 8 Mixed Commercial (CM) Zone**
 - 9 Nonresidential in CM**
 - 10 Mixed Commercial (CM) Zone**

Table 130-3: Development Standards

In the CN2, CO1, and CO2 zones there is a minimum front setback of 10 feet. In the CG zone there is a minimum front setback of 5 feet. There is also a maximum transit setback of 10 feet along transit streets and in Pedestrian Districts. Because the minimum and maximum setbacks in the CN2, CO1, and CO2 zones are identical on transit streets and in Pedestrian Districts, the regulations mean that at least 50 percent of the length of the building must be exactly 10 feet from the street.

This is a significant constraint to flexibility in building design. It is a particular problem on streets that are not straight: the building façade must parallel the curves and angles of the street exactly. Variation from the 10-foot setback is allowed only with approval of an adjustment. In the CG zone, where there is currently a 5-foot minimum setback, the constraint to flexibility in design is not as great, but still exists on curved and angled streets.

Reducing the minimum setback to zero in the CN2, CO1 and CO2 zones provides both design and practical flexibility. It allows 50 percent of the length of the building to be anywhere between the street lot line and 10 feet back from the street lot line, and therefore be more consistent with the intent of the maximum building setback that seeks to bring buildings close to the street. Reducing the minimum setback to zero in the CG zone has the same effect and is consistent with all the other commercial zones.

Garage Entrance Setback: For information on the Garage setback changes, including the addition of Note 12, please see the commentary for 33.130.250.E on page 22.

Table 130-3, Note 3: This note is revised in conjunction with the amendments made to the CM zone requirements for section 33.130.253. See the commentary beginning on Page 24 of this document for a full explanation of the changes.

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

Table 130-3 Development Standards [1]								
Standard	CN1	CN2	CO1	CO2	CM	CS	CG	CX
Maximum FAR [2] (see 33.130.205)	.75 to 1	.75 to 1	.75 to 1	2 to 1	1 to 1 [3]	3 to 1	3 to 1	4 to 1
Maximum Height (see 33.130.210)	30 ft.	30 ft.	30 ft.	45 ft.	45 ft.	45 ft.	45 ft.	75 ft.
Min. Building Stbks (see 33.130.215) Street Lot Line	0	10 ft. 0	10 ft. 0	10 ft. 0	0	0	5 ft. 0	0
<u>Garage Entrance Setback [12]</u> (see 33.130.250)	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>	<u>5/18 ft.</u>
Lot Line Abut- ting an OS, RX, C, E, or I Zone Lot	0	0	0	0	0	0	0	0
Lot Line Abut- ting other R Zoned Lot [9]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]	0 to 14 ft. [4]
Max. Building Stbks (see 33.130.215) Street Lot Line Transit Street or Pedestrian District	None 10 ft.	None 10 ft.	None 10 ft.	None 10 ft.	10 ft. [5] [6]	10 ft. [5] [6]	None 10 ft.	None 10 ft.
Building Coverage [10] (see 33.130.220)	Max. of 85% of site area	Max. of 65% of site area	Max. of 50% of site area	Max. of 65% of site area	Min. of 50% of site area [11]	Min. of 50% of site area [11]	Max. of 85% of site area	No Limit
Min. Landscaped Area (see 33.130.225)	15% of site area	15% of site area	15% of site area	15% of site area	None	None	15 % of site area	None
Landscaping Abutting an R Zoned Lot [7] (see 33.130.215.B.)	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3	5 ft. @ L3
Ground Floor Window Stds. Apply (see 33.130.230)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pedestrian Requirements (see 33.130.240)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Required parking [8]	None Required	Yes	None Required	Yes	None Required	None Required	Yes	None Required

Notes:

[1] – [2] [No Change]

[3] ~~For special restrictions on certain nonresidential development, see 33.130.253. For alterations over 250 square feet and new development every new square foot of nonresidential development must be matched by at least one square foot of residential development. See 33.130.250 and 33.130.253.~~

[12] This standard applies to houses, attached houses, manufactured homes and duplexes, see 33.130.250.E.

Item 2: Transit Street Garage Entrance Setback

33.130.250 General Requirements for Residential and Mixed-Use Developments

- E. Garages.** There are no garage entrance setback requirements in the commercial zones. In the single- and multi-dwelling zones, the purpose of the garage entrance setback requirements is to assure that cars parked in front of a garage do not block the public sidewalk. The same restrictions are needed in commercial zones to help assure unobstructed sidewalks. Requiring an 18-foot garage entrance setback assures that there is enough space in front of a garage for a car to park without blocking the sidewalk. In higher density multi-dwelling zones, it is also achieved by allowing a garage entrance to be no further than 5 feet from a street property line. This second option brings the garage entrance close enough to the street that there is not enough room for a car to park in the combined area of the sidewalk and the driveway.

There has been quite a bit of residential development in commercial zones, and cars blocking the sidewalks adjacent to residential driveways have been noted as a problem, particularly for rowhouses. There has not been a problem with nonresidential development, as parking is typically configured in a different manner.

In the *CG* zone there is currently a minimum setback of 5 feet. There is also a maximum setback of 10 feet along transit streets in the *CG* zone. This presents a difficulty for attached-house development along transit streets in *CG* zones. The 18-foot garage setback option would not be available if the rowhouse garage face takes up more than 50 percent of the ground level street-facing façade of the building. The minimum setback would also prevent the garage face from being closer than 5 feet from the street. As a consequence, the garage entrance would have to be located exactly 5 feet from the street. For this reason, and reasons described in other commentary, the minimum setback in the *CG* zone is proposed to be reduced to zero.

Table 130-3 on the previous page is also amended to include the garage setback standards and to provide a reference to the general requirements for garages in residential developments.

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

33.130.250 General Requirements for Residential and Mixed-Use Developments

A-D. [No Change.]

E. Garages.

1. Purpose. These standards:
 - Together with the window and main entrance standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
 - Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
 - Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
 - Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk; and
 - Enhance public safety by preventing garages from blocking views of the street from inside the residence.
 - Prevent cars from overhanging the street or sidewalk.
 - Provide for adequate visibility for a driver backing out of a garage.

2. Where these standards apply. The requirements of Paragraphs E.3, E.4 and ~~E.4~~ E.5, below, apply to houses, manufactured homes, and duplexes. The requirements of Paragraphs ~~E.4~~ and E.5, below, also apply to garages that are accessory to attached houses. When a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added. Development on flag lots or on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.

- 3-4. [No Change.]

5. Garage entrance setback. The required garage entrance setback is stated in Table 130-3. The garage entrance must be either 5 feet or closer to the street property line, or 18 feet or farther from the street property line. If the garage entrance is located within 5 feet of the front property line, it may be no closer to the street lot line than the longest street-facing wall of the dwelling unit.

- Items: 8 Mixed Commercial (CM) Zone**
9 Nonresidential in CM
10 Mixed Commercial (CM) Zone

33.130.253 Additional Requirements in the CM Zone

The CM Zone was created in 1991 with adoption of a new zoning code. The intent of the CM zone was to encourage development that included both residential and commercial uses on one site by requiring that there be at least one square foot of residential floor area for each square foot of floor area in Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses. It was expected that this would preserve some existing housing while allowing portions of residential buildings to be converted to commercial uses. The zone was generally applied along busy streets in order to support transit use and help buffer residential areas from larger commercial areas.

Since that time, the zone has been applied to a wider range of sites across the city, including sites that currently have commercial development with little or no residential development. The regulations have been amended several times since 1991, primarily to address issues for commercial development. Unfortunately, the current regulations are confusing when applied to existing development. The regulations also make it extremely difficult for small businesses to expand if they do not have the resources to build or manage residential units.

Other regulations—such as those in parts of the Central City or in the Gateway plan district—that required the addition of dwelling units as part of commercial expansion discouraged business expansion, had little effect on the creation of housing, and were subsequently eliminated. A review of building permits in the CM zone over the past three years indicates very little expansion of existing businesses, which may imply that expansions in the CM zone are too difficult.

