

Code Maintenance 2004

**Part 1A: Amendments to Title 33, Planning and Zoning
Adopted by Ordinance 178509**

**Part 1B: Amendments Related to Radio Frequency
Transmission Facilities
Adopted by Ordinance 178480**

**Part 2 of 2: South Waterfront Related Amendments
Adopted by Ordinance 178425**

**Accessory Structures Amendments
Adopted by Ordinance 178927**



**City of Portland
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December 31, 2004

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Table of Contents

Section I.	Project Summary	1
Section II.	Project Overview and Background	3
Section III.	Adopted Code Amendments	11
	Part 1A	
	Part 1B	
	Part 2	
	Accessory Structures	
Appendix A:	Table of Amendments	
Appendix B:	Impact Analysis Report	
Appendix C:	Adopting Ordinances	
	Part 1A: Ordinance 178509	
	Part 1B: Ordinance 178480	
	Part 2: Ordinance 178425	
	Accessory Structures: Ordinance 178927	

Section I

Project Summary

Summary

For the fifth year in a row, the City of Portland undertook the Code Maintenance process in a continuing effort to improve the clarity and structure of the Portland Zoning Code. Code Maintenance 2004 (CM 2004) consisted primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing basic policy or intent. The Code Maintenance projects are one of several elements that make up the Regulatory Improvement Workplan (RIW).

The amendments in the Code Maintenance package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and City staff. The amendments can be placed into three general categories: technical, clarification, and minor policy. Appendix A provides a full list of the amendments considered or adopted through the Code Maintenance 2004 project. Appendix B provides the Impact Analysis Report required for City Code amendments.

The Planning Commission considered the Bureau of Development Services proposal and received testimony at public hearings on February 24, 2004 and March 9, 2004. During their March 9th discussion of the CM 2004 package and the public testimony, the Planning Commission decided to separate out the proposed amendments related to accessory structures so that staff could provide additional information.

On March 9th the bulk of the Code Maintenance 2004 amendments were forwarded to Council with the Planning Commission's recommendation for adoption. These amendments were separated into several different documents – Part 1A, Part 1B and Part 2 – and considered by the Council at public hearings in May and June 2004. The Council adopted the amendments included in those reports with a few modifications to the Planning Commission's recommendation.

The Planning Commission considered additional information on the accessory structure amendments on May 11, 2004 and, at the conclusion of their discussion, forwarded a recommendation to adopt those amendments to the City Council. Following an initial public hearing on October 20, 2004, and based on the public testimony, the City Council revised the Planning Commission's recommendation and adopted the revised amendments on December 1, 2004.

Section IV contains the Zoning Code language adopted by the City Council.

Section II

Project Overview and Background

Why did the City undertake Code Maintenance 2004?

The Code Maintenance 2004 project was part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. Since 2000, Code Maintenance projects have resulted in hundreds of amendments to the Zoning Code; the 2004 project included approximately 80 adopted changes.

Code Maintenance 2004 consisted primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing the basic policy or intent. Code Maintenance 2004 was one of several regulatory actions that make up the fiscal year 2003/04 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services to undertake Code Maintenance 2004. The CM 2004 project was completed by the Bureau of Planning following a consolidation of the RIW staff.

Where did the amendments contained in Code Maintenance 2004 come from?

The amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from the Bureau of Development Services, Bureau of Planning and other City agencies. Following the model of the fiscal year 2002/03 Regulatory Improvement Workplan, an initial list of ideas to include in Code Maintenance 2004 was developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input to the RIW including the Code Maintenance list of ideas.

How were the amendments contained in Code Maintenance 2004 selected?

An Advisory Team of neighborhood representatives, business representatives and city staff reviewed the initial list of Code Maintenance items (along with other RIW elements) before it was considered at public hearings by the Planning Commission and City Council. The City Council did not adopt a specific list of amendments for inclusion in Code Maintenance 2004. Instead, the Council directed the Bureau of Development Services to refine the list based on the

goals of the ongoing Code Maintenance efforts.

The Code Maintenance 2004 amendments were selected for inclusion in the package because they:

- Reduce conflict between regulations within the Zoning Code, and/or with regulations in other City and State codes;
- Clarify language that makes understanding and implementing the regulation difficult;
- Simplify overly complex regulations while still achieving the intended purpose of the regulation; and
- Eliminate regulations in the Zoning Code that duplicate those in other codes or regulations, or reduce the need for land use reviews that are typically approved.

Additionally, the amendments were required to meet at least one of the following objectives:

- The amendment clarifies wording that may be open to interpretation without changing the intent behind the specific regulation in question.
- The amendment addresses ongoing problems with administration of the existing Code language.
- The amendment may result in a minor policy change with low significance if it also helps implement the City's Comprehensive Plan, and is consistent with existing Policies and Objectives of that plan.

The amendments contained in Code Maintenance 2004 can be placed into three general categories: technical, clarification, and minor policy. Appendix A provides a full list of the amendments considered or adopted through Code Maintenance 2004 and highlights those that fell in the minor policy category..

What has taken place already with the Code Maintenance 2004 package?

Code Maintenance 2004 was required to follow the legislative procedure described in the Zoning Code (PCC 33.740, Legislative Procedure). The Bureau of Development Services began the process by issuing a report, which described the proposed amendments, and mailing a notice of the hearings before the Portland Planning Commission, which were held on February 24, 2004 and March 9, 2004. The Portland Planning Commission considered the bureau's proposal and took testimony at those public hearings.

During their March 9th discussion of the CM 2004 package and the public testimony, the Planning Commission decided to separate out the proposed amendments related to accessory structures so that staff could provide additional information. On March 9th the Planning Commission voted to forward the bulk of the Code Maintenance 2004 amendments to the City Council a recommendation that the amendments be adopted.

For the City Council's initial hearing on the main package, the amendments were separated into two documents. *Part 1 of 2* contained the majority of the

amendments and *Part 2 of 2* contained the amendments to the South Waterfront Subdistrict of the Central City Plan.

The City Council considered the Planning Commission's recommendation on *Parts 1 and 2*, and heard testimony at public hearings on May 20, 2004 and June 9, 2004. At the conclusion of the May 20th hearing the Council voted to adopt Part 2 of 2. On May 20th the City Council also directed staff to separate *Part 1* into two documents. *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A* contained approximately 65 amendments to Title 33, Planning and Zoning and was considered for adoption through a regular ordinance on June 9, 2004. *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B* included four amendments specific to Radio Frequency Transmission Facilities and was considered for adoption through an emergency ordinance on June 9, 2004. *Part 1B*, the Radio Frequency Facilities amendments, was adopted on June 9th, and *Part 1A* was adopted on June 16th.

At a meeting on May 11, 2004 the Planning Commission reviewed additional staff findings on the number and types of accessory structures that have been built over the past few years, and how they relate to the City's setback standards. At the conclusion of staff's presentation, the Planning Commission discussed the accessory structures amendments in more detail and voted unanimously to forward them to the City Council with a recommendation to adopt them. .

The City Council considered the Planning Commission's recommendation on the accessory structures amendments and received testimony at a public hearing on October 20, 2004. At a subsequent hearing and based on public testimony, the City Council revised the amendments and accompanying commentary.

Section IV contains the Zoning Code language as amended by the City Council for all four pieces of the project.

Section III

Adopted Code Amendments

How to read this section

This section is organized numerically by Code chapter. It includes the amendments to Title 33, Planning and Zoning that were adopted through the Code Maintenance 2004 project.

This section is divided into Part 1A, Part 1B, Part 2 and Accessory Structures so that the amendments adopted through each of the four reports that made up the CM 2004 project can be identified.

Even-numbered pages contain commentary on the amendments. Odd-numbered pages contain Code language with the adopted changes. Language that was added to the Code is shown in underlined text. Language that was deleted from the Code is shown in ~~strike-through text~~.

Part 1A: Amendments to Title 33 Planning and Zoning

**TITLE 33, PLANNING AND ZONING
INTRODUCTION**

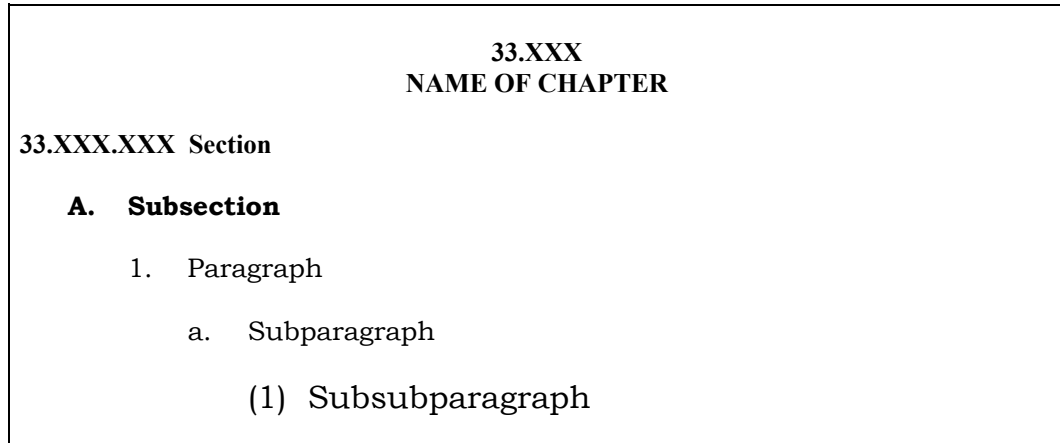
Format of Title 33

In a number of places in Title 33, a specific document (such as the Scenic Resources Protection Plan in 33.480.040) is referenced with underlined text. Since this use of a specific formatted text is intended to refer to a published document, the formatting convention should be explained in this section. For consistency with standard publication formatting and to avoid confusion with the strikethrough and underline convention used in Code amendment documents, these document references are recommended to be shown in italicized text.

To avoid reprinting large portions of the Zoning Code, the format change to this recommended convention will take place overtime as chapters of the Code are updated by other actions.

Format of Title 33

Outline. The format of Title 33 follows the layout of all revised Titles in the City Code. The chapter and section numbers use an expandable decimal numbering system adopted by the City in 1969. Major divisions within the Title are called chapters. Major divisions within chapters are called sections. The format of the divisions in the Title are shown below.



Referencing Within Title 33. ~~Within Title 33, references~~ References within Title 33 are made as follows:

Outside of the same section. When a reference is to text outside of the same section, the reference number starts with the Title number (i.e. 33), and continues to the appropriate level for the reference. For example, 33.110.050.B. refers to Subsection B. of Section 050, of Chapter 110, of Title 33. The names "Title" and "Chapter" are used if the reference is to an entire Title or Chapter.

Within the same section. When a reference is to text within the same section, the name of the division level is used (i.e. Subsection, Paragraph, Subparagraph, etc.), and the reference "number" starts with the appropriate subsection letter. For example, "See Paragraph D.2., below" refers to Paragraph 2., of Subsection D., of the same section.

Referencing Other Documents. When a reference is to a document outside of the Portland City Code, the referenced document's name is in italicized text, such as *Balch Creek Watershed Protection Plan.*

Terms

The code has been written in a "plain English" style and the meaning is intended to be clear as read. However, because it is also a legal document and because of the need for terms with specific meanings, the code also provides guidance on how specific terms are used. Chapter 33.910, Definitions, defines words that have a specific meaning in this code. 33.700.070, General Rules for Application of the Code Language, contains other information on how terms are used in this code.

**CHAPTER 33.100
OPEN SPACE ZONE**

33.100.200 Development Standards

A. Allowed or Limited Uses

2. Outdoor activity facility setback.

This amendment will exempt outdoor activity facilities from the required setback when the abutting residentially zoned property is a school site. The existing requirement for a 25 or 50 foot setback between outdoor activity facilities (swimming pools, basketball courts, baseball diamonds, etc) and abutting residentially-zoned properties does not make sense when the adjacent use is a school, which are often located in residential zones.

A similar amendment is recommended for the Single-Dwelling zones.

B. Conditional Uses

1. Building setbacks.

Adoption of the Transportation System Plan amended setbacks that were measured from the curb to be measured from lot lines. These references in the open space zone were inadvertently left out of those amendments.

**CHAPTER 33.100
OPEN SPACE ZONE**

Development Standards

33.100.200 Development Standards

- A. Allowed or limited uses.** Allowed or limited uses are subject to the development standards stated below.
1. [No change]
 2. Outdoor activity facility setbacks. Outdoor activity facilities, such as swimming pools, basketball courts, tennis courts, or baseball diamonds must be set back 50 feet from abutting R-zoned properties. Playground facilities must be set back 25 feet from abutting R-zoned properties if not illuminated, and 50 feet if illuminated. Where the outdoor activity facility abuts R-zoned properties in School uses, the required setback is reduced to zero.
- B. Conditional uses.** Conditional uses are subject to the development standards stated below.
1. Building setbacks. Buildings must be set back from all the property lines 1 foot for each foot of building height. Where the site is adjacent to a transit street or a street within a Pedestrian District, the maximum setback, ~~measured from the curb, is 25 feet. Where there is no curb, the setback is measured from the lot line, and both the minimum and maximum setbacks are reduced by 6 feet.~~
 2. Parking. [No change]
 3. Other standards. [No change]

CHAPTER 33.110
SINGLE-DWELLING ZONES

33.110.220. Setbacks

D. Exceptions to the required setback

3. Environmental zone.

This amendment makes the base zone regulations for sites with Environmental overlay zone consistent with the regulations of Chapter 430, Environmental Overlay Zone. In Section 33.430.140, General Development Standards, subsection K. states that "The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero." The recommended amendment adds the garage entrance setback and the equivalent of street setbacks (i.e. by referring to side lot lines that are also street lot lines) to the base zone setback exceptions.

A similar amendment is recommended in the Multi-Dwelling zones.

An amendment is also being recommended for Section 33.430.140.K that clarifies the setback language so it is consistent with the base zone language.

**CHAPTER 33.110
SINGLE-DWELLING ZONES**

33.110.220 Setbacks

A. through C. [No changes]

D. Exceptions to the required setbacks.

1. through 2. [No changes]

3. Environmental zone. The front building and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero.

4. through 7. [No changes]

33.110.225. Building Coverage

Table 110-4

Group Living uses are conditional uses in the Single-Dwelling zones. The building coverage standards recently adopted in the Land Division Code Rewrite Project have frequently required Adjustments for these uses. This amendment proposes to make Group Living uses subject to the maximum building coverage under the institutional development standards. This is more consistent with the nature of many Group Living uses and the manner in which the conditional use approval criteria are applied. Table 110-5, which contains the Institutional Development Standards, is included with the next amendment.

33.110.225 Building Coverage

Lot Size	Maximum Building Coverage
Less than 3,000 sq. ft.	50% of lot area
3,000 sq. ft or more but less than 5,000 sq. ft.	1,500 sq. ft. + 37.5% of lot area over 3,000 sq. ft.
5,000 sq. ft. or more but less than 20,000 sq. ft.	2,250 sq. ft + 15% of lot area over 5,000 sq. ft.
20,000 sq. ft. or more	4,500 sq. ft. + 7.5% of lot area over 20,000 sq. ft.

[1] Group Living uses are subject to the maximum building coverage for institutional development stated in Table 110-5.

33.110.245 Institutional Development Standards

Table 110-5

Table 110-5 states the development standards for institutional development in the Single-Dwelling zones. The minimum landscaped area is 25% of the site area but no landscape standard is stated in the table. Section 33.110.245 also states that the regular base zone standards apply if not addressed in that section. In the Single-Dwelling zones, there are no minimum landscape area requirements and therefore no base zone regulations to apply. This amendment proposes to apply the L1 standards in the Single-Dwelling zones, which is consistent with the standard in the Multi-Dwelling zones.