The intent of these amendments is to clarify the existing provisions and provide greater flexibility for existing uses, while staying true to the intent of CM as a mixed-use zone by doing the following:

- Clarify that changes of use within the four, limited nonresidential use categories (Retail Sales And Service, Office, Manufacturing And Production, and Wholesale Sales) are allowed. This is implied in the current code but is not expressly stated.
- Clarify that existing residential floor area on the site can be reduced or converted to nonresidential uses only in certain situations.
- Allow greater flexibility for businesses to expand. Current regulations allow an expansion of only 250 square feet without triggering the requirement for an equal amount of residential square footage. This limit is replaced with provisions that allow expansion of existing businesses to a maximum floor area of 7,000 square feet or a Floor Area Ratio (FAR) of 1:1, whichever is less. When an equal amount of residential floor area is added, expansions of limited nonresidential floor area are allowed to a maximum FAR of 1:1 and the 7,000 sq. ft. limit does not apply. Since a large portion of lots zoned CM are less than 7,000 square feet, it is likely that the 1:1 FAR maximum would be reached before the 7,000 square foot maximum.

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

Code language for these items begins on page 27

33.130.253 Additional Requirements in the CM Zone (cont.)

Specific changes to the CM section are listed below:

- A. Purpose.** A provision is added to the purpose statement clarifying that limited business expansions are allowed to ensure the business' viability.
- B. Where these regulations apply.** This section is rewritten to clarify that these requirements only apply to sites where Retail Sales And Service; Office; Manufacturing And Production; and Wholesale Sales uses exist or are proposed. In addition, for brevity, these uses are combined in the term "limited nonresidential uses".
- C. Adjustments.** This simply moves the prohibition on adjustments to the beginning of the section.
- D. Measurements.** This subsection is not changing (other than the letter), but is shown here for clarity.
- E. New development.** The changes to this subsection are not substantive, and only clarify the language.

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

33.130.253 Additional Requirements in the CM Zone

A. Purpose. These regulations encourage new mixed-use and residential development. They also provide for small amounts of existing nonresidential uses to remain as allowed uses, and to allow limited expansions to ensure their viability.

B. Where these regulations apply. Applicability. ~~The regulations of this section apply in the CM zone.~~ The regulations of this section apply to sites in the CM zone where any of the floor area is, or is proposed to be, in Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses. For the purposes of this section, these uses are called limited nonresidential uses.

C. Adjustments. Adjustments to the regulations of this section are prohibited.

DC. Measurements. For the purposes of this section, measurements are as follows:

1. Parking excluded. Floor area does not include area devoted to structured parking.
2. Residential common areas. Areas shared exclusively by residential uses such as hallways, stairs, and entries are included in residential floor area.
3. Other common areas. Areas shared by residential and nonresidential uses, such as hallways, stairs, and entries, are included in nonresidential floor area.
4. Balconies. Balconies are included in residential floor area if the balcony serves only residential units and is at least 48 square feet in area and at least 6 feet long and 6 feet wide.

ED. New development. For new development, at least one square foot of residential floor area is required for each square foot of limited nonresidential floor area~~Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses.~~ ~~Amounts of these nonresidential uses in excess of a 1 to 1 ratio of residential to nonresidential square footage are prohibited.~~

E. Residential uses. ~~Residential uses are allowed and not subject to any floor area ratio limitations.~~

Figures 130-9-12
[No change.]

33.130.253 Additional Requirements in the CM Zone (cont.)

- F. Existing floor area.** This subsection is rewritten to address the full range of situations. It also clarifies the provisions, and what they apply to.
- 1.& 2. These paragraphs address situations where floor area in limited nonresidential uses may be added. Generally, the regulations allow expansions of limited nonresidential floor area up to a maximum FAR of 1:1 or 7,000 sq. ft., whichever is less. When an equal amount of residential floor area is added, expansions of limited nonresidential floor area are allowed to a maximum FAR of 1:1; the 7,000 sq. ft. limit does not apply.
 3. Change of use. This paragraph addresses conversion of floor area from one use to another that is not addressed in Paragraphs 1-3.

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

F. Existing floor area. The regulations of this subsection apply to sites with existing floor area.

1. On sites where none of the floor area is in residential use, or where there is up to one square foot of residential floor area for each square foot of limited nonresidential floor area, limited nonresidential floor area may be added if one of the following are met:
 - a. If residential floor area is proposed, one square foot of limited nonresidential floor area is allowed for each square foot of residential floor area added. The limited nonresidential floor area may not exceed an FAR of 1:1; or
 - b. If no residential floor area is proposed, or if less than one square foot of residential floor area for each square foot of limited nonresidential floor area is proposed, limited nonresidential floor area is allowed up to a maximum FAR of 1:1 or 7,000 square feet, whichever is less.
2. On sites where all of the floor area is in residential use, or where there is more residential floor area than limited nonresidential floor area, limited nonresidential floor area may be added if one of the following is met:
 - a. Limited nonresidential floor area may be added, and residential floor area may be changed to limited nonresidential floor area if, after the addition or change, there is at least one square foot of residential floor area for each square foot of limited nonresidential floor area, and if the limited nonresidential floor area does not exceed a maximum FAR of 1:1; or
 - b. Limited nonresidential floor area may be added without adding residential floor area if the amount of residential floor area is not reduced. and if the limited nonresidential floor area does not exceed 1:1 FAR or 7,000 sq ft, whichever is less.
3. Change of use.
 - a. Floor area in one limited nonresidential use may be changed to another limited nonresidential use or to an allowed use;
 - b. Floor area in a nonconforming use may be changed to a limited nonresidential use or to an allowed use;
 - c. Floor area in an allowed nonresidential use may be changed to a limited nonresidential use if, after the change, there is at least one square foot of residential floor area for each square foot of limited nonresidential floor area, and if the limited nonresidential floor area does not exceed a maximum FAR of 1:1;
 - d. Floor area in residential use may be changed to floor area in a limited nonresidential use only where all of the floor area is in residential use, or where there is more residential floor area than limited nonresidential floor area. See Paragraph F.2, above.

33.130.253 Additional Requirements in the CM Zone (cont.)

4. Damage and destruction. The changes to this paragraph are not substantive, and only clarify existing policy about rebuilding in the case of accidental or intentional damage and destruction.
5. Discontinuance. The changes to this paragraph are not substantive, and only clarify existing policy about limited nonresidential floor area that has been vacant.

The stricken out code language for Subsections F - H follow the new language.

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

4. Damage and destruction. When structures containing limited nonresidential floor area are damaged by fire or other causes beyond the control of the owner, the reestablishment of this nonresidential floor area is subject to the standards for new development above, if the repair cost of the structure is more than 75 percent of its assessed value. However, if the structure is intentionally damaged by fire or other causes within the control of the owner, the reestablishment of the limited nonresidential floor area is subject to the standards for new development.
5. Discontinuance. Limited nonresidential floor area may remain vacant without limitation, and the limited nonresidential uses may be reestablished at any time if the amount of floor area previously or currently in residential uses is not decreased.

~~F. Existing uses and development.~~

1. ~~Allowed nonresidential uses.~~
 - a. ~~Does meet ratio. Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses are allowed where there is at least one square foot of residential floor area for each square foot of these nonresidential uses.~~
 - b. ~~Does not meet ratio. Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses are allowed if they comply with all of the following:~~
 - (1) ~~The use occupies a total of no more than 10,000 square feet of floor area; and~~
 - (2) ~~The use was an allowed, conditional, or nonconforming use immediately prior to CM zoning being applied to the site.~~
2. ~~Nonconforming uses. Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses with more than 10,000 square feet of floor area are a nonconforming use if they were allowed, conditional, or nonconforming use immediately prior to CM zoning being applied to the site. Only the amount of floor area more than 10,000 square feet is nonconforming. Expansion of the nonconforming use as provided in Chapter 33.258, Nonconforming Situations, is prohibited. However, alterations are allowed as provided for in Subsection H., below.~~

33.130.253 Additional Requirements in the CM Zone (cont.)

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

~~3. Loss of allowed nonresidential status.~~

- ~~a. Accidental destruction. When a structure containing a nonresidential use allowed by Paragraph F.1, above, is damaged by fire or other causes beyond the control of the owner, the reestablishment of these nonresidential use is prohibited if the repair cost of the structure is more than 75 percent of its assessed value.~~
- ~~b. Intentional destruction. When a structure containing a nonresidential use allowed by Paragraph F.1, above, is intentionally damaged by fire or other causes within the control of the owner, the reestablishment of these nonresidential uses is prohibited unless each square foot of nonresidential use is matched by at least one square foot of residential floor area.~~