33.110.245 Institutional Development Standards

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	10 ft.
Maximum Building Coverage [2]	50% of site area
Minimum Landscaped Area [2,4]	25% of site area <u>to the L1 standard</u>
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:

- [1] The standards of this table are minimums or maximums as indicated. Compliance with the conditional use approval criteria might preclude development to the maximum intensity permitted by these standards.
- [2] For campus-type developments, the entire campus is treated as one site. Setbacks are only measured from the perimeter of the site. The setbacks in this table only supersede the setbacks required in Table 110-3. The normal regulations for projections into setbacks and for detached accessory structures still apply.
- [3] Towers and spires with a footprint of 200 square feet or less may exceed the height limit, but still must meet the setback standard. All rooftop mechanical equipment must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Elevator mechanical equipment may extend up to 16 feet above the height limit. Other rooftop mechanical equipment which cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit.
- [4] Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.
- [5] Surface parking lots are subject to the parking lot setback and landscaping standards stated in Chapter 33.266, Parking And Loading.

33.110.245 Institutional Development Standards

C. The standards.

4. Outdoor activity facilities.

This amendment is the same as one recommended in the open space zone and will exempt outdoor activity facilities from the required setback when the abutting residentially zoned property is a school site. The existing requirement for a 25 or 50 foot setback between outdoor activity facilities (swimming pools, basketball courts, baseball diamonds, etc) and abutting residentially-zoned properties does not make sense when the adjacent use is a school, which are often located in residential zones.

5. Mechanical Equipment.

The existing standard requires equipment on the ground to be screened by a wall, fence or vegetation tall enough to screen the equipment but does not specify what standard a fence or landscaping must meet. The recommended amendment requires fencing at the F2 standard or landscaping at the L2 standard. The screening is still required to be tall enough to screen the equipment.

A similar amendment is recommended in the other base zone chapters.

33.110.245 Institutional Development Standards

A. through B. [No change]

C. The standards.

1. through 3. [No change]

4. Outdoor activity facilities. Outdoor activity facilities, such as swimming pools, basketball courts, tennis courts, or baseball diamonds must be set back 50 feet from abutting R-zoned properties. Playground facilities must be set back 25 feet from abutting R-zoned properties if not illuminated, and 50 feet if illuminated. Where the outdoor activity facility abuts R-zoned properties in School uses, the required setback is reduced to zero.

5. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation ~~tall enough to screen the equipment.~~ Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting R-zoned lands.

6. through 9. [No change]

33.110.255 Fences

C. Location.

1. Side and rear building setbacks.

The intent of this restriction is to ensure that mid-block or cul-de-sac pedestrian connections are not lined by tall fences, creating a canyon effect. The Code language currently limits fences abutting any pedestrian connection to 3-1/2' in height. This includes fences along a side lot line that abuts a typical right-of-way (ROW) sidewalk. This amendment clarifies that the 3-1/2' fence height does not apply to side and rear yards abutting a pedestrian connection when the pedestrian connection is a typical ROW sidewalk. A second amendment makes the title consistent with other base zones.

A similar amendment is recommended in the other base zones.

33.110.255 Fences

A. through B. [No change]

C. Location and height.

1. [No change].
2. Side and rear building setbacks. ~~Fences up to 8 feet high are allowed in required side or rear building setbacks except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.~~
 - a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.
 - b. Fences abutting a pedestrian connection.
 - (1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is at least 30 feet wide.
 - (2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is less than 30 feet wide.
3. [No change]

D. Reference to other regulations. [No change]

**CHAPTER 33.120
MULTI-DWELLING ZONES**

33.120.215 Height

B. Maximum Height.

Table 120-3

Adoption of the Transportation System Plan changed "light rail station or stop" to "transit station." This reference in Table 120-3 was inadvertently left out of those amendments.

**CHAPTER 33.120
MULTI-DWELLING ZONES**

33.120.215 Height

Table 120-3 Development Standards in Multi-Dwelling Zones [1]						
Standard	R3	R2	R1	RH	RX	IR
Maximum Density (See 33.120.205)	[No change]					
Minimum Density (See 33.120.205)						
Maximum Height (See 33.120.215)	35 ft.	40 ft.	25/45 ft. [7]	25/65 ft. [4,14]	100 ft.	75 ft. [4]
Minimum Setbacks - Front building setback - Street building setback - Side and rear building setback. [16] - Garage entrance setback [9] (See 33.120.220)	[No change]					
Maximum Setbacks (See 33.120.220) Transit Street or Pedestrian District						
Max. Building Coverage (See 33.120.225)						
Max. Building Length (See 33.120.230)						
Min. Landscaped Area (See 33.120.235)						
Required Outdoor Area Individual areas: - Minimum area - Minimum dimension [12] Combined areas: - Minimum area - Minimum dimension [12] (See 33.120.240)						

Notes:

[1] through [3] [No change]

[4] The maximum FAR is 4 to 1 in the areas shown on Maps 120-2 through 120-26. In the areas where the FAR is 4 to 1, the maximum height is 75 feet, except on sites within 1,000 ft. of a ~~light rail station or stop~~ transit station, where the maximum height is 100 ft.

[5] through [8] [No change]

33.120.220 Setbacks

Table 120-4

All minimum setbacks for the IR zone are defined in Table 120-3 as "1 foot for every two feet of building height, but in no case less than 10 feet." In Table 120-4 the minimum side and rear building setbacks for R3, R2, R1, and RH is based on the area of the plane of the building wall. While the title of Table 120-4 includes the IR zone, the minimum side and rear building setbacks in this zone do not depend on the wall area calculations in Table 120-4 to determine the setback. Table 120-4 incorrectly references the IR zone. This amendment removes IR from Table 120-4 so that the standard in Table 120-3 governs the minimum setbacks for the IR zone.

33.120.220 Setbacks

Table 120-4 Minimum Side and Rear Setbacks for R3, R2, R1, and RH, and IR Zones	
If the area of the plane of the building wall is: [1]	The required side and rear setback is:
1,000 sq. ft. or less	5 ft.
1,001 to 1,300 sq. ft.	6 ft.
1,301 to 1,600 sq. ft.	7 ft.
1,601 to 1,900 sq. ft.	8 ft.
1,901 to 2,200 sq. ft.	9 ft.
2,201 to 2,500 sq. ft.	10 ft.
2,501 to 2,800 sq. ft.	11 ft.
2,801 to 3,100 sq. ft.	12 ft.
3,101 to 3,400 sq. ft.	13 ft.
3,401 sq. ft. or greater	14 ft.

Notes:

[1] Measurement of the area of the plane of the building wall is described in Chapter 33.930, Measurements.

33.120.220. Setbacks

B. Building setback standard.

1. Exceptions to the required minimum building setbacks.

b. Environmental zone.

This amendment makes the base zone regulations for sites with Environmental overlay zone consistent with the regulations of Chapter 430, Environmental Overlay Zone. In Section 33.430.140, General Development Standards, subsection K. states that "The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero." The recommended amendment adds the garage entrance setback and the equivalent of street setbacks (i.e. by referring to side lot lines that are also street lot lines) to the base zone setback exceptions.

A similar amendment is recommended in the Single-Dwelling zones.

An amendment is also being recommended for Section 33.430.140.K that clarifies the setback language so it is consistent with the base zone language.

2. Building setbacks on a transit street or in a Pedestrian District.

d. In a Pedestrian District.

This subparagraph covers building setbacks for several scenarios in a pedestrian district. In the adoption of the Transportation System Plan, standards that specify what setbacks apply for a building adjacent to a transit street with an intersecting non-transit street were inadvertently omitted. The Office of Transportation indicates that applying Standard 2 (100% of the ground level, street-facing wall) on the transit street, and Standard 1 (50% of the ground level, street-facing wall) on the non-transit street is consistent with the standards set in other circumstances. The recommended amendment adds the missing text.

Similar amendments are recommended in the Commercial and Employment and Industrial zones.

33.120.220 Setbacks

A. Purpose. [No change]

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

1. Exceptions to the required minimum building setbacks.

a. Setback averaging. [No change].

b. Environmental zone. The required front and street building setback and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero.

c. [No change]

2. Building setbacks on a transit street or in a Pedestrian District. The maximum setback standards of this paragraph apply to buildings that are enclosed on all sides. The building setbacks on a transit street or in a Pedestrian District are as follows

a. through c. [No change]

d. In a Pedestrian District. Where the site is in a Pedestrian District:

(1) through (4) [No change]

(5) One transit street and one intersecting non-transit street. Where the site is adjacent to a transit street and an intersecting non-transit street, the following standards must be met:

- Standard 2 must be met on the frontage of the transit street,

- Standard 1 must be met on the intersecting non-transit street;

Renumber (5) through (7) to (6) through (8).

e. [No change]

3. through 4. [No change]

C. through D. [No change]

33.120.220 Setbacks

Table 120-3.

In the Single-Dwelling zones, no setback is required from a lot line abutting an alley. This amendment proposes to apply this same exception in the Multi-Dwelling zones as well.

33.120.220 Setbacks

Table 120-3 Development Standards in Multi-Dwelling Zones [1]						
Standard	R3	R2	R1	RH	RX	IR
Maximum Density (See 33.120.205)	[No change]					
Minimum Density (See 33.120.205)						
Maximum Height (See 33.120.215)						
Minimum Setbacks - Front building setback - Street building setback - Side and rear building setback. [16], [17] - Garage entrance setback [9], [17] (See 33.120.220)	10 ft. --- [15] 5-14 ft. [8] 18 ft.	10 ft. --- [15] 5-14 ft. [8] 18 ft.	3 ft. --- [15] 5-14 ft. [8] 5/18 ft.[10]	0 ft. 0 ft.[15] 5-14 ft. [8] 5/18 ft.[10]	0 ft. 0 ft.[15] 0 ft. 5/18 ft.[10]	1 ft. for every 2 ft. of bldg. height, but in no case less than 10 ft.
Maximum Setbacks (See 33.120.220) Transit Street or Pedestrian District	[No change]					
Max. Building Coverage (See 33.120.225)						
Max. Building Length (See 33.120.230)						
Min. Landscaped Area (See 33.120.235)						
Required Outdoor Area Individual areas: - Minimum area - Minimum dimension [12] Combined areas: - Minimum area - Minimum dimension [12] (See 33.120.240)						

Notes:

[1] through [16] [No change]

[17] No setback is required from a lot line abutting an alley.

33.120.250 Screening

C. Mechanical equipment.

The existing standard requires equipment on the ground to be screened by a wall, fence or vegetation tall enough to screen the equipment but does not specify what standard a fence or landscaping must meet. The recommended amendment requires fencing at the F2 standard or landscaping at the L2 standard. The screening is still required to be tall enough to screen the equipment.

A similar amendment is recommended in the other base zones.

33.120.250 Screening

A through B [No change]

C. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation ~~tall enough to screen the equipment.~~ Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting R-zoned lands.

D. Other screening requirements. [No change]

33.120.255 Pedestrian Standards

B. The standards.

1. Connections.

a. Connections to the street.

In the Multi-Dwelling, C, and E zones, a building's main entrance must be connected to all streets by an on-site, straight-line pedestrian path. This standard has been difficult to apply on a corner lot (or potentially a lot with three or more frontages) when the building is built close to or on the street lot line, with the main entrance accessed right off the adjoining public sidewalk. Several adjustments to waive the pedestrian connection to the second or third street for buildings in this situation have been approved. The recommended amendment does not change the standard for sites with one street frontage. For sites with multiple frontages, the recommended amendment requires that the main entrance meet the current standard to the closest sidewalk and requires a connection between an entrance and other streets. It also provides an exception when 50% of the façade of the building is within 10 feet of the street.

33.120.255 Pedestrian Standards

A. Purpose. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.

B. The standards. The standards of this section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.

1. Connections. Pedestrian connections are required between building entrances and streets as specified in B.1.a.

a. ~~Connection between streets and entrances. Connection to street. The system must connect all adjacent streets to the main entrance. One of the connections should be no longer than the straight line distance from the entrance to the closest sidewalk or improved right-of-way if there are no sidewalks. It may not be more than 20 feet longer or 120 percent of that straight line distance, whichever is less. Buildings or sites where all of the floor area is in Household Living uses are only required to provide this connection to one main entrance.~~

(1) Sites with one street frontage. There must be a straight line connection between the main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance from the entrance to the closest sidewalk or improved right-of-way if there are no sidewalks.

(2) Sites with more than one street frontage. Where there is more than one street frontage, the following must be met:

- The standard of B.1.a(1) must be met for the main entrance of each building on the site and the closest sidewalk or improved right-of-way if there are no sidewalks;
- A connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.

(3) Exception for Household Living. Buildings or sites where all of the floor area is in Household Living Uses are only required to provide a straight line connection to one main entrance.

b. Internal connections. The system must connect all buildings on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2. through 3. [No change]

33.120.270 Alternative Development Options

D. Attached duplexes.

2. Building setbacks.

This amendment will eliminate the required double side setback for attached duplexes. Attached duplexes are currently allowed in Multi-Dwelling zones if the side setback on the side opposite the common wall is double the side setback of the base zone.

Duplexes tend to be easier to develop and, in some cases, easier to sell than condominium units in a single building. Subsection 33.120.270.D states "The attached duplex regulations allow for an alternative housing type that promotes owner occupied structures . . ." However, the difficulty in meeting the double setback requirement provides an incentive to build a 4-unit structure on a single lot rather than an attached duplex on two lots. Eliminating the double setback standard will facilitate the building of owner occupied structures and is consistent with the purpose of this section.

In addition, the double setback requirement is compounded by the variable side and rear setback requirements in Table 120-4, which are dependent on the area of wall. To comply with the double side setback, a building may be more massive to preserve interior square footage. However, Table 120-4 requires increased building setbacks for buildings with larger wall areas. The problem of trying to maintain interior area is exacerbated because a higher or wider building may be desired due to the double side setback requirements, which then subjects the building to larger side and rear setbacks.

33.120.270 Alternative Development Options

A. through C. [No change]

D. Attached duplexes. The attached duplex regulations allow for an alternative housing type that promotes owner-occupied structures, the efficient use of land, and for energy-conserving housing.

1. Lot size. [No change]

2. Building setbacks.

a. Interior (noncorner) lots. On interior lots, the side building setback on the side containing the common wall is reduced to zero. ~~The side building setback on the side opposite the common wall must be double the side setback standard of the base zone.~~

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. through 4. [No change]

E. through G. [No change]

33.120.285 Fences

C. Location.

2. Side and rear building setbacks.

The intent of this restriction is to ensure that mid-block or cul-de-sac pedestrian connections are not lined by tall fences, creating a canyon effect. The Code language currently limits fences abutting any pedestrian connection to 3-1/2' in height. This includes fences along a side lot line that abuts a typical right-of-way (ROW) sidewalk. This amendment clarifies that the 3-1/2' fence height does not apply to side and rear yards abutting a pedestrian connection when the pedestrian connection is a typical ROW sidewalk. A second amendment makes the title consistent with other base zones.

A similar amendment is recommended in the other base zones.

33.120.285 Fences

A. through B. [No change]

C. Location and height.

1. [No change]
2. Side and rear building setbacks. ~~Fences up to 8 feet high are allowed in required side or rear building setbacks except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3 1/2 feet in height.~~
 - a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.
 - b. Fences abutting a pedestrian connection.
 - (1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is at least 30 feet wide.
 - (2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is less than 30 feet wide.
3. [No change]

D. Reference to other regulations. [No change]

**CHAPTER 33.130
COMMERCIAL ZONES**

33.130.215 Setbacks

B. Building setback standard.

1. Building setbacks on a transit street or in a Pedestrian District.

d. In a Pedestrian District.

(2) One transit street and one non-intersecting non-transit street.

Two different titles are used for the same standard. The title "One transit street and one non-intersecting non-transit street" is used in the Commercial zones. The same standard in the Multi-Dwelling and Employment and Industrial zones is titled "Through lot with one transit street." This amendment changes the title in the Commercial zone regulations for clarity and consistency.

New (5)

This subparagraph covers building setbacks for several scenarios in a pedestrian district. In the adoption of the Transportation System Plan, standards that specify what setbacks apply for a building adjacent to a transit street with an intersecting non-transit street were inadvertently omitted. The Office of Transportation indicates that applying Standard 2 (100% of the ground level, street-facing wall) on the transit street, and Standard 1 (50% of the ground level, street-facing wall) on the non-transit street is consistent with the standards set in other circumstances. The recommended amendment adds the missing text.

Similar amendments are recommended in the Multi-Dwelling and Employment and Industrial zones.