~~4. Vacancy. The regulations of this paragraph apply to buildings which are vacant and where the most recent legal use complied with the provisions of Paragraph F.1., above. The building may be used for Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses regardless of how long it has been vacant if the amount of floor area previously or currently in residential use is not decreased.~~

~~**G. Conversion of residential floor area.** Conversion of residential floor area to Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses is allowed, if after conversion, there is at least one square foot of residential floor area for each square foot of these nonresidential uses. Conversions of residential floor area to Retail Sales And Service, Office, Manufacturing and Production, or Wholesale Sales uses that exceed the 1 to 1 square foot ratio for residential to nonresidential uses are prohibited.~~

~~**H. Alterations.** Alterations are allowed as follows:~~

- ~~1. One to one ratio not required. If the alteration will increase the floor area on the site by 250 square feet or less and, after construction, the total floor area for Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses is 10,000 square feet or less, construction of at least one square foot of residential floor area for each square foot of these nonresidential uses is not required.~~
- ~~2. One to one ratio required. If the alteration will increase the floor area on the site by more than 250 square feet or, after construction, the total floor area in Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses is more than 10,000 square feet, construction of at least one square foot of residential floor area for each new square foot of these nonresidential uses is required. Construction of Retail Sales And Service, Office, Manufacturing And Production, or Wholesale Sales uses in greater amounts is prohibited.~~

Item 5: Height Limit for Stairwell Enclosure

CHAPTER 33.140 EMPLOYMENT AND INDUSTRIAL ZONES

33.140.210 Height

B. The height standard.

2. Rooftop mechanical equipment. This amendment resolves a conflict between the Zoning Code and building regulations. Current height standards allow rooftop projections such as mechanical equipment and elevator shafts to exceed maximum height limits. Elevator shafts may exceed the height limit by 16 feet and all other rooftop equipment can exceed the height limit by 10 feet. However, stairwells that provide access to rooftops must meet height limits. The Oregon Structural Specialty Code (the Building Code as amended by the State of Oregon) requires all stairwell exits on top of a building to be enclosed. As a result, applicants must request an adjustment or modification from the Zoning Code in order to meet the Oregon Structural Specialty Code. Rooftop stairwell access generally needs to be tall enough to allow passage out onto the roof, which can be attained within the 10 foot exception. This amendment allows rooftop stairwell enclosures to project above the height limit in the same manner as all other mechanical equipment.

The same change is proposed in the multi-dwelling and commercial zone chapters, 33.120 and 33.130.

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

CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES

33.140.210 Height

A. Purpose. [No change.]

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

1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other items similar with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
2. Rooftop access and mechanical equipment. All rooftop mechanical equipment and enclosures of stairwells that provide rooftop access must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Rooftop ~~e~~Elevator mechanical equipment may extend up to 16 feet above the height limit. Stairwell enclosures and oOther rooftop mechanical equipment which ~~cumulatively covers no more than 10 percent of the roof area~~ may extend 10 feet above the height limit.
3. Radio and television antennas, utility power poles, and public safety facilities are exempt from the height limit.

Item 11: Fences in Setback

33.140.275 Fences

C. Location and heights.

1. Street building setbacks.

- a. Measured from front lot line. In the EG2 and IG2 zones, buildings and exterior storage areas must be set back 25 feet from the front lot line. Within that setback area, fences are limited to 3-1/2 feet high.

Parking and exterior display areas are allowed in the 25-foot setback area; they must be set back only 10 feet from the street lot line. Because of the 3-1/2 foot fence height limitation in the front setback, security fences for these parking and exterior display areas cannot be provided unless they, too, are set back 25 feet.

This amendment allows 8-foot-high fences in the same area where parking and exterior display are allowed. Fence height in this area is limited to 8 feet to match the height limit for fences in the side and rear building setbacks.

Figure 140-XX

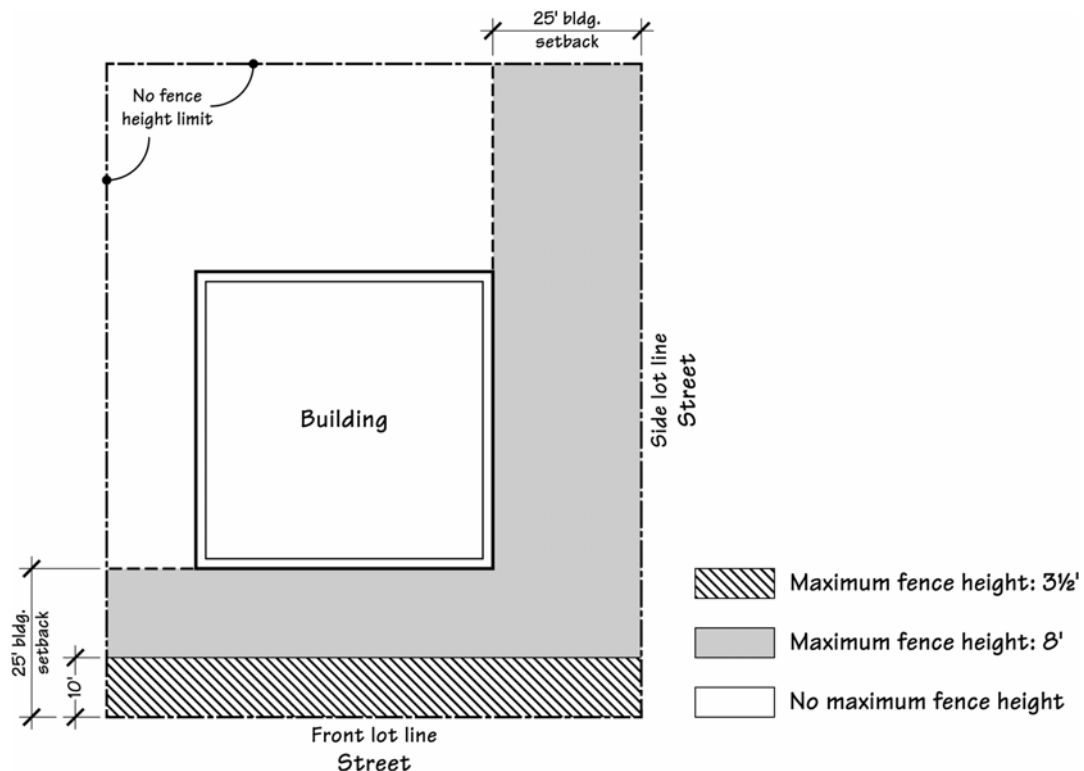
This figure shows where fences are limited to 3 ½ feet and where they are limited to 8 feet.

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

33.140.275 Fences

- A. Purpose.** The fence regulations promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences near streets are kept low in order to allow visibility into and out of the site and to ensure visibility for motorists. Fences in any required side or rear setback are limited in height so as to not conflict with the purpose for the setback.
- B. Types of fences.** [No change].
- C. Location and heights.**
1. Street building setbacks.
 - a. Measured from front lot line. Fences up to 3-1/2 feet high are allowed in a required street building setback that is measured from a front lot line, except in the EG2 and IG2 zones. In a required street building setback in the EG2 and IG2 zones:
 - (1) Fences up to 3-1/2 feet high are allowed within 10 feet of the front lot line;
 - (2) Fences up to 8 feet high are allowed on the portion of a site that is more than 10 feet from the front lot line. See Figure 140-XX.

Figure 140-XX



33.140.275 Fences (cont.)

The remainder of the section is shown for clarity. There are no other changes to the zoning code related to this issue.

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

b. Measured from a side lot line. Fences up to 8 feet high are allowed in a required street building setback that is measured from a side lot line.

2. Side and rear building setbacks. [No change].

3. Not in building setbacks. [No change].

D. Reference to other regulations. [No change]

Item 12: Landscaping Requirements for School Sites

CHAPTER 33.281 SCHOOLS AND SCHOOL SITES

33.281.140 Landscaping

- A. **Parking areas.** Current regulations in this subsection refer to a "high screen" and "low screen" landscaping standard that is no longer in use. This amendment corrects this reference to the current "L3" and "L2" landscaping standard.

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

CHAPTER 33.281 SCHOOLS AND SCHOOL SITES

33.281.140 Landscaping

This section states exceptions to the normal landscaping requirements.

- A. Parking areas.** In parking areas where ~~L3 the high screen landscaping of Section 33.266.130.H.3.d~~ is normally required, a 20-foot deep area landscaped to the L2 standard~~with the low screen landscaping of Section 33.266.130.H.3.e~~ may be substituted. Special event parking is addressed in 33.281.120.
- B. Other landscaping.** In situations where L3 landscaping is required by the base zone or other regulations, L1 or L2 landscaping may be substituted. However, the landscaping requirements for parking areas are stated in Subsection A. above.

Item 13: Environmental Overlay Exemptions

CHAPTER 33.430 ENVIRONMENTAL ZONES

33.430.080 Items Exempt From These Regulations

- C. Existing development, operations, and improvements, including the following activities:
 - 7. Removing a tree or plant listed

Before the Environmental Code Improvement project amended the code in September, 2005, removal of trees listed on the Nuisance or Prohibited Plant Lists was exempt from environmental regulations. The 2005 amendments clarified that removal of a nuisance or prohibited plant was also exempt from environmental review, and added the requirement that there be no soil exposure or disturbance. The requirement that there be no soil exposure or disturbance was intended to prevent changes in the environmental zone that would result in erosion and excessive runoff, to be used as a compliment to the requirements of Title 10, Erosion Control. However, removal of the stump of a tree or the roots of a plant requires soil disturbance, making it impossible to meet the exemption. In addition the current language implies that only a single plant or tree may be removed under this exemption; this was not the intent.

This amendment clarifies the expectation that all of the exempt items must meet the requirements of Title 10, Erosion Control, while acknowledging that the removal of nuisance or prohibited plants and trees will result in some soil disturbance. It also clarifies the original intent to allow more than one plant or tree to be removed under the exemption

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

CHAPTER 33.430 ENVIRONMENTAL ZONES

33.430.080 Items Exempt From These Regulations

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

A. – B. [No change.]

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

1-6. [No change.]

7. Removing ~~a~~-trees or plants listed on the Nuisance or Prohibited Plant Lists ~~when there is no resulting soil exposure or soil disturbance;~~

8-12. [No change.]

D-E.[No change.]

Item 33: South Waterfront Urban Design Framework

CHAPTER 33.510 CENTRAL CITY PLAN DISTRICT

South Waterfront

As part of a 2005 project reviewing the height bonus provisions for the South Waterfront area, Council directed the Planning Bureau to create a *South Waterfront Urban Design and Development Framework*, and added references to such a document to the Zoning Code. During development of the *Framework*, the document title was changed to the *South Waterfront Public Views & Visual Permeability Assessment*.

On May 10, 2006, City Council accepted the *South Waterfront Public Views & Visual Permeability Assessment*. As part of that acceptance, they directed the Bureau of Planning to amend the code to reflect the new name of the document.

33.510.205.6 South Waterfront height opportunity area

2. Additional building height...

- d. This regulation allows modification, through Design Review, to the minimum tower separation requirement of 200 feet if requests are found to be "supportive of the South Waterfront Urban Design & Development Framework." The amendment changes the reference from the *South Waterfront Urban Design and Development Framework* to the *South Waterfront Public Views & Visual Permeability Assessment*. The amendment also reflects a change from requiring requested modifications to be supportive of the *Framework* to requiring that the results of the *Assessment* be considered.

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**CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT**

33.510.205.G South Waterfront height opportunity area

2. Additional building height may be requested as a modification through design review as follows:
 - a. [No Change.]
 - b. [No Change.]
 - c. [No Change.]
 - d. The portion of the proposed building that is greater than 250 feet in height must be at least 200 feet from the portion of any other existing or approved building that is greater than 250 feet in height, and that used the provisions of this subsection to achieve additional height. Approved buildings are those with an unexpired design review approval. Adjustments to this standard are prohibited; however, modifications to the 200 foot minimum distance requirement may be requested through design review. In reviewing such a request, the review body will consider the results of the South Waterfront Public Views and Visual Permeability Assessment for the proposal ~~must find that the requested modification is supportive of the South Waterfront Urban Design and Development Framework Public Views & Visual Permeability Framework;~~

Item 33: South Waterfront Urban Design Framework

33.510.252 Additional Standards in the South Waterfront District

A. Special building height corridors and tower orientation.

This subsection contains development standards that regulate maximum building width and other tower orientation requirements specifically intended to protect view corridors, enhance visual permeability, and allow sunlight to penetrate to the pedestrian environment.

1. Purpose. The changes to the purpose statement better describe the intent of the regulations to provide for visual access from points east and west of the South Waterfront Subdistrict. Also, the changes clarify that access to sunlight rather than "additional light" within the pedestrian environment is a primary intent of these regulations.
3. Maximum north-south dimension. Modifications to these standards are allowed through design review. This amendment makes the same changes as described for 33.510.205.G.2.d, above.

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33.510.252 Additional Standards in the South Waterfront District

A. Special building height corridors and tower orientation.

1. Purpose. Special building heights along designated east-west corridors and tower orientation standards provide visual access to the Greenway from ~~the western edge~~ points west of the district, provide visual access to the ~~ridge line of the Tualatin Hills from~~ points east of the district, provide ~~for additional light access to sunlight~~ along designated streets, and encourage an urban form that is visually permeable and varied.
2. Special building heights. The portion of a building that is within 50 feet of the centerline of a street or accessway designated as a special building height corridor on Map 510-15 may be no more than 50 feet in height.
3. Maximum north-south dimension. The north-south dimension is measured as specified in 3.e., below. See Figure 510-1. Adjustments to this paragraph are prohibited; however, modifications to the standards of this paragraph may be requested through design review. In reviewing such a request, the review body will consider the results of the South Waterfront Public Views and Visual Permeability Assessment for the proposal ~~must find that the requested modification is supportive of the South Waterfront Public Views & Visual Permeability Framework.~~ The north-south dimensions of buildings are limited as follows:

[No change.]

Item 15: St Johns Plan District Height Map

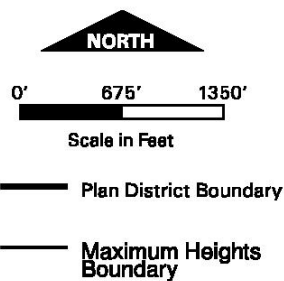
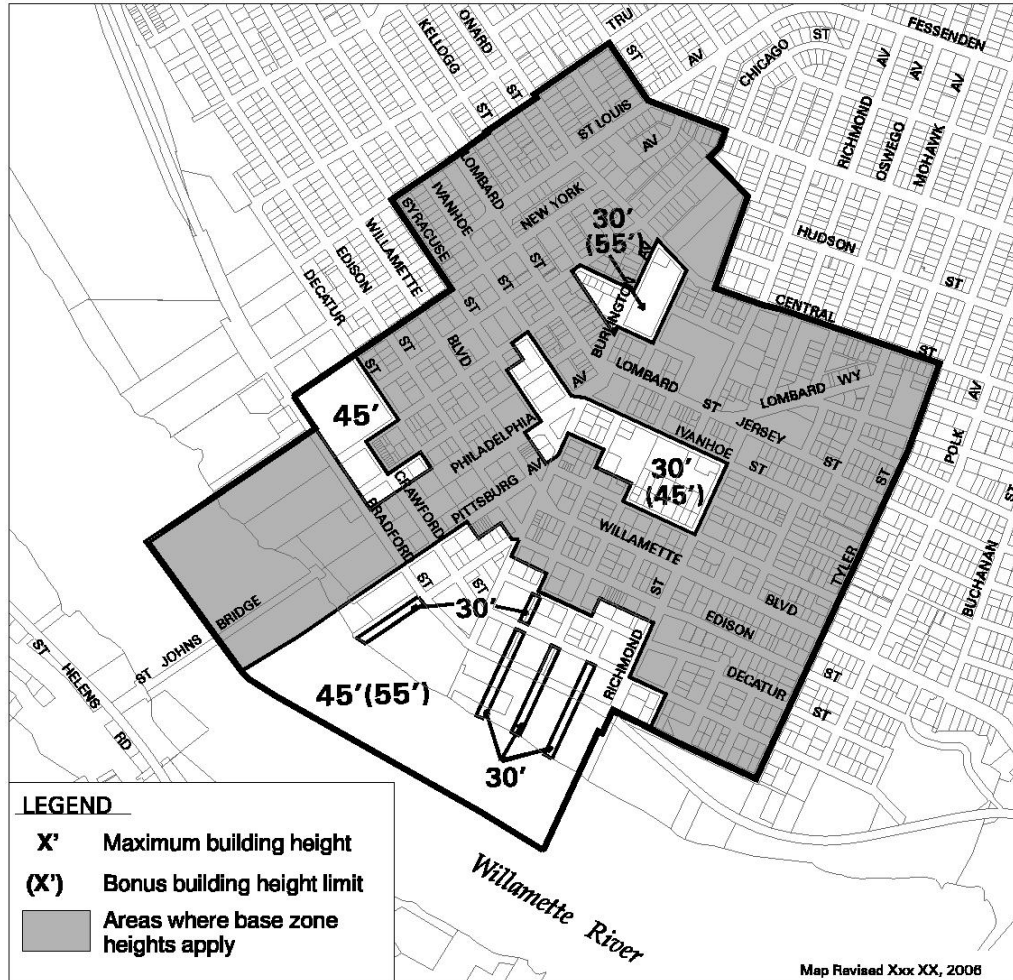
CHAPTER 33.583 ST. JOHNS PLAN DISTRICT