3. Lot lines abutting a residential zone.

Standards in 33.130.215.B.3 require a five foot deep landscaped area along lot lines that abut a lot in a residential zone. However, in Table 130-4, no setback is required from the rear lot line of residentially zoned lots if the height of the building wall is 15 feet or less. This amendment clarifies that the five foot landscaped strip is only required when a setback is required.

**CHAPTER 33.130
COMMERCIAL ZONES**

33.130.215 Setbacks

A. [No change]

B. Building setback standard. The required minimum and maximum building setbacks, if any, are stated in Table 130-3. The setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.130.245 below, and for parking areas in Chapter 33.266.

1. Building setbacks on a transit street or in a Pedestrian District. [No change]

a. through c. [No change]

d. In a Pedestrian District. Where the site is in a Pedestrian District:

(1) [No change]

(2) ~~One transit street and one non-intersecting non-transit street.~~ Through lot with one transit street. Where the site is adjacent to one transit street and one non-intersecting non-transit street, Standard 1 must be met on the frontage of the transit street;

3. through 4. [No change]

(5) One transit street and one intersecting non-transit street. Where the site is adjacent to a transit street and an intersecting non-transit street, the following standards must be met:

- Standard 2 must be met on the frontage of the transit street,
- Standard 1 must be met on the intersecting non-transit street;

Renumber (5) through (7) to (6) through (8).

2. Exceptions to the building setbacks. [No change]

3. Lot lines abutting a residential zone. Minimum required-Bbuilding setbacks along lot lines that abut lots in residential zones, except the RX zone, must include a 5 foot deep landscaped area which complies with at least the L3 standard as stated in Chapter 33.248, Landscaping and Screening.

C. through D. [No change]

33.130.220 Building Coverage

Table 130-3

The first amendment to this table will clarify the application of building coverage for attached housing in Commercial zones. It is unclear whether building coverage for attached housing developments should be calculated for individual lots, for each grouping of attached houses, or for the whole site. In the Multi-Dwelling zones (33.120.270.C.5) there is a specific regulation about how to calculate building coverage for an attached housing project and for individual lots within the project. This amendment recommends applying a similar standard in the Commercial zones.

The second amendment proposes to exempt sites with CS or CM zoning, where any portion of the site is also in an Environmental overlay zone, from the minimum building coverage. The CS and CM zones require a minimum building coverage of 50%. On sites with the Environmental overlay, it is not always possible to meet this standard without placing development in the Environmental zone. This change will preclude the need for one of two land use reviews that can occur in these situations. An Adjustment to the minimum building coverage would be required if the proposal covers less than 50% of the site in order to keep the development out of the Environmental overlay zone. Alternatively, an Environmental Review would be required when meeting the minimum building coverage requires placing development in the Environmental overlay zone.

There are no lots where the CS or CM base zone and the Environmental protection ("p") overlay zone are both applied. There are approximately 30 acres of land where the CS or CM base zone and the Environmental conservation ("c") overlay zone are both applied. This combination of base zone and Environmental overlay zones occurs most frequently in the Bridgeton neighborhood along the Columbia River. The total land contained in the tax lots affected by this proposal is approximately 40 acres.

33.130.220 Building Coverage

Table 130-3 Development Standards [1]								
Standard	CN1	CN2	CO1	CO2	CM	CS	CG	CX
Maximum FAR [2] (see 33.130.205)	[No change]							
Maximum Height (see 33.130.210)								
Min. Building Stbks (see 33.130.215) Street Lot Line								
Lot Line Abutting an OS, RX, C, E, or I Zone Lot								
Lot Line Abutting other R Zoned Lot [9]								
Max. Building Stbks (see 33.130.215) Street Lot Line Transit Street or Pedestrian District								
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)	[No change]							
Landscaping Abutting an R Zoned Lot [7] (see 33.130.215.B.)								
Ground Floor Window Stds. Apply (see 33.130.230)								
Pedestrian Requirements (see 33.130.240)								
Required Parking [8]								

Notes:

[1] through [9] [No change]

[10] For attached houses, the building coverage of the base zone applies to the entire site. The maximum building coverage for an individual lot is 5 percent more than the base zone allowance.

[11] This standard does not apply where any portion of the site is in an environmental overlay zone.

33.130.230 Ground Floor Windows

B. Required amount of window area.

1. CN1 & 2, CO1 & 2, CM, CS, and CG zones.

As currently written for the CN1 & 2, CO1 & 2, CM, CS, and CG zones, the regulation applies to any exterior wall on the ground level within 20 feet of a street lot line. This means that walls facing interior lot lines that are within 20 feet of the street lot line must meet the window standard. The legislative intent of the regulation was to apply the standard only to the street-facing facade. This amendment clarifies that only street facing facades within 20 feet of a street lot line have to comply with this standard.

33.130.230 Ground Floor Windows

A. [No change]

B. Required amounts of window area.

1. In CN1 & 2, CO1 & 2, CM, CS, and CG zones, ~~exterior walls~~ street-facing facades on the ground level which are 20 feet or closer to the street lot line must meet the general window standard in Paragraph 3. below. However, on lots with more than one street frontage, the general standard must be met on one street frontage only. The general standard must be met on the frontage of the street that has the highest transit street classification according to the Transportation Element of the Comprehensive Plan. If two or more streets have the same highest transit street classification, then the applicant may choose on which street to meet the general standard. On all other streets, the requirement is 1/2 of the general standard.

2. through 3. [No change]

C. through D. [No change]

33.130.235 Screening

C. Mechanical equipment.

The existing standard requires equipment on the ground to be screened by a wall, fence or vegetation tall enough to screen the equipment but does not specify what standard a fence or landscaping must meet. The recommended amendment requires fencing at the F2 standard or landscaping at the L2 standard. The screening is still required to be tall enough to screen the equipment.

A similar amendment is recommended in the other base zones.

33.130.235 Screening

A through B [No change]

C. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation ~~tall enough to screen the equipment.~~ Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting R-zoned lands.

D. [No change]

33.130.240 Pedestrian Standards

B. The standards.

1. Connections.

a. Connection to street.

In the Multi-Dwelling, C, and E zones, a building's main entrance must be connected to all streets by an on-site, straight-line pedestrian path. This standard has been difficult to apply on a corner lot (or potentially a lot with three or more frontages) when the building is built close to or on the street lot line, with the main entrance accessed right off the adjoining public sidewalk. Several adjustments to waive the pedestrian connection to the second or third street for buildings in this situation have been approved. The recommended amendment does not change the standard for sites with one street frontage. For sites with multiple frontages, the recommended amendment requires that the main entrance meet the current standard to the closest sidewalk and requires a connection between an entrance and other streets. It also provides an exception when 50% of the façade of the building is within 10 feet of the street.

33.130.240 Pedestrian Standards

- A. Purpose.** The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.
- B.** The standards. The standards of this Section apply to all development except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this Subsection.
1. Connections. Pedestrian connections are required between building entrances and streets as specified in B.1.a.
 - a. ~~Connection between streets and entrances. Connection to street. The system must connect all adjacent streets to the main entrance. One of the connections should be no longer than the straight line distance from the entrance to the closest sidewalk or improved right of way if there are no sidewalks. It may not be more than 20 feet longer or 120 percent of that straight line distance, whichever is less. Buildings or sites where all of the floor area is in Household Living uses are only required to provide this connection to one main entrance.~~
 - (1) Sites with one street frontage. There must be a straight line connection between the main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance from the entrance to the closest sidewalk or improved right-of-way if there are no sidewalks.
 - (2) Sites with more than one street frontage. Where there is more than one street frontage, the following must be met:
 - The standard of B.1.a(1) must be met for the main entrance of each building on the site and the closest sidewalk or improved right-of-way if there are no sidewalks;
 - A connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.
 - (3) Exception for Household Living. Buildings or sites where all of the floor area is in Household Living Uses are only required to provide a straight line connection to one main entrance.
 - b. Internal connections. The system must connect all buildings on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.
 2. through 4. [No change]

33.130.270 Fences

C. Location and heights.

2. Side and rear building setbacks.

The intent of this restriction is to ensure that mid-block or cul-de-sac pedestrian connections are not lined by tall fences, creating a canyon effect. The Code language currently limits fences abutting any pedestrian connection to 3-1/2' in height. This includes fences along a street side lot line that abuts a typical right-of-way (ROW) sidewalk. This amendment clarifies that the 3-1/2' fence height does not apply to side and rear yards abutting a pedestrian connection when the pedestrian connection is a typical ROW sidewalk.

A similar amendment is recommended in the other base zones.

33.130.270 Fences

A. Purpose. [No change]

B. Types of fences. [No change]

C. Location and heights.

1. [No change]

2. Side and rear building setbacks. ~~Fences up to 8 feet high are allowed in required side or rear building setbacks except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.~~

a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.

b. Fences abutting a pedestrian connection.

(1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is at least 30 feet wide.

(2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is less than 30 feet wide.

3. [No change]

D. Reference to other regulations. [No change]

CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES

33.140.100 Primary Uses

B. Limited uses.

6. IH commercial limitation.

a. Limited uses.

This section states, "Up to four Retail Sales And Service and Office uses are allowed per site." This amendment proposes to change it to "Retail Sales And Service or Office uses," making it consistent with similar sections such as 33.140.100.B.5.a.

**CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES**

33.140.100 Primary Uses

A. [No change]

B. Limited uses. Uses allowed that are subject to limitations are listed in Table 140-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 140-1.

1 through 5 [No change]

6. IH commercial limitation. This regulation applies to all parts of Table 140-1 that have a [6].

a. Limited uses. Up to four Retail Sales And Service ~~and~~ or Office uses are allowed per site. The square footage of the floor area plus the exterior display and storage area may be up to 3,000 square feet per use.

b. [No change]

7. through 15. [No change]

C. through D. [No change]

33.140.215 Setbacks

B. The setback standards.

2. Building setbacks on a transit street or in a Pedestrian District.
 - d. In a Pedestrian District.

This subparagraph covers building setbacks for several scenarios in a pedestrian district. In the adoption of the Transportation System Plan, standards that specify what setbacks apply for a building adjacent to a transit street with an intersecting non-transit street were inadvertently omitted. The Office of Transportation indicates that applying Standard 2 (100% of the ground level, street-facing wall) on the transit street, and Standard 1 (50% of the ground level, street-facing wall) on the non-transit street is consistent with the standards set in other circumstances. The recommended amendment adds the missing text.

Similar amendments are recommended in the Commercial and Multi-Dwelling zones.

33.140.215 Setbacks

A. Purpose. [No change]

B. The setback standards. [No change]

1. Setbacks from the lot line. [No change]
 2. Building setbacks on a transit street or in a Pedestrian District. The maximum setback standards of this paragraph apply to buildings that are enclosed on all sides. These setback standards apply to the EG1 and EX zones. Except as provided in Subsection C. below, the building setbacks on a transit street or in a Pedestrian District are as follows:
 - a. Measurement. [No change]
 - b. Standards.[No change]
 - c. Outside a Pedestrian district.[No change]
 - d. In a Pedestrian District. Where the site is in a Pedestrian District:
 - (1) through (4) [No change]
 - (5) One transit street and one intersecting non-transit street. Where the site is adjacent to a transit street and an intersecting non-transit street, the following standards must be met:
 - Standard 2 must be met on the frontage of the transit street.
 - Standard 1 must be met on the intersecting non-transit street;
 - e. Exemption. [No change]
3. through 4. [No change]

C. through D. [No change]

Renumber (5) through (7) to (6) through (9).

33.140.235 Screening

C. Mechanical Equipment.

The existing standard requires equipment on the ground to be screened by a wall, fence or vegetation tall enough to screen the equipment but does not specify what standard a fence or landscaping must meet. The recommended amendment requires fencing at the F2 standard or landscaping at the L2 standard. The screening is still required to be tall enough to screen the equipment.

A similar amendment is recommended in the other base zones.

33.140.235 Screening

A. through B. [No change]

C. Mechanical equipment. Mechanical equipment located on the ground, such as heating or cooling equipment, pumps, or generators must be screened from the street and any abutting residential zones by walls, fences, or vegetation ~~tall enough to screen the equipment.~~ Screening must comply with at least the L2 or F2 standards of Chapter 33.248, Landscaping and Screening, and be tall enough to screen the equipment. Mechanical equipment on roofs must be screened from the ground level of any abutting R-zoned lands.

D. [No change]

33.140.240 Pedestrian Standards

B. The standards.

1. Connections.

a. Connection to street.

In the Multi-Dwelling, C, and E zones, a building's main entrance must be connected to all streets by an on-site, straight-line pedestrian path. This standard has been difficult to apply on a corner lot (or potentially a lot with three or more frontages) when the building is built close to or on the street lot line, with the main entrance accessed right off the adjoining public sidewalk. Several adjustments to waive the pedestrian connection to the second or third street for buildings in this situation have been approved. The recommended amendment does not change the standard for sites with one street frontage. For sites with multiple frontages, the recommended amendment requires that the main entrance meet the current standard to the closest sidewalk and requires a connection between an entrance and other streets. It also provides an exception when 50% of the façade of the building is within 10 feet of the street.

33.140.240 Pedestrian Standards

A. Purpose. The pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in developments in the employment zones. They ensure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible.

B. The standards. The standards of this section apply to all development in the Employment zones except houses, attached houses, and duplexes. An on-site pedestrian circulation system must be provided. The system must meet all standards of this subsection.

1. Connections. Pedestrian connections are required between building entrances and streets as specified in B.1.a.

a. ~~Connection between streets and entrances. Connection to street. The system must connect all adjacent streets to the main entrance. One of the connections should be no longer than the straight line distance from the entrance to the closest sidewalk or improved right of way if there are no sidewalks. It may not be more than 20 feet longer or 120 percent of that straight line distance, whichever is less. Buildings or sites where all of the floor area is in Household Living uses are only required to provide this connection to one main entrance.~~

(1) Sites with one street frontage. There must be a straight line connection between the main entrance of each building on the site and the adjacent street. The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance from the entrance to the closest sidewalk or improved right-of-way if there are no sidewalks.

(2) Sites with more than one street frontage. Where there is more than one street frontage, the following must be met:

- The standard of B.1.a(1) must be met for the main entrance of each building on the site and the closest sidewalk or improved right-of-way if there are no sidewalks;
- A connection, which does not have to be a straight line connection, is required between each of the other streets and a pedestrian entrance. However, if at least 50 percent of a street facing façade is within 10 feet of the street, no connection is required to that street.

(3) Exception for Household Living. Buildings or sites where all of the floor area is in Household Living Uses are only required to provide a straight line connection to one main entrance.

b. Internal connections. The system must connect all buildings on the site, and provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

2. through 4. [No change]

33.140.275 Fences

C. Location and heights.

2. Side and rear building setbacks.

The intent of this restriction is to ensure that mid-block or cul-de-sac pedestrian connections are not lined by tall fences, creating a canyon effect. The Code language currently limits fences abutting any pedestrian connection to 3-1/2' in height. This includes fences along a street side lot line that abuts a typical right-of-way (ROW) sidewalk. This amendment clarifies that the 3-1/2' fence height does not apply to side and rear yards abutting a pedestrian connection when the pedestrian connection is a typical ROW sidewalk.

A similar amendment is recommended in the other base zones.

33.140.275 Fences

A. Purpose. [No change]

B. Types of fences. [No change]

C. Location and heights.

1. [No change]

2. Side and rear building setbacks. ~~Fences up to 8 feet high are allowed in required side or rear building setbacks except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.~~

a. Fences up to 8 feet high are allowed in required side or rear building setbacks that do not abut a pedestrian connection.

b. Fences abutting a pedestrian connection.

(1) Fences up to 8 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is at least 30 feet wide.

(2) Fences up to 3-1/2 feet high are allowed in required side or rear building setbacks that abut a pedestrian connection if the pedestrian connection is part of a right of way that is less than 30 feet wide.

3. [No change]

D. Reference to other regulations. [No change]

**CHAPTER 33.203
ACCESSORY HOME OCCUPATIONS**

33.203.050 Impact-Related Standards

B. Hazardous substances.

This amendment modifies the reference to hazardous substance regulations for Home Occupations. The regulation of hazardous substances was eliminated from the Zoning Code as part of the Code Maintenance 2003 amendment package. References to hazardous substance were removed because such substances are heavily regulated by a number of other State and City codes and are implemented by professionals qualified to evaluate the storage, handling and emergency response requirements. The reference to hazardous substances in the Accessory Home Occupations was overlooked during Code Maintenance 2003.