Map 583-2, St Johns Plan District Maximum Heights

This map is amended to bring it in conformance with the zoning approved for the St. Johns plan district. The original intent was to apply special height standards to the EXd and the CN2 zones. All other zones were to be guided by the base height regulations. During the final public review of the St Johns plan district, the zoning on some properties changed. However, these changes were not reflected in Map 583-2. The new map corrects this inconsistency.

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

**CHAPTER 33.583
 ST. JOHNS PLAN DISTRICT**



**Map 583-2
 Draft
 St Johns Plan District
 Maximum Heights**

Bureau of Planning • City of Portland, Oregon

Item 34: Property Line Adjustments

CHAPTER 33.667 PROPERTY LINE ADJUSTMENTS

33.667.010 Purpose

& 33.667.050 When These Regulations Apply

During the last legislative session, the rules for Property Line Adjustments (PLAs) in State law (ORS 92.010) were changed. State law now allows a common line between two properties to be eliminated through a PLA. The Zoning Code does not allow this, making the Zoning Code out of compliance with State Law. This amendment brings our Zoning Code into compliance with state law.

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CHAPTER 33.667 PROPERTY LINE ADJUSTMENTS

33.667.010 Purpose

This chapter states the procedures and regulations for property line adjustments. A Property Line Adjustment (PLA) is the relocation or elimination of a common property line between two abutting properties. A Property Line Adjustment does not create ~~or remove~~ lots. The regulations ensure that:

- A Property Line Adjustment does not result in properties that no longer meet the requirements of this Title;
- A Property Line Adjustment does not alter the availability of existing services to a site; and
- A Property Line Adjustment does not result in properties that no longer meet conditions of approval.

33.667.050 When These Regulations Apply

A Property Line Adjustment is required to relocate a common property line between two properties. If a public agency or body is selling or granting excess right-of-way to adjacent property owners, the excess right-of-way may be incorporated into abutting property through a Property Line Adjustment. A Property Line Adjustment may be used to remove a common property line between two properties.

Item 17: Split Zone

CHAPTER 33.700 ADMINISTRATION AND ENFORCEMENT

33.700.070 *General Rules for Application of the Code Language*

- F. **Sites in more than one zone.** The code is unclear on how to apply development standards to sites that are in more than one zone. This amendment clarifies that the standards of each zone apply to the respective areas. This amendment codifies current and past practice.
- G. – H. are renumbered.

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

CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT

33.700.070 General Rules for Application of the Code Language

The rules of this section apply to this Title and any conditions of a land use approval granted under this Title.

- A. Reading and applying the code.** [No change.]
- B. Ambiguous or unclear language.** [No change.]
- C. Situations where the code is silent.** [No change.]
- D. Terms.** [No change.]
- E. Hierarchy of regulations.**
 - 1. Different levels of regulations. [No change.]
 - 2. Regulations at the same level. No change.]
 - 3. Figures, tables, and maps. No change.]
- F. Sites in more than one zone.** When a site is in more than one zone, the development standards of each zone apply to the portion of the site in that zone.
- FG. Applying the code to specific situations.** Generally, where the code cannot list every situation or be totally definitive, it provides guidance through the use of descriptions and examples. In situations where the code provides this guidance, the descriptions and examples are used to determine the applicable regulations for the situation. If the code regulations, descriptions, and examples do not provide adequate guidance to clearly address a specific situation, the stated intent of the regulation and its relationship to other regulations and situations are considered.
- GH. Determining whether a land use request is quasi-judicial or legislative.** [No change.]

Item 4: Maximum Transit Street Setbacks for Institutions

CHAPTER 33.815 CONDITIONAL USES

33.815.105 Institutional and Other Uses in R Zones

- D. **Public services.** These amendments work in conjunction with the amendments to 33.110.245, Institutional Development Standards on pages 8-11. Those amendments allow some development setbacks for institutions to be determined through a review. The following code changes clarify the approval criteria for the conditional use review, by expanding the criteria to include the physical development and not just the use. This will make it easier for Development Services staff to address potential impacts from alterations to the setbacks.

Language to be **added** is underlined
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CHAPTER 33.815, CONDITIONAL USES

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A. - C. [No Change.]

D. Public services.

1. The ~~proposed use proposal~~ is in conformance with supportive of the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the ~~proposed use proposal~~ 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;
3. [No Change.]

E. [No Change.]

Item 21: Historic Designation Removal Review

CHAPTER 33.846 HISTORIC REVIEWS

33.846.040 Historic Designation Removal Review

C. Approval criteria.

2. Owner consent.

- a. For Historic Landmarks or Conservation Landmarks. This is a technical correction. The approval criterion refers to an owner's objection to inclusion in a district. The reference should be for designation as an individual landmark, and the amended wording reflects this.

Language to be **added** is underlined
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CHAPTER 33.846 HISTORIC REVIEWS

33.846.040 Historic Designation Removal Review

- A. Purpose.** These provisions allow for the removal of a historic designation when it is no longer appropriate.
- B. Review procedure.** Historic designation removal reviews are processed through a Type III procedure.
- C. Approval criteria.** Proposals to remove the historic designation from a historic resource will be approved if the review body finds that all of the following approval criteria are met:
 - 1. Loss of public benefit. The benefits to the public and the property owner of retaining the historic designation no longer outweigh the benefits of removing the designation; or
 - 2. Owner consent.
 - a. For Historic Landmarks or Conservation Landmarks. The property owner at the time of designation must have objected, on the record, to ~~inclusion in the district~~ the historic designation.
 - b. For individual sites not designated as Historic Landmarks or Conservation Landmarks in Historic Districts or Conservation Districts. The property owner at the time of designation must have objected, on the record, to inclusion in the district.

Item 4: Maximum Transit Street Setbacks for Institutions

CHAPTER 33.848 IMPACT MITIGATION PLANS

33.848.050 Approval Criteria

- E. These amendments work in conjunction with the amendments to 33.110.245, Institutional Development Standards on pages 8-11. Those amendments allow some development setbacks for institutions to be determined through a review. The following code changes clarify the approval criteria for the review of Impact Mitigation Plans, by expanding the criteria to include the physical development and not just the use. This will make it easier for Development Services staff to address potential impacts from alterations to the setbacks.

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

CHAPTER 33.848, IMPACT MITIGATION PLANS**33.848.050 Approval Criteria**

The approval criteria listed in this Section will be used to review impact mitigation plans. These criteria correspond to the regulations governing the content of the Impact Mitigation Plan. The approval criteria are:

A-D. [No Change.]