The initial proposal in Code Maintenance 2004 was to remove the remaining references to hazardous substances (here and in the Environmental Overlay zone). However, the Bureau of Environmental Services requested that the consumer quantities reference be retained. These quantities have sometimes been difficult to enforce through the other City and State regulations and since they can arise in conjunction with a Home Occupation or in an environmental zone, the recommendation is continue to reference consumer quantities in these two Zoning Code chapters. The amendment modifies the language to refer only to consumer quantities and to define that term.

C. Vehicles.

Parking of medium and heavy trucks is regulated in Chapter 33.266, Parking and Loading. Currently, medium trucks, except for motor homes, are not allowed to park in residential zones. Medium trucks are defined as trucks having a single rear axle with dual wheels and include some pickup truck models used by households, such as pickup trucks with dual rear wheels used for by households for general transportation needs or for towing a fifth wheel recreational vehicle. An amendment is recommended in Chapter 33.266 to allow parking of these medium pickup trucks in residential zones. The amendment recommended here will keep the Accessory Home Occupations regulations consistent with the recommended change in the Parking and Loading chapter and will allow pickup trucks that fall into the medium truck category to be parked in residential zones in conjunction with a Home Occupation.

**CHAPTER 33.203
ACCESSORY HOME OCCUPATIONS**

33.203.050 Impact-Related Standards

- A. Nuisances.** [No change]
- B. Hazardous substances.** Hazardous substances are prohibited, except ~~that at~~ the consumer quantities are allowed commodity level. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sales outlets for consumption by individuals for purposes of personal care and household use. ~~(See Chapter 33.140, Industrial and Employment Zones, for more information on hazardous substances levels.)~~
- CB. Noise.** [No change]
- DC. Vehicles.** No more than one vehicle may be used in association with the home occupation. The maximum size of the vehicle used in association with the home occupation is a ~~light truck~~ pickup truck in the medium truck category.
- ED. Deliveries.** Truck deliveries or pick-ups of supplies or products, associated with the home occupation, are allowed at the home only between 8 am and 5 pm. Vehicles used for delivery and pick-up may not include heavy trucks.

**CHAPTER 33.205
ACCESSORY DWELLING UNITS**

33.205.030 Design Standards

E. Additional requirements for detached accessory dwelling units.

3. Bulk limitation.

This amendment replaces "footprint" with "building coverage" in this section. In Single- and Multi-Dwelling zones, the regulations that apply to the bulk of detached covered accessory structures were recently amended to replace references to "footprint" with "building coverage." (For an example see 33.110.250.D.1.) However, in the accessory dwelling regulations the regulation of bulk is still referenced by the size of the footprint. This amendment will make the chapters consistent.

**CHAPTER 33.205
ACCESORY DWELLING UNITS**

33.205.030 Design Standards

A. through D. [No change]

E. Additional requirements for detached accessory dwelling units. Detached accessory dwelling units must meet the following.

1. through 2. [No change]

3. Bulk limitation. The building coverage for the detached accessory dwelling unit may not ~~have a larger footprint~~ be larger than the ~~footprint~~ building coverage of the house, attached house, or manufactured home. ~~and, the~~ The combined footprint building coverage of all detached accessory structures may not exceed 15 percent of the total area of the site.

**CHAPTER 33.258
NONCONFORMING SITUATIONS**

33.258.070 Nonconforming Development

C. Changes.

This amendment clarifies that changes made to a site must comply with all development standards for the site, including base zone, overlay zone, or plan district standards.

D. Development that must be brought into conformance.

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use.

b. Standards which must be met.

(1) Landscaped setbacks for surface parking and exterior development areas;

This section states that landscaped setbacks for surface parking and "exterior development" areas must be upgraded. Because there is no definition for "exterior development," the language is unclear. The amendment proposes to use "exterior improvement," which is a defined reference that includes exterior work, storage, and display areas as well as loading areas.

**CHAPTER 33.258
NONCONFORMING SITUATIONS**

33.258.070 Nonconforming Development

A. through B. [No change]

C. Changes. Changes may be made to the site which are in conformance with the ~~base zone~~ development standards of the base zone, overlay zone, plan district or other development standards that apply to the site. Changes ~~which that~~ bring the site closer to conformance are allowed. Proposed changes that are not in conformance or do not move closer to conformance, are subject to the adjustment process unless prohibited.

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

1. [No change]

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made that are over the threshold of Subparagraph D.2.a., below, the site must be brought into conformance with the development standards listed in Subparagraph D.2.b. The value of the alterations is based on the entire project, not individual building permits.

a. [No change]

b. Standards which must be met. Development not complying with the development standards listed below must be brought into conformance or receive an adjustment.

(1) Landscaped setbacks for surface parking and exterior ~~development~~ improvement areas;

[2] through [8] [No change]

c. [No change]

33.258.070 Nonconforming Development (continued)

D. Development that must be brought into conformance.

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use
 - d. Timing and cost of required improvements.

This amendment will clarify the application and procedure requirements for Option 2. This option was added in a previous Code Maintenance project. At the time, it was acknowledged that the specific protocol for implementation of the option would need to be worked out with the City Attorney's Office. The changes recommended here make the code consistent with the procedure currently being used in the Development Services Center.

33.258.070 Nonconforming Development (continued)

- d. Timing and cost of required improvements. The applicant may choose one of the following options for making the required improvements:
- (1) Option 1. [No change]
 - (2) Option 2. Under Option 2, the required improvements may be made over several years, based on the compliance period identified in Table 258-1. However, by the end of the compliance period, the site must be brought fully into compliance with the standards listed in Subparagraph D.2.b. ~~Where~~ When this option is chosen, the following ~~must be met~~ applies:
 - Before a building permit is issued, the applicant must submit the following to BDS:
 - Application. An application, including a A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in subparagraph D.2.b.
 - Covenant. The City-approved covenant, which is available in the Development Services Center, is required. A covenant executed by the property owner that meets the requirements of Section 33.700.060. The covenant must identify development on the site that does not meet the standards listed in subparagraph D.2.b, and requires the owner to bring that development fully into compliance with this Title. The covenant will also specify the date by which the owner will bring the nonconforming development into full compliance. The date must be within the compliance periods set out in Table 258-1. The covenant must be recorded as specified in Subsection 33.700.060.B.
 - The nonconforming development identified in the Nonconforming Development Assessment must be brought into full conformance with the requirements of this Title within the ~~following~~ compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than \$103,300. The compliance periods are based on the size of the site. The compliance periods are identified in Table 258-1.

33.258.070 Nonconforming Development (continued)

D. Development that must be brought into conformance.

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use
 - d. Timing and cost of required improvements.

Continued from previous page.

33.258.070 Nonconforming Development (continued)

- By the end of the compliance period, the applicant or owner must request that the site be certified by BDS as in compliance with the standards listed in Subparagraph D.2.b. ~~as specified in Section 33.258.037, Documenting Conforming Development. A permit documenting full conformance with these standards is required and must receive final inspection approval prior to BDS certification. If certification is not requested the request is not received within that time,~~ or if the site is not fully in conformance by the end of the compliance period, no additional building permits will be issued until the site is certified.

- If the regulations referred to by Subparagraph D.2.b, or in D.2.b itself, are amended after the Nonconforming Development Assessment is received by BDS, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant must address the new nonconforming development using Option 1 or Option 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant, and compliance period will be required for the new nonconforming development.

Table 258-1 Compliance Periods for Option 2	
Square footage of site	Compliance period
Less than 200,000 sq. ft.	2 years
200,000 sq. ft. or more, up to 500,000 sq. ft.	3 years
More than 500,000 sq. ft., up to 850,000 sq. ft.	4 years
More than 850,000 sq. ft.	5 years

E. through G. [No change]

CHAPTER 33.266
PARKING AND LOADING

33.266.100 *General Regulations*

G. *Curb cuts.*

This section already states that the Office of Transportation regulates curb cuts and access restrictions. This recommended amendment moves more detailed language that is currently in 33.266.130.F.6 - much farther into this chapter - and also adds the specific reference to the section of the City Code where those regulations are found.

**CHAPTER 33.266
PARKING AND LOADING**

33.266.100 General Regulations

A. through F. [No change]

G. Office of Transportation review. ~~Curb cuts.~~ ~~Curb cuts and access restrictions are regulated by~~ The Office of Transportation reviews the layout of parking areas for compliance with the curb cut and access restrictions of Section 17.28.110, Driveways - Permits and Conditions.

33.266.110 Minimum Required Parking Spaces

33.266.115 Maximum Allowed Parking Spaces

Several amendments are recommended that relate to the term "peak hour service".

The parking standards in Chapter 33.266 provide some flexibility based on proximity to transit streets with 20-minute peak hour service. Questions have arisen about whether this standard requires service in both directions of travel on the street and whether the standard can be met through the combined service of multiple transit lines. In 33.910, Definitions, an amendment provides a definition clarifying that peak hour service applies to transit in one direction and includes any combination of bus or rail lines that service the street. In 33.266.110 and 33.266.115, the references to peak hour service are modified to remove language that is included in the new definition.

33.266.110 Minimum Required Parking Spaces

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

B. Minimum number of parking spaces required.

1. through 2. [No change]

3. Exceptions for sites well served by transit. There is no minimum parking requirement for sites located less than 500 feet from a transit street with 20-minute peak hour bus, streetcar, or light rail service. ~~Peak hour service is measured on weekdays between 7:00 AM and 8:30 AM and between 4:00 PM and 6:00 PM.~~ Applicants requesting this exception must provide a map identifying the site and TriMet schedules for all transit routes within 500 feet of the site.

4. through 6. [No change]

C. Carpool parking. [No change]

33.266.115 Maximum Allowed Parking Spaces

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

B. Maximum number of parking spaces allowed. Regulations in a plan district or overlay zone may supersede the regulations in this subsection.

1. Surface parking. Where more than 25 percent of the parking accessory to a use is on surface parking lots, both the structured and surface parking are regulated as follows. Parking accessory to a use includes accessory parking that is on- and off-site:

a. Generally. The maximum number of parking spaces allowed is stated in Tables 266-1 and 266-2, except as specified in subparagraph B.1.b, below;

b. Exception for sites not well served by transit. For sites located more than 1/4 mile from a bus stop with 20-minute peak-hour ~~bus or streetcar~~ service and more than 1/2 mile from a Transit Station with 20-minute peak-hour ~~light rail~~ service, the maximum number of parking spaces allowed is 125 percent of the amount stated in Tables 266-1 and 266-2. ~~Peak hour service is measured on weekdays between 7:00 AM and 8:30 AM and between 4:00 PM and 6:00 PM.~~ Applicants requesting this exception must provide a map identifying the site and all bus stops and Transit Stations within 1/2 mile of the site and TriMet schedules for all transit routes within 1/2 mile of the site.

2. through 3. [No change]

Table 266-2

Table 266-2 specifies a minimum and maximum number of parking spaces for schools based on the number of classrooms. Many schools are conditional uses. This amendment will allow parking to be determined by the standard or through Conditional Use review or through an Impact Mitigation Plan. This option is currently allowed for similar conditional uses in Table 266-2.

Table 266-2 Parking Spaces by Use (Refer to Table 266-1 to determine which standard applies.)			
Use Categories	Specific Uses	Standard A	Standard B
Residential Categories			
Commercial Categories			
Industrial Categories		[No change]	
Institutional Categories			
Basic Utilities			
Community Service			
Parks And Open Areas			
Schools	Grade, elementary, <u>middle</u> , junior H high	1 per classroom, <u>or per CU or Impact Mitigation Plan approval</u>	1.5 per classroom, <u>or per CU or Impact Mitigation Plan approval</u>
	High school	7 per classroom, <u>or per CU or Impact Mitigation Plan approval</u>	10.5 per classroom, <u>or per CU or Impact Mitigation Plan approval</u>
Medical Centers			
Colleges			
Religious Institutions		[No change]	
Daycare			
Other Categories			

33.266.120 Development Standards for Houses, Attached Houses, and Duplexes

C. Parking area locations.

3. Front yard restrictions.

It is not possible to meet the 40 or 20 percent paving limitation for houses, attached houses and duplexes on flag lots. While the regulations do allow at least a 9-foot wide driveway, a 9-foot wide driveway is often not sufficient given its length. These amendments clarify how to apply the paving limitation and allow at least a 12-foot wide vehicle area on all flag lots.

D. Parking space sizes.

The code does not state the required size for nonrequired parking spaces. The recommended amendment clarifies that all parking spaces must be at least 9 feet by 18 feet.

33.266.120 Development Standards for Houses, Attached Houses, and Duplexes

A. through B. [No change]

C. Parking area locations.

1. through 2. [No change]

3. Front yard restrictions.

a. In the single-dwelling zones, no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitations in this subparagraph, a lot is allowed at least a 9-foot wide vehicle area.

b. In the multi-dwelling, C, E, and I zones, no more than 20 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas. In addition, on corner lots, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas. See Figure 266-2. As an exception to the area limitations in this subparagraph, a lot is allowed at least a 9-foot wide vehicle area.

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

4. Parking in garages. Parking in garages is subject to the garage setback standards of the base zone, overlay zone or plan district.

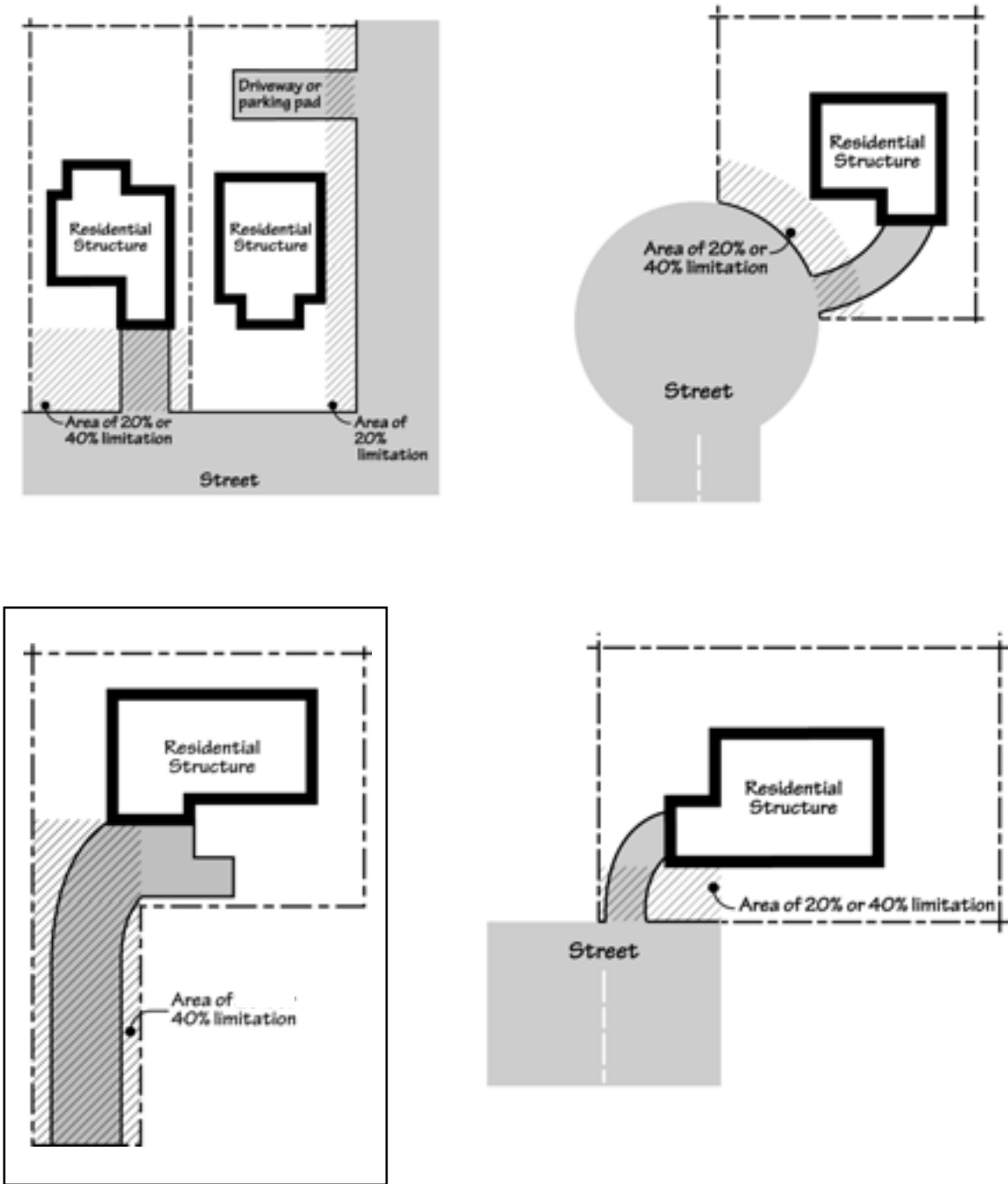
D. Parking space sizes. ~~The minimum size of a required parking space is must be at least 9 feet by 18 feet. Where nonrequired parking is provided on a site, at least one parking space must meet the minimum size for required spaces.~~ The minimum driveway width on private property is 9 feet.

E. Paving. [No change]

Figure 266-2, Parking Area Limitation

An additional example is added to Figure 266-2 for illustration of a flag lot.

Figure 266-2
Parking Area Limitation



New illustration.

33.266.130 Development Standards for All Other Uses

This amendment removes language that was moved to Subsection 33.266.100, *General Regulations*.

33.266.130 Development Standards for All Other Uses

A. through E. [No change]

F. Parking area layouts.

1. through 5. [No change]

~~6. Office of Transportation review. The Office of Transportation reviews the layout of parking areas for compliance with the curb cut and access restrictions of Title 17.~~

G. through H. [No change]

33.266.150 Vehicles in Residential Zones

D. Parking of medium and heavy trucks.

Medium trucks are not allowed to park in residential zones, with the exception of motor homes. Medium trucks are defined as trucks having a single rear axle with dual wheels. This category includes some pickup truck models used by households, such as pickup trucks with dual rear wheels used for towing fifth wheel recreational vehicles and general transportation purposes. Enforcement of this prohibition has been a growing problem and has caused problems for households that rely on these vehicles for their general transportation needs. This amendment will allow pickup trucks that fall into the medium truck category to be parked in residential zones.

33.266.150 Vehicles in Residential Zones

- A. Purpose.** The regulations of this section are intended to reinforce community standards and to promote an attractive residential appearance in the City's neighborhoods. The size, number, and location of parked and stored vehicles in residential zones are regulated in order to preserve the appearance of neighborhoods as predominantly residential in character. Since parking lots and outdoor storage are not intended to be primary activities in residential zones, these activities should constitute no more than a minimal intrusion on any residential area.
- B. Where these regulations apply.** These regulations apply to all residential uses in all R zones.
- C. Parking of passenger vehicles and light trucks.** Passenger vehicles and light trucks may be parked in any allowed parking area.
- D. Parking of medium and heavy trucks.**
1. The parking or storage of medium and heavy trucks and equipment is prohibited, except for motor homes and pickup trucks in the medium truck category.
 2. Motor homes in medium truck category may be parked in allowed parking areas except they may not be parked between the front lot line and the building line.
 3. Fire trucks and emergency vehicles are allowed if they are parked within a completely enclosed building.
- E. through G.** [No change]

Loading

33.266.310 Loading Standards

These amendments reorganize the Loading regulations, add language to the purpose statement and clarify where the regulations apply.

The first amendment to the purpose statement explains the intent of the forward motion requirement in 33.266.301.D. The regulation states that loading facilities must be designed so that vehicles enter and exit the site in a forward motion. The lack of a purpose statement for this requirement has made it difficult to evaluate Adjustments.

The second amendment adds new language and clarifies that loading standards apply to required and nonrequired loading areas. Section 33.266.100.A states that the regulations of the Chapter apply to required and nonrequired parking areas, but there is no similar statement for loading areas. This amendment makes it explicit that the loading regulations apply to both required and nonrequired loading areas.

The Planning Commission discussed the possibility of removing the forward motion requirement altogether but opted to monitor the number of adjustments and modifications that come in on these regulations. In Code Maintenance 2003 the requirement was modified on some streets in the Central City in a response to the large volume of adjustments and modifications that occur. The Commission wants to monitor that change to see if it has reduced the review burden and consider the applicability of a similar change in other areas of the city.

Loading

33.266.310 Loading Standards

~~33.266.300~~

A. **Purpose.** A minimum number of loading spaces are required to ensure adequate areas for loading for larger uses and developments. These regulations ensure that the appearance of loading areas will be consistent with that of parking areas. The regulations ensure that access to and from loading facilities will not have a negative effect on the traffic safety or other transportation functions of the abutting right-of-way.

B. **Where these regulations apply.** The regulations of this section apply to all required and nonrequired loading areas.

Renumber A. through D. to C. through F.

**CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE**

33.405.070 Alternative Development Options in the R2 and R2.5 Zones

C. Flag lots averaging 2,500 square feet.

The minimum required landscape buffer for development on flag lots created through the "a" overlay zone refers to standards in the Single-Dwelling zones chapter (33.110.240.F). The referenced section has both special setback and landscape standards. Since there are already special setback standards in 33.405.070, the cross-reference to 33.110.240.F is for the landscape buffer standards only. However, 33.110.240.F only addresses the buffer area for development in the Single-Dwelling zones, so the standard to use in the R2 zone is unclear. The amendment proposes to delete the cross-references and just add the landscape standard in 33.405.070. This will make the code easier to use in addition to clarifying the regulations.

**CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE**

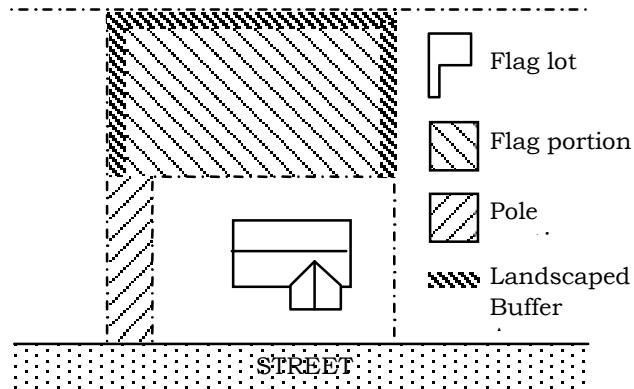
33.405.070 Alternative Development Options in the R2 and R2.5 Zones

A. through B. [No change]

C. Flag lots averaging 2,500 square feet. Lots in the R2 and R2.5 zone may be developed as flag lots with an average area of 2,500 square feet when the proposed development meets all of the following requirements:

- ~~1. The standards of Subsection 33.110.240.F, Flag lot development standards and all base zone regulations must be met, unless otherwise stated in this section;~~
- ~~2~~1. Both attached and detached dwellings are allowed;
- ~~3~~2. The average area of the lots created must be at least 2,500 square feet. Each must be at least 1,600 square feet; ~~and~~
- ~~4~~3. Detached structures on a flag lot are required to have an eight foot setback from all lot lines. Attached structures on flag lots are required to have an eight foot setback along those lot lines that abut a lot that is not a part of the flag lot development; ~~and~~
4. Required setbacks must include a landscaped buffer area. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard. See Figure 405-1.

**Figure 405-1
Flag Lot Description and Buffer**



D. through E. [No change]

**CHAPTER 33.420
DESIGN OVERLAY ZONE**

33.420.045 Exempt From Design Review

K. In the IR zone

The recommended changes to this section will clarify when development in the IRd zone is exempt from Design Review.

Existing regulations for the IRd zone state that development in conformance with an approved Conditional Use Master Plan is exempt from Design Review, but doesn't address development that is in conformance with an approved Conditional Use. It is also not clear if Design Review is required when no Impact Mitigation Plan (IMP) exists. The applicable procedure for design review in the IR zone is stated in 33.825.025.A.2.m and A.3. Only proposals on a site that has an approved IMP are addressed. This means that when no IMP exists, design review is not required but the language in 33.420.K does not cover all the circumstances where the IRd zone occurs and no IMP exists. The first amendment adds development in conformance with an approved Conditional Use to the existing language that exempts development in conformance with an approved Conditional Use Master Plan. The second recommended amendment clarifies that expansion or alterations that do not trigger a Conditional Use review under the regulations of 33.815.040 are also exempt from Design Review.

Q. Within the Marquam Hill Design District

This recommended amendment corrects a minor error in the section that describes development exempt from design review in the Marquam Hill Design District. The intent was to allow development under any of the four circumstances to be exempt, which requires an "or" rather than an "and."

**CHAPTER 33.420
DESIGN OVERLAY ZONE**

33.420.045 Exempt From Design Review

The following items are exempt from design review:

A. through J. [No change]

K. In the IR zone;

1. Ddevelopment in conformance with an proposed or approved through a Conditional Use or Conditional Use Master Plan; or
2. An expansion or alteration that does not require conditional use review under 33.815.040;

L. through P. [No change]

Q. Within the Marquam Hill Design District:

1. Additions of floor area less than 25,000 square feet;
2. Alterations that affect less than 50 percent of the area of a façade where the area affected is also less than 3,000 square feet;
3. Exterior improvements less than 5,000 square feet, except for exterior improvements affecting areas counting towards the formal open area requirements of Section 33.555.260; ~~and~~
4. Landscaping not associated with formal open areas.

**CHAPTER 33.430
ENVIRONMENTAL ZONES**

33.430.090 Prohibitions

This amendment modifies the reference to hazardous substance regulations for in the Environmental Zones. The regulation of hazardous substances was eliminated from the Zoning Code as part of the Code Maintenance 2003 amendment package. References to hazardous substance were removed because such substances are heavily regulated by a number of other State and City codes and are implemented by professionals qualified to evaluate the storage, handling and emergency response requirements. The reference to hazardous substances in the Environmental Zone was overlooked during Code Maintenance 2003.

The initial proposal in Code Maintenance 2004 was to remove the remaining references to hazardous substances (here and in the Accessory Home Occupations chapter). However, the Bureau of Environmental Services requested that the consumer quantities reference be retained. These quantities have sometimes been difficult to enforce through the other City and State regulations and since they can arise in conjunction with a Home Occupation or in an environmental zone, the recommendation is continue to reference consumer quantities in these two Zoning Code chapters. The amendment modifies the language to refer only to consumer quantities and to define that term.

33.430.140 General Development Standards

K.

This amendment makes the Environmental overlay zone consistent with the base zone language and makes it consistent with how it is applied. The current language states that "The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero." The recommended amendment clarifies that the "garage" setback refers to the "garage entrance" setback and that "street" setbacks include the setback for side lot lines that are also street lot lines.

Similar amendments are included in the Single-Dwelling zones and the Multi-Dwelling zones.

**CHAPTER 33.430
ENVIRONMENTAL ZONES**

33.430.090 Prohibitions

~~Prohibitions apply to both transition areas and resource areas.~~ The following items are prohibited in all environmental zones. Prohibitions apply to both transition areas and resource areas:

- ~~A. Bulk plant, bulk use, or package use of~~ The use, packaging, transportation, or storage of hazardous substances except as follows: ~~Transportation of hazardous substances through environmental zones by rail or on designated truck routes is allowed. Use of consumer quantities of hazardous substances within environmental zones is allowed subject to the regulations of this Title. See Section 33.140.120 for descriptions of hazardous material quantities;~~
1. Transportation of hazardous substances through environmental zones by rail or on designated truck routes is allowed; and
 2. Use of consumer quantities of hazardous substances within environmental zones is allowed subject to the regulations of this Title. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sales outlets for consumption by individuals for purposes of personal care and household use.
- B.** The planting or propagation of any plant identified as a nuisance plant or prohibited plant on the Portland Plant List; and
- C.** Exterior work activities, unless in conjunction with a river-related or river-dependent use. See Chapter 33.910, Definitions.

33.430.140 General Development Standards

The standards below apply to all development in the environmental zones except utilities subject to Section 33.430.150, land divisions subject to Section 33.430.160, and resource enhancement projects subject to Section 33.430.170. Standards A through C and G through P apply to new development. Standards D through P apply to alterations to existing development. Only standards E, J, K, N, O, and P apply in Transition areas. All of the applicable standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

A. through J. [No change]

K. The minimum front, and street, building setback ~~or and garage entrance setbacks~~ of the base zone may be reduced to any distance between the base zone minimum and zero. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to any distance between the base zone minimum and zero;

L. through P. [No change]

CHAPTER 33.440
GREENWAY OVERLAY ZONES

33.440.310 Where Greenway Review Applies

This section states the *Greenway Review* "triggers" but does not currently mention special circumstances in the River Industrial and River Water Quality Zones when *Greenway Review* may also be required. These circumstances are described in other section (see 33.440.100 and 33.440.210). For a reader who is unfamiliar with this chapter of the Zoning Code there are no indications that *Greenway Review* might be required in these special circumstances. The recommended amendment adds the general circumstances that may trigger *Greenway Review*. This reference is not intended to supercede the more specific language in the other sections mentioned above, but simply to make the reader aware that he must look in other places if the property in question is in the River Industrial or River Water Quality Zone.

**CHAPTER 33.440
GREENWAY OVERLAY ZONES**

33.440.310 Where Greenway Review Applies

Unless exempted in 33.440.320 below, the following items are subject to greenway review:

- A.** New development;
- B.** Exterior alterations to development, including the removal of trees and shrubs and the application of herbicides;
- C.** A change of use or development within or riverward of the greenway setback, where the use or development is no longer river-dependent or river-related;
- D.** Changes to the land and structures in the water, including excavations and fills, bridges, and docks; ~~and~~
- E.** The dedication or extension of rights-of-way and any new development or improvements in rights-of-way when within the River Natural zone or within or riverward of the greenway setback;
- F.** Non river-dependent or river-related primary uses in the River Industrial Zone;
and
- G.** Non river-dependent or river-related primary uses in the River Water Quality Zone.

33.440.345 Supplemental Application Requirements

The supplemental application requirements in Section 33.440.345 only state applicability to the setback for the River Water Quality overlay zone. However the requirements of Paragraphs A.1. through A.3. are needed for all Greenway Reviews. The requirements of A.4. and B. apply only to the setback for the River Water Quality overlay zone. The recommended amendment clarifies this section by applying the regulations of 33.440.345.A.1 through A.3. to all reviews and applies subsection A.4 and section B. to the River Quality overlay zone setback by renumbering the section.

33.440.345 Supplemental Application Requirements

In addition to the application requirements of Section 33.730.060, Application Requirements, the following information is required for Greenway review applications ~~for development, exterior alterations, excavations, and fills in the River Water Quality overlay zone setback:~~

- A. Supplemental site plans.** One copy of each plan must be at a scale of at least one inch to 100 feet. ~~Site plans must show existing conditions, proposed development, construction management, and mitigation in the setback.~~
1. An existing conditions site plan, showing the following:
 - a. Topography shown by contour lines at two foot vertical contours in areas of slope less than 10 percent and at five foot vertical contours in areas of slope ten percent or greater;
 - b. The top of bank and the setback area;
 - c. Distribution outline of shrubs and ground covers with a list of most abundant species;
 - d. Trees identified by species, including the location of the drip line;
 - e. Streams, wetlands, other water bodies, and drainage patterns, using arrows to indicate the direction of major drainage flow;
 - f. Existing improvements such as structures, buildings, utility lines, fences, paved areas, roads, culverts, and bridges;
 - g. Areas of known soil or groundwater contamination, areas of uncontained hazardous materials, and underground storage tanks; and
 - h. Stormwater management facilities.
 2. A development proposal site plan including:
 - a. A grading plan showing proposed alteration of the ground at two foot vertical contours in areas of slopes less than 10 percent and at five foot vertical contours in areas of slopes ten percent or greater;
 - b. Proposed improvements such as structures, buildings, utility lines, fences, paved areas, roads, culverts, bridges; stormwater facilities; and
 - c. Areas where existing topography and vegetation will be left undisturbed.
 3. A construction management site plan including:
 - a. Areas that will be disturbed, including equipment maneuvering areas;
 - b. Location of site access and egress;
 - c. Equipment and material staging and stockpile areas;
 - d. Erosion control measures; and
 - e. A tree preservation plan that meets the standards of Section 33.248.065.