- E.** The ~~proposed uses~~ proposal and impact mitigation plan are ~~in conformance with~~ supportive of the Transportation Element of the Comprehensive Plan.

F.-O. [No Change.]

Item 24: Attached Duplex Definition

CHAPTER 33.910 DEFINITIONS

33.910.030 Definitions

Residential Structure Types

- **Attached Duplex.** The definition of attached duplex only addresses a pair of attached duplexes. It does not include a duplex that is attached to a single-dwelling structure. This amendment clarifies that an attached duplex includes a duplex that is attached to a single dwelling structure, as well as a duplex that is attached to another duplex. The amount of common wall required to be shared between attached houses was recently changed to 25 percent of the length of the side of the dwelling. For consistency, the same change is made to the definition of attached duplex. The amendment makes the Attached Duplex definition similar to the existing definition of Attached House:

***Attached House.** A dwelling unit, located on its own lot, that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse or a common-wall house.*

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

CHAPTER 33.910 DEFINITIONS

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Residential Structure Types

- **Attached Duplex.** A duplex, **located on its own lot**, that shares one or more common or abutting walls with one or more dwelling units ~~other duplex (for a total of 4 dwelling units)~~. The common or abutting wall must be shared for at least ~~50~~ 25 percent of the length of the side of the dwelling.

Item 28: Trade School Use Classification

CHAPTER 33.920 DESCRIPTIONS OF THE USE CATEGORIES

33.920.250 Retail Sales And Service

D. Exceptions.

8. Currently, all trade schools are classified as Retail Sales And Service uses. However, classes at some trade schools involve operation of industrial vehicles and equipment, including heavy trucks. These operations often take place outdoors. A trade school where heavy equipment is operated has impacts similar to industrial uses, and may not be appropriate in commercially-zoned areas. This amendment provides for such trade schools to be classified as Industrial Service uses, which will allow them to locate in industrial areas.

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

CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES

33.920.250 Retail Sales And Service

A. Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.

B. Accessory uses. [No change.]

C. Examples. Examples include uses from the four subgroups listed below:

1. Sales-oriented: [No change.]
2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
3. Entertainment-oriented: [No change.]
4. Repair-oriented: [No change.]

D. Exceptions.

1. – 7. [No change.]
8. Trade schools where industrial vehicles and equipment, including heavy trucks, are operated are classified as Industrial Service.

Item 28: Trade School Use Classification**33.920.300 Industrial Service**

- C. **Examples.** This amendment adds trade schools to the list of examples for the Industrial Service use category where industrial vehicles and equipment, including heavy trucks, are operated. Currently, all trade schools are classified as Retail Sales And Service uses. However, classes at some trade schools involve operation of industrial vehicles and equipment, including heavy trucks. These operations often take place outdoors. A trade school where heavy equipment is operated has impacts similar to industrial uses, and may not be appropriate in commercially-zoned areas. This amendment provides for such trade schools to be classified as Industrial Service uses, which will allow them to locate in industrial areas.

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

33.920.300 Industrial Service

- A. Characteristics.** Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- B. Accessory uses.** [No change.]
- C. Examples.** Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire retreading or recapping; truck stops; building, heating, plumbing or electrical contractors; trade schools where industrial vehicles and equipment, including heavy trucks, are operated; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; drydocks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.
- D. Exceptions.** [No change.]

Item 29: Recording Studio Use Classification

33.920.310 Manufacturing And Production

- C. Examples.** Recording studios are not specifically listed as an example in any of the use categories. This causes confusion because they are similar to examples listed in both the Retail Sales And Service use category and the Manufacturing And Production use category, and they share characteristics of both categories. Some recording studios function like retail establishments by renting space to different artists for recording, while others are more production-oriented and manufacture CDs and films.

In addressing this issue, we considered classifying recording studios as Retail Sales And Service uses, Manufacturing And Production uses, or listing them in both use categories. After conducting some research, we decided that the size of the studio was the greatest characteristic that determined its impact. Smaller studios are more retail-oriented, while larger ones are likely to be more involved in manufacturing, film production, and other activities that are industrial in nature. By analyzing the ramifications of each option and looking at where the use would be allowed, we decided to classify them as Manufacturing And Production uses. Because small amounts of Manufacturing and Production uses are allowed in most of the commercial zones, this will result in:

- Small and large recording studios allowed in industrial zones, and
- Small recording studios also allowed in most commercial zones as indicated below.

Manufacturing and Production uses are limited to 10,000 sq. ft. in CX, CG, CS and CM zones. They are limited to 5,000 sq. ft. in CN1 and CN2 zones, and are prohibited in CO1 and CO2 zones.

Language to be **added** is underlined
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33.920.310 Manufacturing And Production

- A. Characteristics.** Manufacturing And Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- B. Accessory uses.** [No change.]
- C. Examples.** Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; recording studios; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including mobile homes; and the production of energy.
- D. Exceptions.** [No change.]

Appendix A

What is the Regulatory Improvement Workplan?

On June 26, 2002, the Portland City Council approved Resolution No. 36080, which sought to “update and improve City building and land use regulations that hinder desirable development.” This was the beginning of the Council’s charge to build an effective process of continuously improving the City’s code regulations, procedures, costs and customer service. The resolution also directed that a procedure be formulated to identify both positive and negative impacts of proposed regulations. This Impact Assessment is now conducted as part of all projects where changes to City regulations are considered.

In August 2003, Council assigned ongoing responsibility for coordination of the implementation of the Regulatory Improvement Workplan (RIW) to the Bureau of Planning and the Bureau of Development Services. To develop the future workplans, the two bureaus established a process for selecting items. The process includes the following:

- An online database of potential amendments and improvements to the Zoning Code. These are items suggested by City staff, citizens, and others;
- The Regulatory Improvement Stakeholder Advisory Team (RISAT); and
- Presenting the Planning Commission with future workplan lists at the same time as proposed code language for the current workplan.

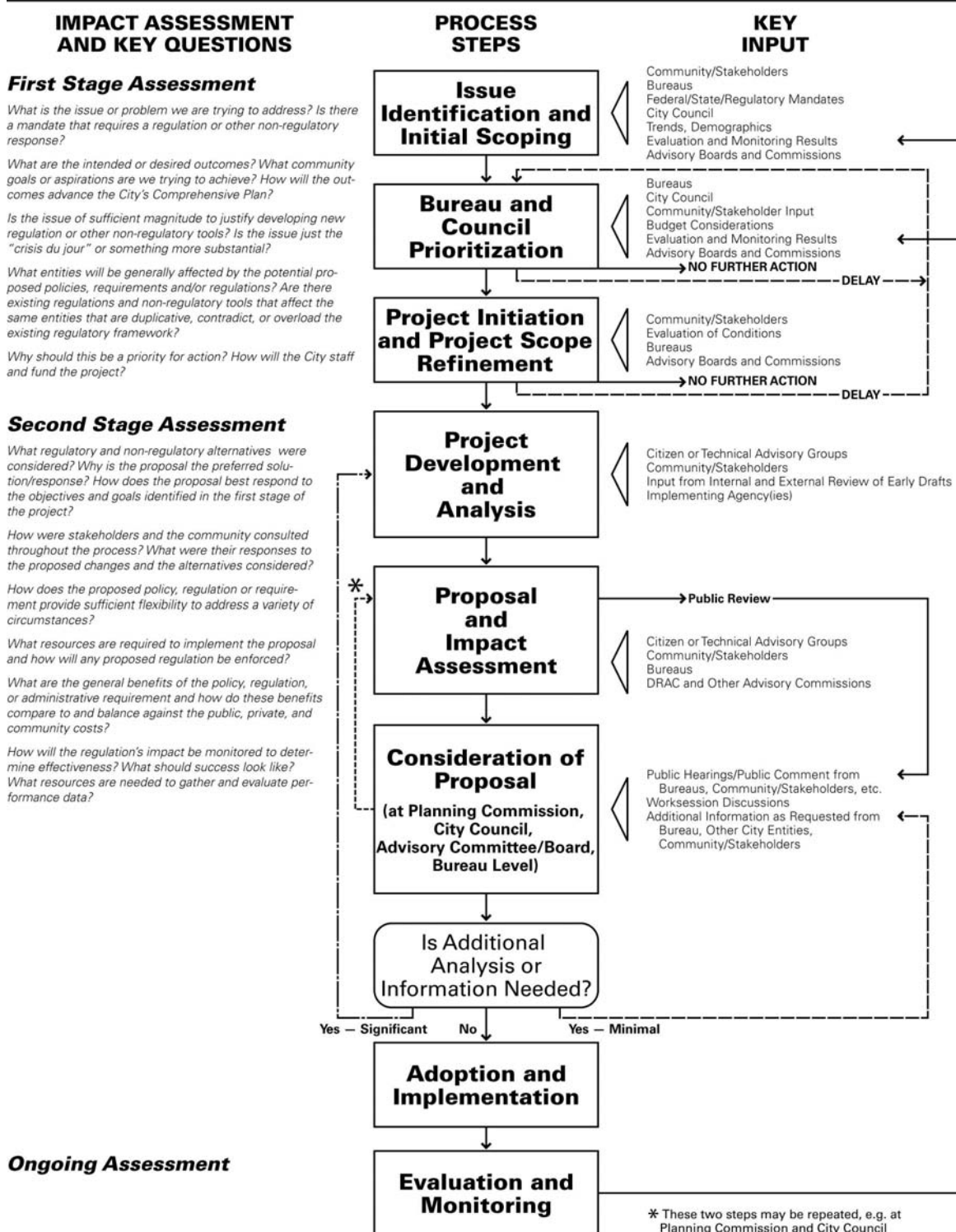
Both bureaus periodically review potential amendments and improvements to the Zoning Code and, with the assistance of the RISAT, rank the amendments, and propose a workplan for the next package. The packages are called Regulatory Improvement Code Improvement Package (RICAP) 1, RICAP 2, and so on. This list of potential amendments is reviewed and adopted by the Planning Commission at a public hearing. The list selected for each package is not a list of amendments, but of issues and areas that will be researched and analyzed; each issue may or may not result in amendments to the Code.