33.440.345 Supplemental Application Requirements (continued)

B. River Quality overlay zone. The following information is required for Greenway review applications for development, exterior alterations, excavations, and fills in the River Water Quality overlay zone setback:

41. A mitigation or remediation plan including:
 - a. Detailed plans or drawings describing any proposed mitigation or remediation activities;
 - b. Distribution outline, species composition, and percent of ground covered with ground cover plants, shrubs, and trees to be seeded or planted;
 - c. Stormwater management features, including retention, infiltration, detention, discharges, and outfalls;
 - d. Water bodies to be created, including depth; and
 - e. Planting specifications consistent with Section 33.248.090, Mitigation and Restoration Plantings.

2. Narrative. The following written narratives are required:
 - ~~1~~a. Impact evaluation. An impact evaluation is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular development. The alternatives must be evaluated on the basis of their impact on the functional values of the water quality resource area. The impact evaluation is based on the functional values identified in the Purpose Statement, Section 33.440.010. An impact evaluation includes:
 - ~~a~~(1). Identification, by characteristics and quantity, of the functional values found on the site;
 - ~~b~~(2). Evaluation of alternative locations including outside the River Water Quality overlay zone setback, design modification, or alternative methods of development to determine which options reduce the significant detrimental impacts on the functional values of the site; and
 - ~~e~~(3). Determination of the alternative that best meets the applicable approval criteria and identification of significant detrimental impacts that are unavoidable.
 - ~~2~~b. Construction management plan. Identify measures that will be taken during construction or remediation to protect the remaining functional values at and near the construction site and a description of how undisturbed areas will be protected. For example, describe the timing of construction, how construction equipment will be controlled, and describe how trees will be protected in conformance with Section 33.248.065, and erosion controlled in conformance with Title 10, Erosion and Sediment Control Regulations.

33.440.345 Supplemental Application Requirements (continued)

~~3c.~~ Mitigation or remediation plan. The purpose of a mitigation or remediation plan is to counteract unavoidable significant detrimental impacts that result from the chosen development alternative as identified in the impact evaluation. A mitigation or remediation plan includes:

~~a(1).~~ A description and analysis of how significant detrimental impacts will be avoided, minimized, or mitigated, as follows:

~~(1)•~~ Significant detrimental impacts must be avoided where practicable;

~~(2)•~~ Where avoiding significant detrimental impacts is not practicable, the impact must be minimized, and the impacts mitigated. The mitigation must meet the following:

~~•~~ The mitigation must be on the construction site, and must enhance the same kind of resource.

~~•~~ If it is not practicable to mitigate impacts using the same kind of resource, a different kind of resource may be used.

~~b(2)~~ Functional values to be restored, created, or enhanced on the mitigation or remediation site

~~e(3)~~ Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies;

~~d(4)~~ Construction timetables;

~~e(5)~~ Operations and maintenance practices;

~~f(6)~~ Information showing compliance with Section 33.248.090, Mitigation and Restoration Plantings.

**CHAPTER 33.470
PORTLAND INTERNATIONAL AIRPORT NOISE IMPACT ZONE**

33.470.040 Noise Insulation

A. Noise insulation required.

This amendment will add garages and similar accessory structures to the types of structures exempt from the sound insulation requirements of this section. These structures are not intended for occupation by people for significant portions of the day, so it is not necessary to require noise insulation in them.

33.470.050 Additional Residential Regulations

A. Restrictions on residential use and density.

2. Exceptions to the restrictions on residential use and density.

The recommended amendment explicitly addresses the replacement of manufactured homes within an existing mobile home park. Section 33.470.050.A.1 prohibits new residential construction within the Ldn 68 contour. Exceptions are made for housing to be replaced if it is damaged or destroyed, and houseboats to be removed and then replaced in their slip within 5 years. However, the exceptions do not address removing a manufactured home from an existing mobile home park and replacing it with a new manufactured home. The new language clarifies that replacing a manufactured home is considered replacement housing, and not new residential construction.

**CHAPTER 33.470
PORTLAND INTERNATIONAL AIRPORT NOISE IMPACT ZONE**

33.470.040 Noise Insulation

- A. Noise insulation required.** All new structures must be constructed with sound insulation or other means to achieve a day/night average interior noise level of 45 dBA. Reconstructed structures where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site must also meet this standard. Garages and similar accessory structures that do not include living space. ~~Structures~~ and structures used for Manufacturing And Production uses, Warehouse And Freight Movement uses, or nonresidential Agricultural uses are exempt from this requirement.
- B. through D.** [No change]

33.470.050 Additional Residential Regulations

- A. Restrictions on residential use and density.**
1. Prohibition of new residential uses within the Ldn 68 noise contour. New residential uses are prohibited within the Ldn 68 or higher noise contour. If an Ldn 68 noise contour divides a residential property, the building site including all required side and rear setbacks must be located entirely outside the Ldn 68 noise contour. Property that had a Farm and Forest, Limited Single Family, Low Density Single Family, or Medium Density Single Family Comprehensive Plan Map designation on January 1, 1981 or a County Residential Comprehensive Plan designation or zoning on that date is exempt from these requirements. New residential development must meet the requirements of this chapter for residential development within the Ldn 65 contour.
 2. Exceptions to the restrictions on residential use and density. Existing housing within the Ldn 68 noise contour may be replaced within 5 years if it is damaged or destroyed by fire or other causes beyond the control of the owner. A ~~house boat~~ houseboat that is intentionally removed from its slip by the owner may ~~also~~ be replaced within 5 years. A manufactured home that is intentionally removed from a mobile home park may be replaced within 5 years. Replacement housing must meet the requirements of this chapter for residential development within the Ldn 65 contour.
 3. [No change]
- B. through C.** [No change]

**CHAPTER 33.480
SCENIC RESOURCE ZONE**

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards.

b. Street setbacks.

The regulations for street setbacks in Scenic Corridors allow up to 25% of the landscaped street setback to be used for vehicle areas. The regulations do not make any allowance for pedestrian connections through the required landscaped street setback. The recommended amendment will add pedestrian connections to indicate that they are allowed through the street setback. It will also limit the combined area of vehicular and pedestrian circulation system to 25% of the street setback.

**CHAPTER 33.480
SCENIC RESOURCE ZONE**

33.480.040 Development Standards

The development standards of the Scenic Resource zone apply based on the mapping designations shown in the *Scenic Resources Protection Plan*. The standards for each subsection below apply only to areas with that designation in the Plan. The resource is defined as the width of the right-of-way or top of bank to top of bank for scenic corridors. Setbacks are measured from the outer boundary of the right-of-way unless specified otherwise in the ESEE Analysis and as shown on the Official Zoning Maps. In some cases, more than one development standard applies. For example, within a scenic corridor, a view corridor standard will apply where a specific view has been identified for protection.

A. [No change]

B. Scenic Corridors. All development and vegetation with a scenic corridor designation in the *Scenic Resources Protection Plan* are subject to the regulations of this Subsection.

1. [No change]

2. Standards.

a. [No change]

b. Street setbacks. Except as allowed in B.2.b(1) below, the entire required street setback must be landscaped to at least the L1 level unless the more stringent standards below or in other chapters of this title apply. ~~No more than~~ Up to 25 percent of the entire area of the street setback ~~can~~ may be used for vehicle and pedestrian areas except that each lot is allowed at least a 9-foot wide driveway or parking area and a 6-foot wide pedestrian area. For shared driveways serving more than one unit, the base zone standards apply, and landscaping at the L1 standard must be provided adjacent to the identified resource. Where the base zone does not require a street setback, a setback of 20 feet is established by the Scenic Resource zone.

c. through h. [No change]

CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT

33.510.110 Mixed Use Waterfront Development

D. Minimum residential density.

The title and purpose statement for this section indicate that the standards are intended for mixed use development. However, the standard for minimum residential density does not specify that it applies only to mixed use development. The recommended amendment clarifies that this standard applies only to mixed use waterfront development, and not to other types of residential uses.

CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT

33.510.110 Mixed Use Waterfront Development

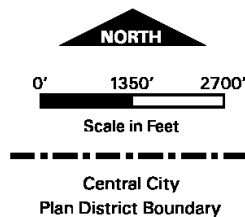
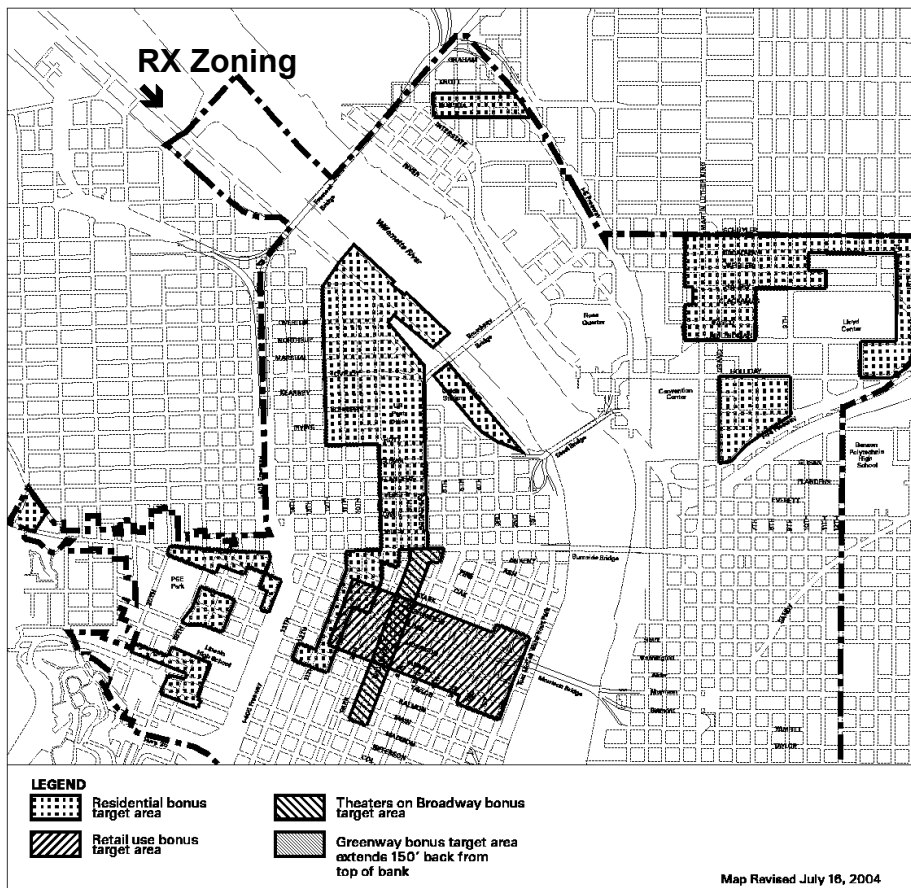
A. through C. [No change]

D. Minimum residential density. Where there are any non-residential uses on the site, mMinimum residential densities are one dwelling unit for each 2,000 square ~~feet~~ feet of site area.

Map 510-4

Map 510-4, Bonus Options Target Area, Map 1 of 2, identifies the Terminal One site (north of the Fremont Bridge) as being a residential bonus target area. However, this site is zoned RX. As indicated in Section 33.510.210.C.1, the residential bonuses are intended to be applied in CX and EX zones and do not make sense to apply in the RX zone. This amendment corrects Map 510-4, Bonus Options Target Area, Map 1 of 2 and removes the RX zoned area.

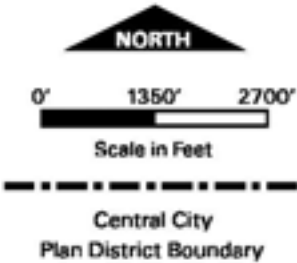
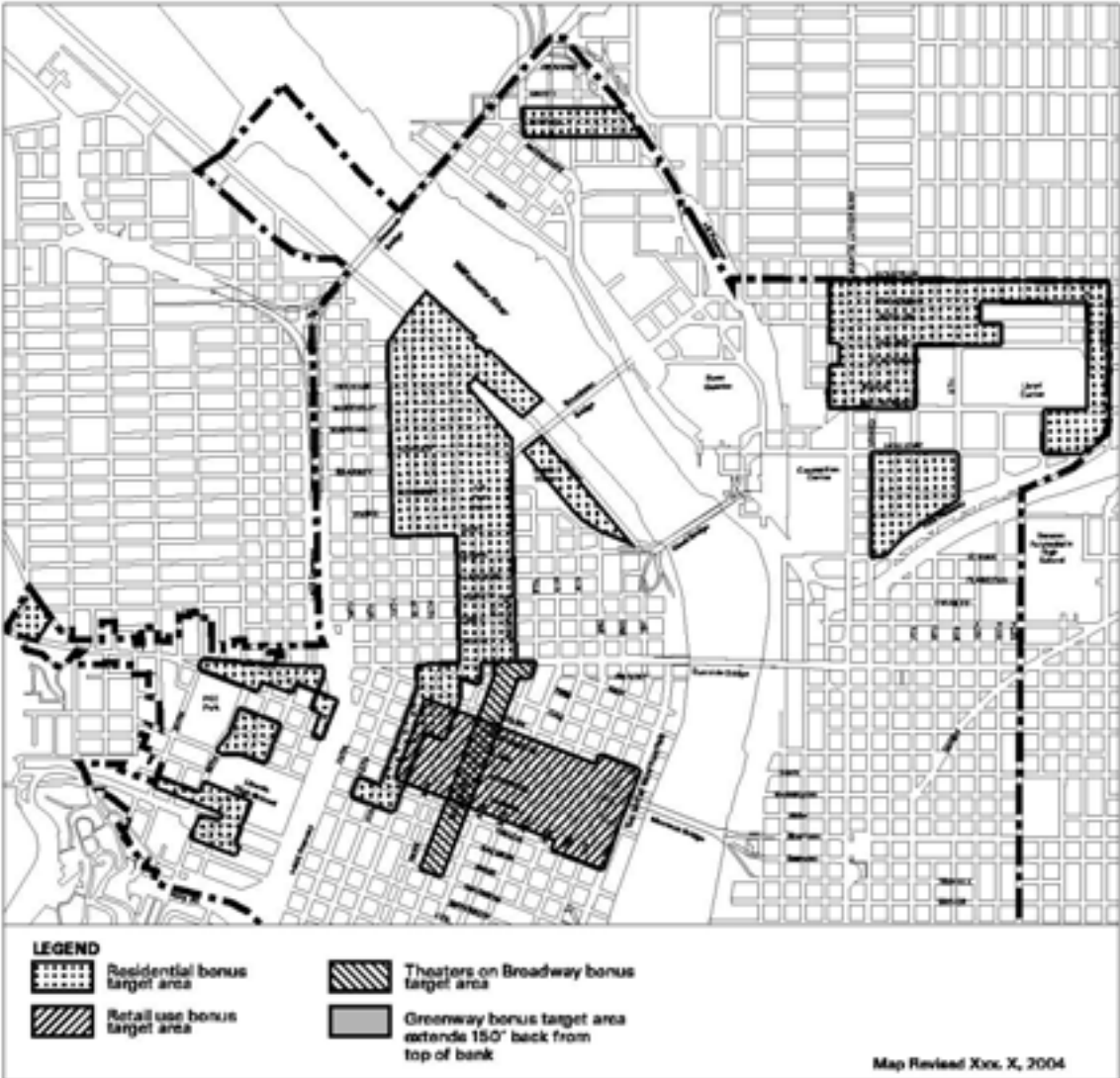
Existing Map 510-4, Map 1 of 2:



Map 510-4
Bonus Options Target Areas
 Map 1 of 2

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Recommended Map 510-4, Map 1 of 2



Map 510-4
Bonus Options Target Areas
 Map 1 of 2

Bureau of Planning • City of Portland, Oregon

CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT

33.515.120 Commercial Uses

Section 33.515.120 allows a limited amount of floor area in Retail Sales And Service uses, and indicates that this limitation includes exterior display and storage. This implies that exterior display is allowed. However, Section 33.515.240 states that exterior display is prohibited. The recommended amendment will clarify that while existing nonconforming exterior display is included when calculating the amount of allowed Retail Sales And Service uses. The amendments will also replace the word "plus " with "including" to clarify the limitation.

**CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT**

33.515.120 Commercial Uses

- A.** Retail Sales And Service uses in the EG2 zone are limited to 25,000 square feet or less of floor area ~~plus~~ including any exterior storage or nonconforming exterior display or storage per site. The 25,000 square foot limitation does not apply to hotels or motels.
- B.** The IG2 zone regulations allow four Retail Sales And Service uses of up to 3,000 square feet each of floor ~~plus~~ including any exterior storage or nonconforming exterior display or storage per site without a conditional use review. Within the Industrial Business Opportunity subdistrict, sites zoned IG2 are allowed a single Retail Sales And Service use of up to 12,000 square feet of floor area ~~plus~~ including any exterior storage or nonconforming exterior display or storage without a conditional use review, in lieu of the four separate uses. Retail Sales And Service uses where the floor ~~plus~~ including any exterior storage or nonconforming exterior display or storage exceed 60,000 square feet are prohibited.

**CHAPTER 33.537
JOHNSON CREEK BASIN PLAN DISTRICT**

33.537.140 South Subdistrict Development Standards

C. Tree removal.

Trees are often required to be removed so that their roots do not damage utility lines. In the South Subdistrict and Flood Plain Subdistrict of the Johnson Creek Basin Plan District, tree removal is not allowed within a utility easement. Removal of trees in a utility easement is allowed in the Scenic Resources overlay zone. (See 33.480.040) The Environmental overlay zones specify standards for tree removal in easements without an Environmental Review. (See 33.430.150) The recommended amendment will allow tree removal within utility easements in the South and Flood Plain subdistricts of the Johnson Creek Basin Plan District and require that the standards of the Environmental overlay zone be met where there is also Environmental zoning.

33.537.150 Floodplain Standards

D. Tree removal.

Trees are often required to be removed so that their roots do not damage utility lines. In the South Subdistrict and Flood Plain Subdistrict of the Johnson Creek Basin Plan District, tree removal is not allowed within a utility easement. Removal of trees in a utility easement is allowed in the Scenic Resources overlay zone. (See 33.480.040) The Environmental overlay zones specify standards for tree removal in easements without an Environmental Review. (See 33.430.150) The recommended amendment will allow tree removal within utility easements in the South and Flood Plain subdistricts of the Johnson Creek Basin Plan District and require that the standards of the Environmental overlay zone be met where there is also Environmental zoning.

**CHAPTER 33.537
JOHNSON CREEK BASIN PLAN DISTRICT**

33.537.140 South Subdistrict Development Standards

A. through B. [No change]

C. Tree removal. Trees greater than six inches in diameter may be removed only in the following situations:

1. When they are within 10 feet of an existing or proposed building or 5 feet of a paved surface;
2. When they are diseased or pose an immediate danger, as determined by the City Forester or a certified arborist; ~~or~~
3. When they are below the ordinary high water level of Johnson Creek; or
4. When they are within a water, sewer, or other utility easement. In the Environmental Overlay zone, the regulations of Section 33.430.150, Standards for Utility Lines, must also be met.

D. through E. [No change]

33.537.150 Floodplain Standards

A. through C. [No change]

D. Tree removal. Trees greater than six inches in diameter may be removed only in the following situations:

1. When they are within 10 feet of an existing or proposed building or 5 feet of a paved surface;
2. When they are diseased or pose an immediate danger, as determined by the City Forester or a certified arborist; ~~or~~
3. When they are below the ordinary high water level of Johnson Creek; or
4. When they are within a water, sewer, or other utility easement. In the Environmental Overlay zone, the regulations of Section 33.430.150, Standards for Utility Lines, must also be met.

E. [No change]

33.537.160 Johnson Creek Flood Risk Area

For a site that is only partially within the Flood Risk Area (FRA), the current language is unclear whether land divisions and PDs are prohibited entirely or whether a land division or PD that places the portion of the site that is in the FRA in a tract is allowed. Since the primary intent of the FRA regulations - to restrict development in the FRA - can be accomplished if the portion of the site that is in the FRA is placed in a tract, the recommended amendment clarifies the prohibition.

33.537.160 Johnson Creek Flood Risk Area

- A.** Where the entire site is within the Johnson Creek Flood Risk Area, as shown on Map 537-1, land divisions and PDs are prohibited.
- B.** Where a portion of the site is ~~Land divisions and PDs~~ within the Johnson Creek Flood Risk Area, as shown on Map 537-1, ~~land divisions and PDs are prohibited~~ allowed only if the portion of the site in the Flood Risk Area is placed in a tract.

33.537 Johnson Creek Basin Plan District

Map 537-1, Johnson Creek Basin Plan District; Maps 2 of 8, 3 of 8, 5 of 8, 6 of 8, and 8 of 8

These amendments will update the Johnson Creek Basin Plan District maps to make boundaries of the Flood Risk Area (FRA) consistent with recent data. As part of the Johnson Creek Floodplain Zoning Code Maintenance project, the Bureau of Environmental Services (BES) identified the need to update the Flood Risk Area shown on Map 537-1. Because there are more factors to consider in determining the boundary of the FRA than the Federal Emergency Management Agency (FEMA) 100-year floodplain boundaries, BES staff was not able to complete the work on the same fast track as the prior project. The Planning Commission and BOP staff recommended deferring the map update to a future Code Maintenance project because it is consistent with the Code Maintenance parameters.

The purpose of the Flood Risk Area is to minimize flood damage within an area that incurs regular flooding by restricting land divisions and planned developments within the Flood Risk Area. Regulations also require the portion of any new buildings below the 100-year base flood elevation (100-year floodplain) to be built with flow-through construction. Because of variations in topography, portions of some tax lots within the Flood Risk Area are above 100-year base flood elevations and are therefore not subject to the building code requirements.

BES revised the 1998 Flood Risk Area boundary in January 2004 based on updated modeling, empirical data and tax lot information. The model (XP-SWMM) is based on topography, Johnson Creek cross sections, stream gage data, and precipitation data. Empirical data is based on the January 31, 2003 flood.

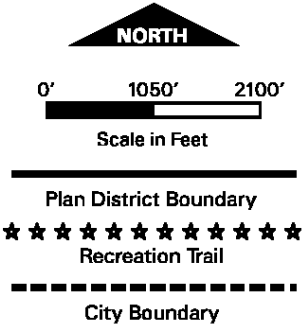
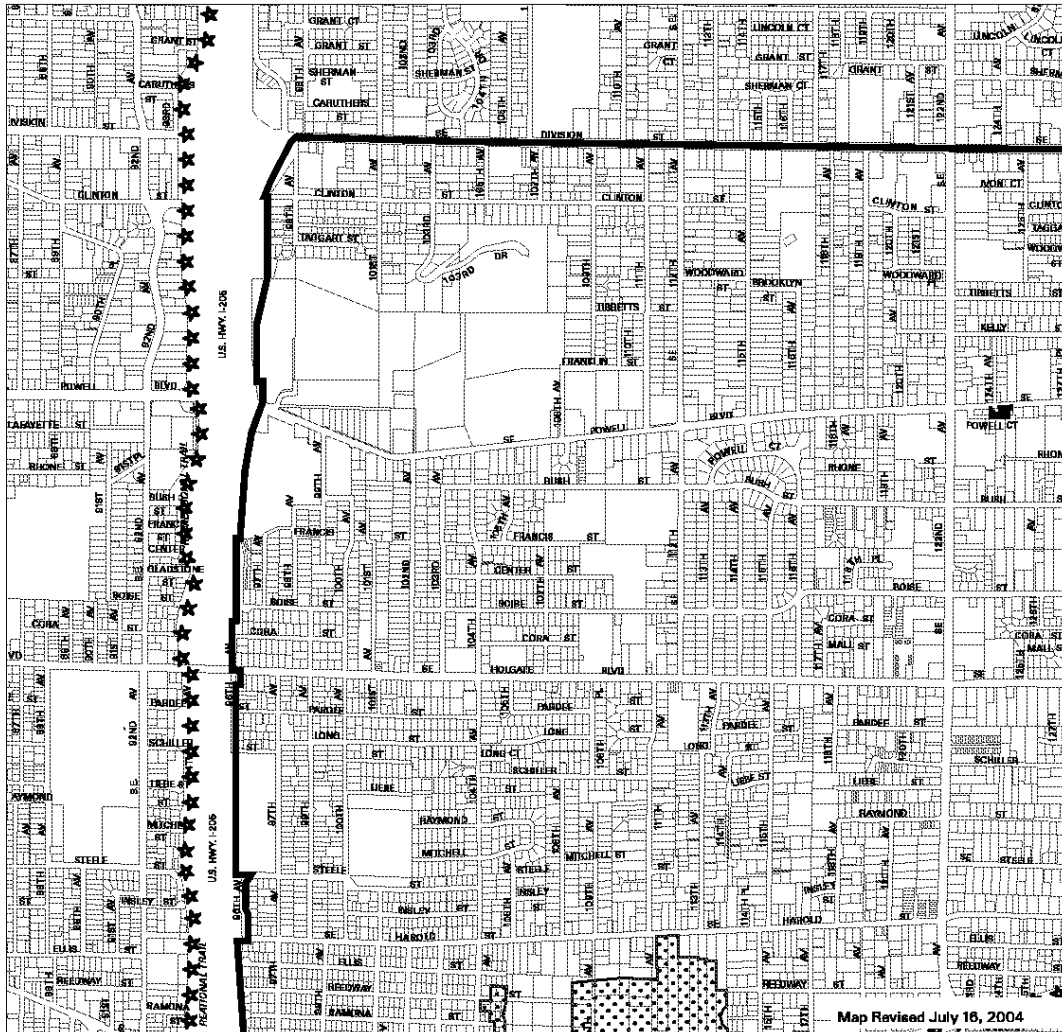
The 2004 Flood Risk Area is delineated as the portion of the tax lots which were impacted by the January 31, 2003 flood (approximately a 6-year event), that are within 50 feet of the modeled nuisance flood (approximately a 10-year event) and are within the 100-year floodplain. The 2004 Flood Risk Area includes 224 acres, compared with 260 acres in the 1998 Flood Risk Area.

BES will periodically review and update the Flood Risk Area as information and conditions change. Updating the Zoning Code maps through future Code Maintenance projects is a likely vehicle to keep these maps current as circumstance change in the area.

Maps provided on following pages.

33.537 Johnson Creek Basin Plan District (continued)

Current Map 537-1, Map 2 of 8

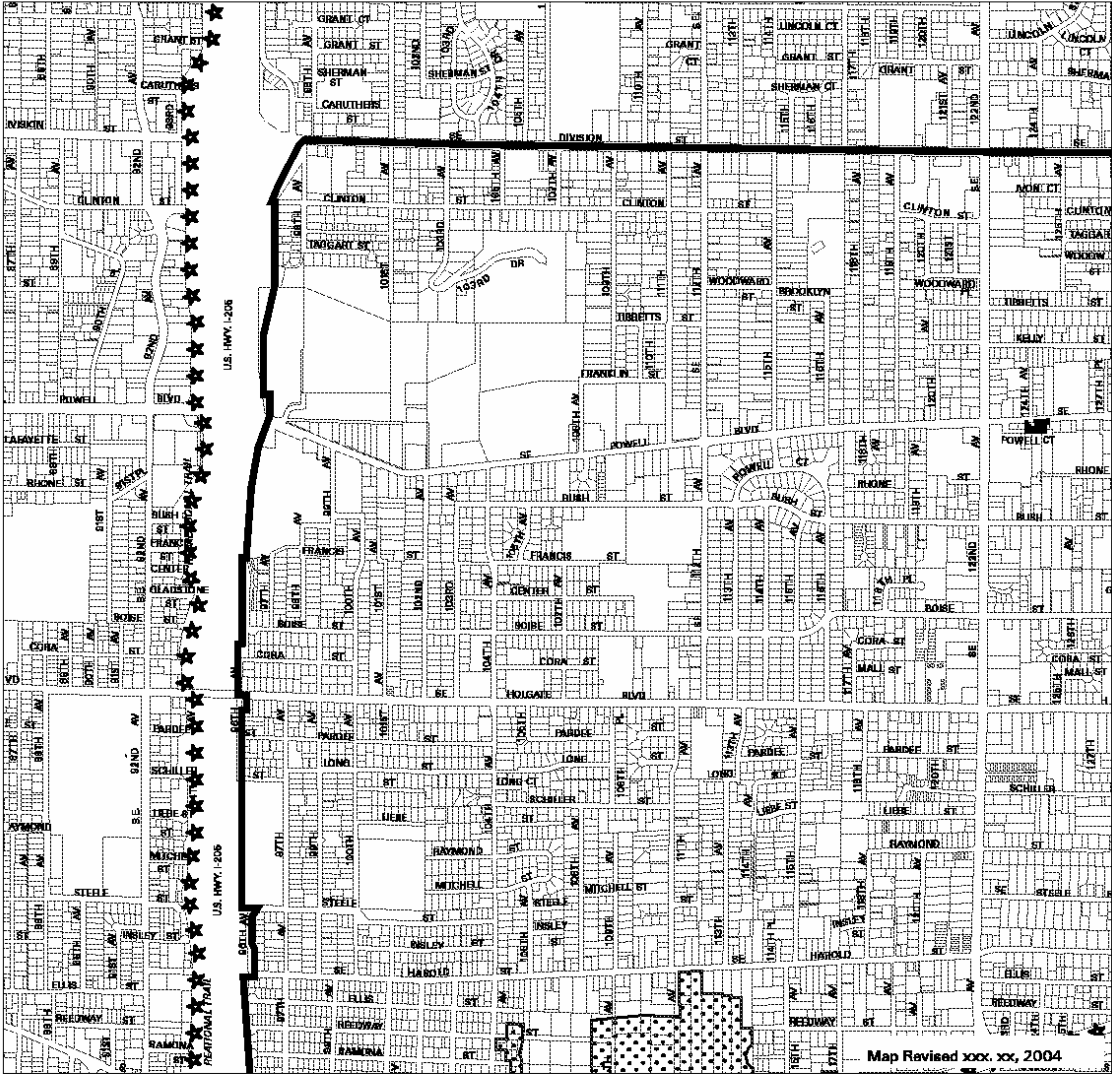


- LEGEND
-  South Subdistrict
 -  Flood Risk Area

Map 537-1
**Johnson Creek Basin
Plan District**
Map 2 of 8




Bureau of Planning • City of Portland, Oregon



Recommended Map 537-1, Map 2 of 8



0' 1050' 2100'