After Planning Commission adopts the workplan for the next RICAP package, the Planning Bureau, with assistance from the Bureau of Development Services, develops information and a recommendation on each issue. If an amendment to the Zoning Code is recommended, they also develop code language.

As with all projects that amend the Zoning Code, notice is sent to interested parties and all neighborhood and business associations. Open houses and public meetings are held when warranted. The Planning Commission holds a public hearing on the proposed amendments to the Code, as does City Council.

Appendix B

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



Appendix C

RICAP 2 Workplan List

The following list contains all the issues that were studied during the RICAP 2 process. Several of the items did not have amendments recommended after research. For additional information on these individual items, please refer to the *RICAP 2: Proposed Draft Report*, dated August 9, 2006, or the *RICAP 2: Proposed Workplan*, dated November 21, 2005.

RICAP 2 Workplan Items (sorted by item #)

Item #	Item Name	Amendment	Zoning Code Section
1	Mechanical Equipment in Setbacks	No amendment proposed	
2	Transit Street Garage Entrance Setback	Establish garage entrance setbacks in commercial zones	Table 130-3 33.130.250
3	Attached Housing Rear Setback	Clarify that the rear setback for attached housing and attached duplexes is based on the combined area of the plane of the building wall of each unit	33.120.270
4	Maximum Transit Street Setbacks for Institutions	Provide greater flexibility to the maximum transit street setbacks for institutional uses in single dwelling zones	33.110.245
5	Height Limit for Stairwell Enclosure	Provide an exception to the maximum height limit for rooftop stairwell enclosures consistent with the exception allowed for other rooftop equipment	33.120.215 33.130.210 33.140.210
6	Transit Street Building Setbacks	Reduce the required minimum street lot line setback in CO1, CO2, CN2, and CG zones to 0'	Table 130-3
7	Transit Street Main Entrance	No amendment proposed	
8	Mixed Commercial (CM) Zone	Clarify the applicable regulations regarding existing nonresidential development through rewrite of the CM regulations (see also #9 & 10)	Table 130-3 33.130.253
9	Nonresidential in CM	Clarify the requirements for use conversions in existing buildings through rewrite of the CM regulations (see also #8 & #10)	Table 130-3 33.130.253
10	Mixed Commercial (CM) Zone	Provide greater flexibility and simplicity for expansion of limited nonresidential uses through rewrite of the CM regulations (see also #8 & 9)	Table 130-3 33.130.253
11	Fences in Setback	Allow 8' high fences in the EG2 and IG2 zones in the setback beyond 10' from the front lot line	33.140.275

APPENDIX C – RICAP 2 Workplan List

Item #	Item Name	Amendment	Zoning Code Section
12	Landscaping Requirements for School Sites	Correct landscaping references for school sites	33.281.140
13	Environmental Overlay Exemptions	Clarify the soil disturbance expectation for the nuisance/prohibited plant removal exemption	33.430.080
14	Cascade Station Type E Street	No amendment proposed	
15	St. Johns Plan District Height Map	Correct Map 583-2 to show correct height bonus areas in St. Johns plan district	Map 583-2
16	Replat	No amendment proposed	
17	Split Zone	Clarify that for sites that are in more than one zone, the development standards of each respective zone apply	33.700.070
18	Pre-1981 LUR Conditions of Approval	No amendment proposed	
19	Landslide Hazard Study	No amendment proposed	
20	Approval Criteria (Police Protection)	No amendment proposed	
21	Historic Designation Removal Review	Correct reference in the Historic Review approval criteria	33.846.040
22	Zoning Map Amendments	No amendment proposed (determined at Planning Commission hearing)	
23	Decks and Building Coverage	No amendment proposed	
24	Attached Duplex Definition	Include duplexes that are attached to a house in the attached duplex definition	33.910.030
25	Industrial Use Categories	No amendment proposed	
26	Waste Related or Recycling Operations	No amendment proposed	
27	Headquarters Offices	No amendment proposed	
28	Trade School Use Classification	Classify trade schools, where industrial vehicles and equipment are operated, as Industrial Service	33.920.250 33.920.300
29	Recording Studio Use Classification	Cite recording studio as an example under Manufacturing And Production use category	33.920.310
30	Yard Debris Use Classification	No amendment proposed	
31	Floor Area Definition	No amendment proposed	
32	Land Constraints to Minimum Density	No amendment proposed	

Item #	Item Name	Amendment	Zoning Code Section
33	South Waterfront Urban Design Framework	Change references from the South Waterfront Urban Design and Development Framework to the South Waterfront Public Views & Visual Permeability Assessment	33.510.205 33.510.252
34	Property Line Adjustments	Revise purpose statement for Property Line Adjustments to conform with changes to State Law	33.667.010

ORDINANCE No. 18 0619

Improve land use regulations through the Regulatory Improvement Code Amendment Package 2
(Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings:

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number.
2. More information on the Regulatory Improvement Workplan is in Appendix A of Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft Report*, dated October 26, 2006.
3. During the Fall of 2005, Planning and BDS staff worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to propose the second Regulatory Improvement Code Amendment Package (RICAP 2) workplan. The RISAT includes participants from city bureaus and the community and advises staff. They also communicate information about each RISAT to those they represent and invite comment.
4. On December 13, 2005, the Planning Commission held a hearing to discuss and take testimony on the RICAP 2 workplan. The workplan consisted of 32 issues proposed for further research in order to find potential solutions. The Planning Commission voted to approve the workplan as presented by Planning staff.
5. During the spring of 2006, Planning staff worked with BDS and members of the RISAT to address the 32 issues in the workplan. In addition, two items, a clarification for the South Waterfront Urban Design Framework and a clarification to property line adjustment regulations, were added to the workplan, resulting in 34 items to be addressed.
6. After preliminary work on the 34 issues, staff proposed deferring several items to future RICAPs to allow time for further research. Staff also felt that several other items did not warrant a code amendment. The resulting amendments to Title 33, Planning and Zoning, address 19 of the 34 issues identified in the workplan.
7. On July 21, 2006, notice of the proposed RICAP 2 code amendments was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by ORS 197.610.
8. On October 10, 2006, the Planning Commission held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Proposed Draft Report*. Staff presented the proposal and public testimony was received. The Commission voted to

18 06 19

recommend that City Council adopt the staff recommendation with the exception that they directed staff to continue to research the issue on Zoning Map Amendments.

9. On November 15, 2006, City Council held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Recommended Draft Report*. Staff presented the proposal and public testimony was received.
10. On November 22, 2006, Council voted to adopt the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 2 (RICAP 2), Recommended Draft Report* and amend the Zoning Code as shown in the report.

Findings on Statewide Planning Goals

11. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
12. **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:
 - During 2005 and 2006, staff from Planning and BDS met monthly with the RISAT to review the selections proposed for the Regulatory Improvement Code Amendment Package 2 (RICAP 2) workplan and the proposed amendments to the Zoning Code.
 - On November 10, 2005, notice was sent 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 2 workplan.
 - On November 21, 2005, the *Regulatory Improvement Code Amendment Package 2 – Proposed Workplan* was published. 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 on the RICAP 2 Proposed Workplan and heard testimony from citizens on the proposed issues. The Planning Commission voted to adopt the workplan, directing staff to work on code amendments on the 32 issues listed in the workplan.
 - On August 11, 2006, notice was sent 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 2.
 - On August 9, 2006 the *Regulatory Improvement Code Amendment Package 2 Proposed Draft Report* was published. The report, explained the proposed amendments to the Zoning Code. 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 October 10, 2006, the Planning Commission held a public hearing to discuss and take testimony on the report. At the close of the hearing, the Planning Commission recommended that Council adopt staff's proposal with the exception that they directed staff to continue to research the issue on Zoning Map Amendments.
 - On November 15, 2006, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.

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13. **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 assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support 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.
14. **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. Clarifying soil disturbance expectations when nuisance and prohibited plants are removed from environmental overlay zones, and correcting a reference in the approval criteria for the removal of a historic designation, support this goal because they provide clarification to existing regulations pertaining to natural resources and historic areas, without changing policy or intent.
15. **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:

- Amendments to Mixed Commercial (CM) Zone. These amendments allow greater flexibility for existing businesses to expand and to convert to other uses.
 - Minimum setbacks in Commercial Zones. This amendment reduces the minimum setbacks in commercial zones to allow greater flexibility for the siting of buildings, especially along Transit Streets.
 - Trade School Use Classification. Clarifying that certain Trade Schools are in the Industrial Service use category allows these uses to locate in industrial areas, giving them more appropriate options for locations where there will not be conflicts with neighboring businesses.
16. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The amendments are consistent with this goal, because they do not change the policy or intent of any of the existing regulations pertaining to transportation.

The following amendments are directly supportive of Goal 12:

- Maximum Transit Street Setbacks for Institutions. This amendment directly supports Goal 12 by allowing the setbacks to be modified through the conditional use process instead of through an adjustment. The conditional use review contains a more comprehensive review of transportation impacts than the adjustment review.
- Minimum setbacks in Commercial Zones. This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
- Garage entrance setbacks in Commercial Zones. This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood. Clear sidewalks are advantageous to pedestrians, and so support walking and transit use.

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The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if the proposed regulation will significantly affect an existing or planned transportation facility.

This proposal will not have a significant effect on existing or planned transportation facilities because the amendments do not result in increases in jobs, housing units or density. For the most part, they clarify existing regulations.

Findings on Metro Urban Growth Management Functional Plan

17. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 2 amendments.
18. **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 citywide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not significantly alter the development capacity of the city. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development), several of the amendments in RICAP 2 foster economic growth within the City, in compliance with this Title.
19. **Title 4, Industrial and Other Employment Areas**, limits retail and office development in Employment and Industrial areas to those that are most likely to serve the needs of the area and not draw customers from a larger market area. One amendment specifically complies with this Title by clarifying that trade schools where industrial vehicles and equipment are operated are classified as Industrial Service uses, thereby allowing the training facilities to locate in proximity to industrial employers.

Findings on Portland's Comprehensive Plan Goals

20. 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.
21. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to RICAP 2.
22. **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.
23. **Policy 1.4, Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because a number of other government agencies were notified of this proposal and given the

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opportunity to comment. These agencies include Metro, Multnomah County Planning, and the Oregon Department of Land Conservation and Development.

24. **Goal 2, Urban Development**, calls for maintaining 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 urban development and employment at levels that support transit:

- **Amendments to Mixed Commercial (CM) Zone.** These amendments allow greater flexibility for existing businesses to expand and to convert to other uses.
- **Minimum setbacks in Commercial Zones.** This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
- **Trade School Use Classification.** This amendment clarifies that trade schools where industrial vehicles and equipment are operated are classified as Industrial Service uses, thereby allowing the training facilities to locate in proximity to industrial employers.

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

Specifically the following amendments support Goal 3:

- **Garage entrance setbacks in Commercial Zones.** This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood.
- **Maximum Transit Street Setbacks for Institutions.** This amendment allows setbacks from Transit Streets to be modified through a conditional use review instead of through an adjustment. It will increase the compatibility of new institutional structures or campuses with single-dwelling neighborhoods. Increasing building compatibility and pedestrian circulation make a neighborhood more attractive and livable, and thus more stable.

26. **Goal 5, Economic Development**, calls for the 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. All of the amendments are consistent with 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 Goal 5:

- **Amendments to Mixed Commercial (CM) Zone.** These amendments allow greater flexibility for existing businesses to expand and to convert to other uses, encouraging the growth of small

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community-based businesses. They also will help existing businesses remain and expand in Portland.

- **Minimum setbacks in Commercial Zones.** This amendment reduces the minimum setbacks in commercial zones to allow greater flexibility for the siting of buildings, especially along Transit Streets.
- **Trade School Use Classification.** Clarifying that certain Trade Schools are in the Industrial Service use category allows these uses to locate in industrial areas, giving them more appropriate options for locations where there will not be conflicts with neighboring businesses.

27. **Goal 6, Transportation,** calls for developing 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 the policy or intent of existing regulations relating to transportation.

The following amendments are directly supportive of Goal 6. See also findings for Statewide Planning Goal 12, Transportation.

- **Maximum Transit Street Setbacks for Institutions.** This amendment directly supports Goal 6 by allowing the setbacks to be modified through the conditional use process instead of through an adjustment. The conditional use review contains a more comprehensive review of transportation impacts than the adjustment review.
 - **Minimum setbacks in Commercial Zones.** This amendment reduces the minimum setbacks in commercial zones to allow buildings to be placed closer to the street, especially along Transit Streets, encouraging greater transit use.
 - **Garage entrance setbacks in Commercial Zones.** This amendment establishes garage setbacks for houses and duplexes in the commercial zones to ensure that vehicles parked in front of a garage do not block the public sidewalk in the neighborhood. Clear sidewalks are advantageous to pedestrians, and so support walking and transit use.
28. **Goal 8, Environment,** calls for the maintenance and improvement of the quality of Portland's air, water, and land resources, as well as the protection of neighborhoods and business centers from noise pollution. One amendment, addressing environmental overlay exemptions, supports this goal by providing clarification to existing regulations pertaining to natural resources and erosion, without changing policy or intent.
29. **Goal 9, Citizen Involvement,** calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement.
30. **Goal 10, Plan Review and Administration,** includes several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria of 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.

All of the amendments are supportive of Policy 10.10 because they clarify and streamline many of

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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 specifically support Policy 10.9 by clarifying and addressing the approval criteria for one type of Historic Review and for Conditional Use Reviews for Institutional uses.

31. **Goal 12, Urban Design**, calls for enhancing 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. Policy 12.3 calls for enhancing the City's identity through protection of Portland's significant historic resources. The amendment addressing historic designation removal review supports this policy by providing clarification to existing regulations pertaining to historic resources, without changing policy or intent.

NOW, THEREFORE, the Council directs:


- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26, 2006;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26, 2006; and
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 2 (RICAP 2): Recommended Draft*, dated October 26 2006, as legislative intent and further findings.

Passed by the Council: NOV 22 2006

GARY BLACKMER

Auditor of the City of Portland

By



Prepared by:

Mayor Tom Potter
Phil Nameny, Bureau of Planning
October 17, 2006

Deputy



CITY OF PORTLAND, OREGON
BUREAU OF
Planning