Scale in Feet

-  Plan District Boundary
-  Recreation Trail
-  City Boundary

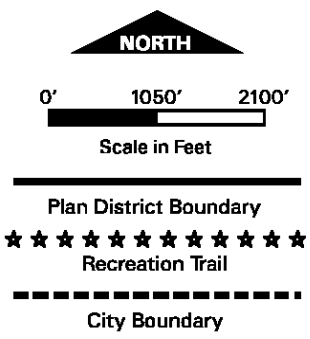
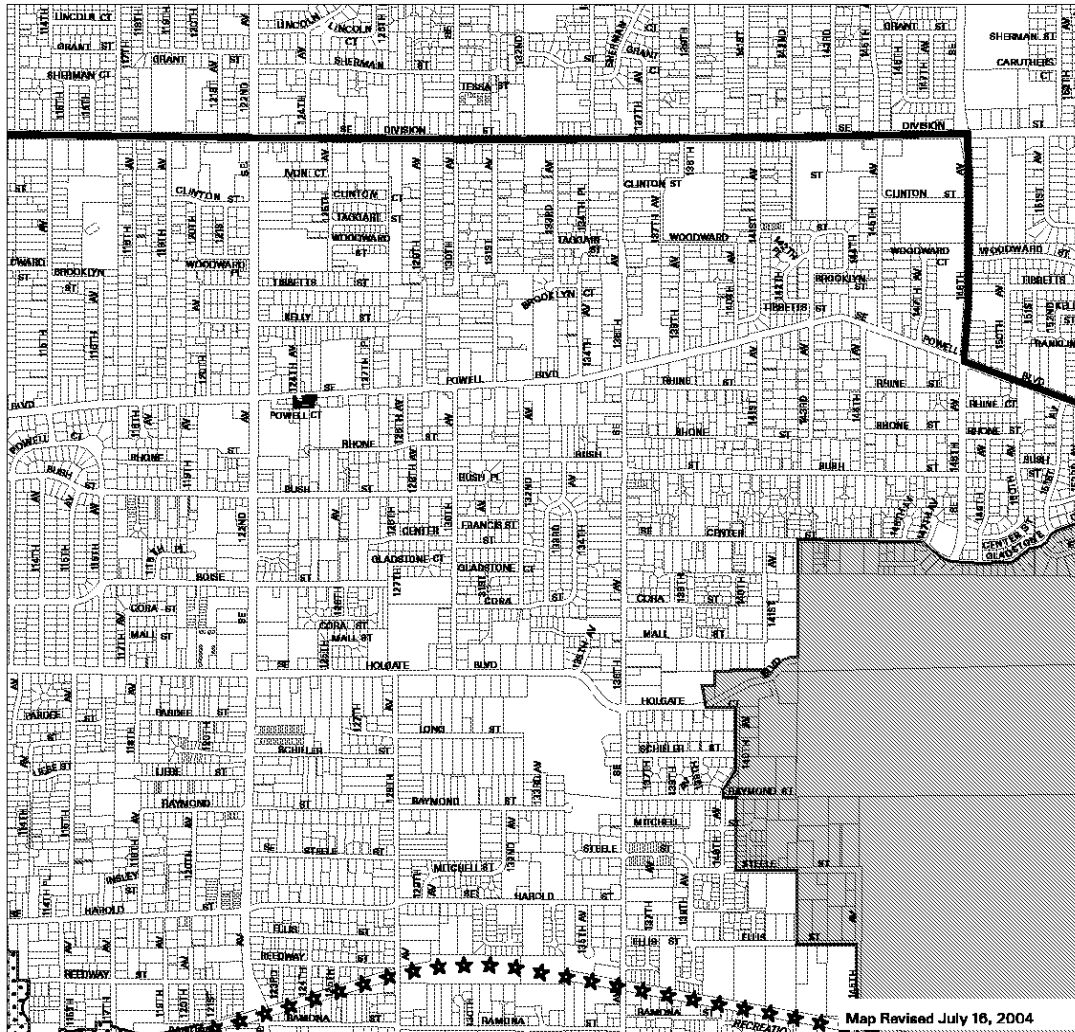
- LEGEND
-  South Subdistrict
 -  Flood Risk Area

Map 537-1
Johnson Creek Basin
Plan District
Map 2 of 8

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33.537 Johnson Creek Basin Plan District (continued)

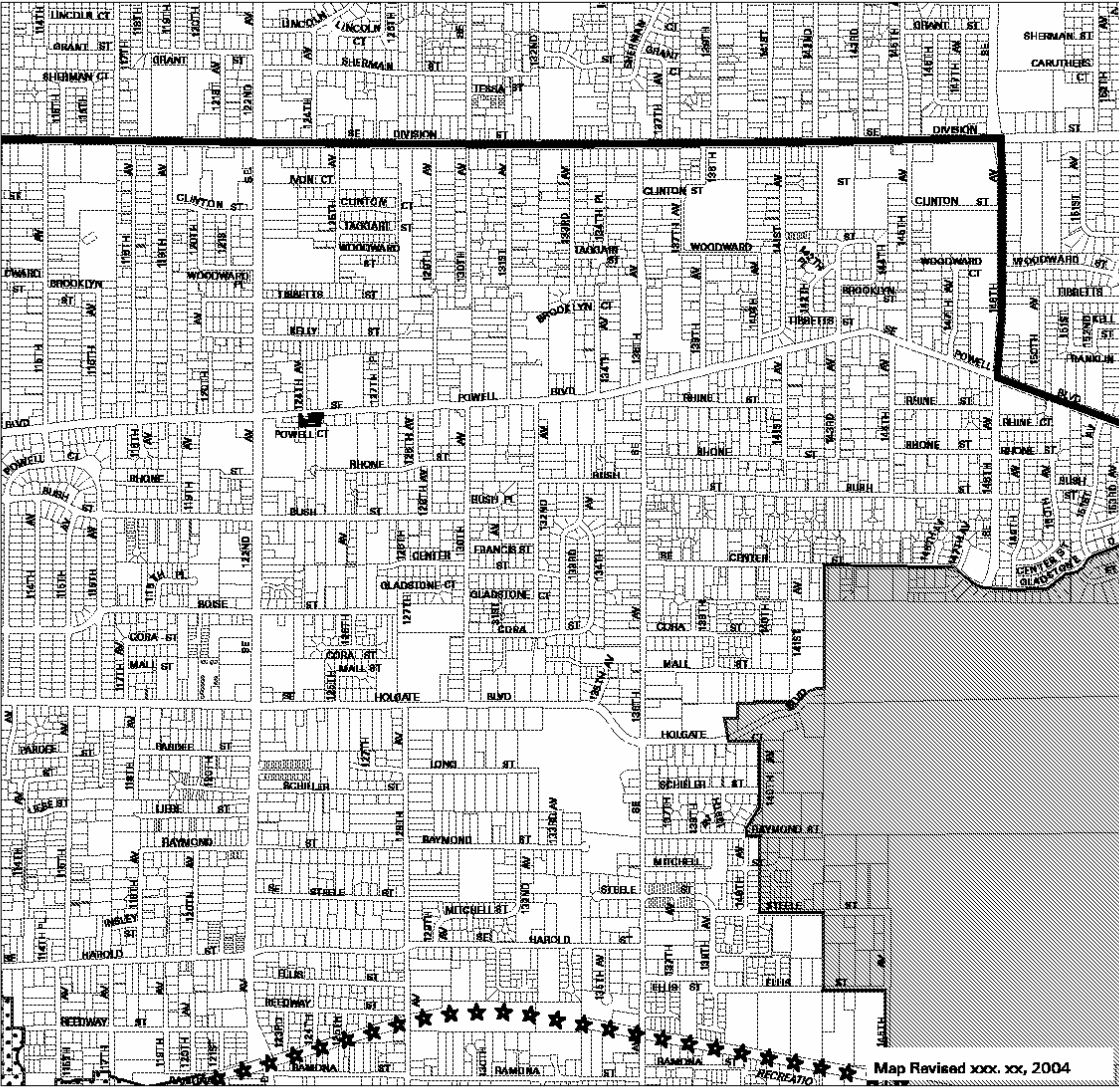
Current Map 537-1, Map 3 of 8



Map 537-1
Johnson Creek Basin
Plan District
Map 3 of 8


Bureau of Planning • City of Portland, Oregon



Recommended Map 537-1, Map 3 of 8



0' 1050' 2100'

Scale in Feet

-  Plan District Boundary
-  Recreation Trail
-  City Boundary

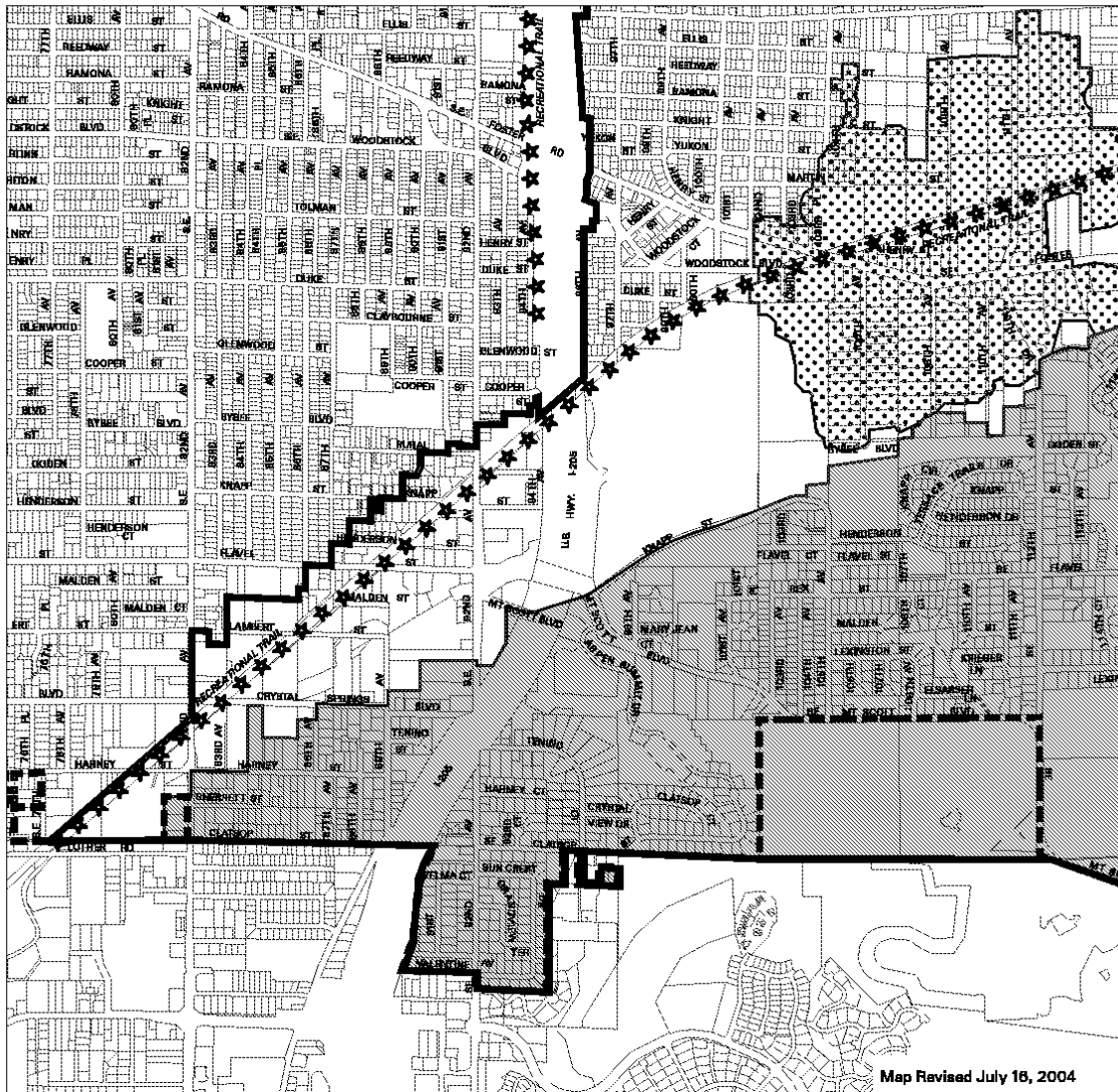
- LEGEND
-  South Subdistrict
 -  Flood Risk Area

Map 537-1
Johnson Creek Basin
Plan District
Map 3 of 8

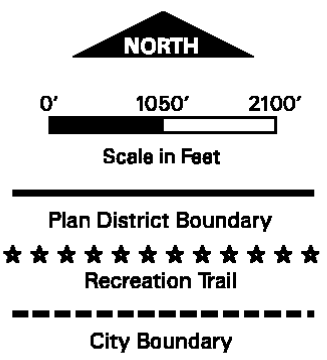
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33.537 Johnson Creek Basin Plan District (continued)

Current Map 537-1, Map 5 of 8



Map Revised July 16, 2004



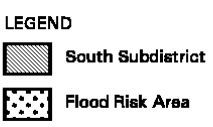
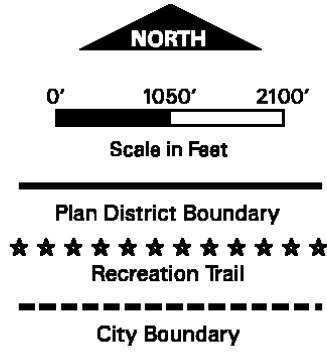
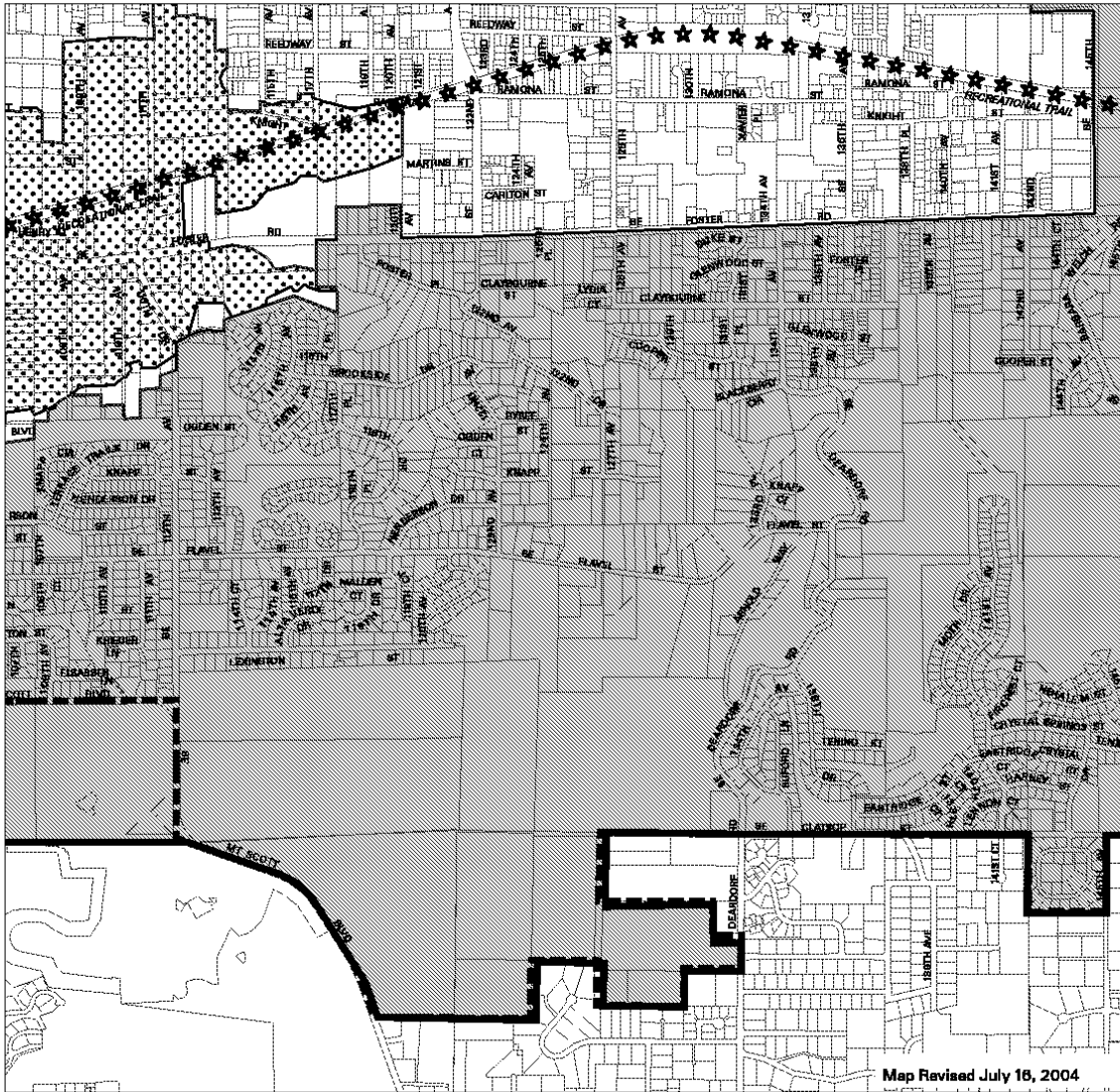
- LEGEND**
- South Subdistrict
 - Flood Risk Area

Map 537-1
Johnson Creek Basin
Plan District
Map 5 of 8

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33.537 Johnson Creek Basin Plan District (continued)

Current Map 537-1, Map 6 of 8



Map 537-1

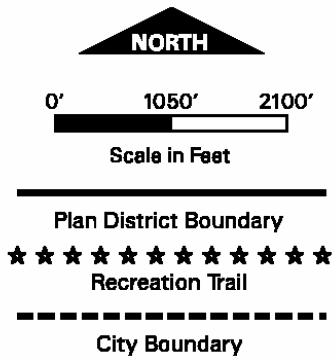
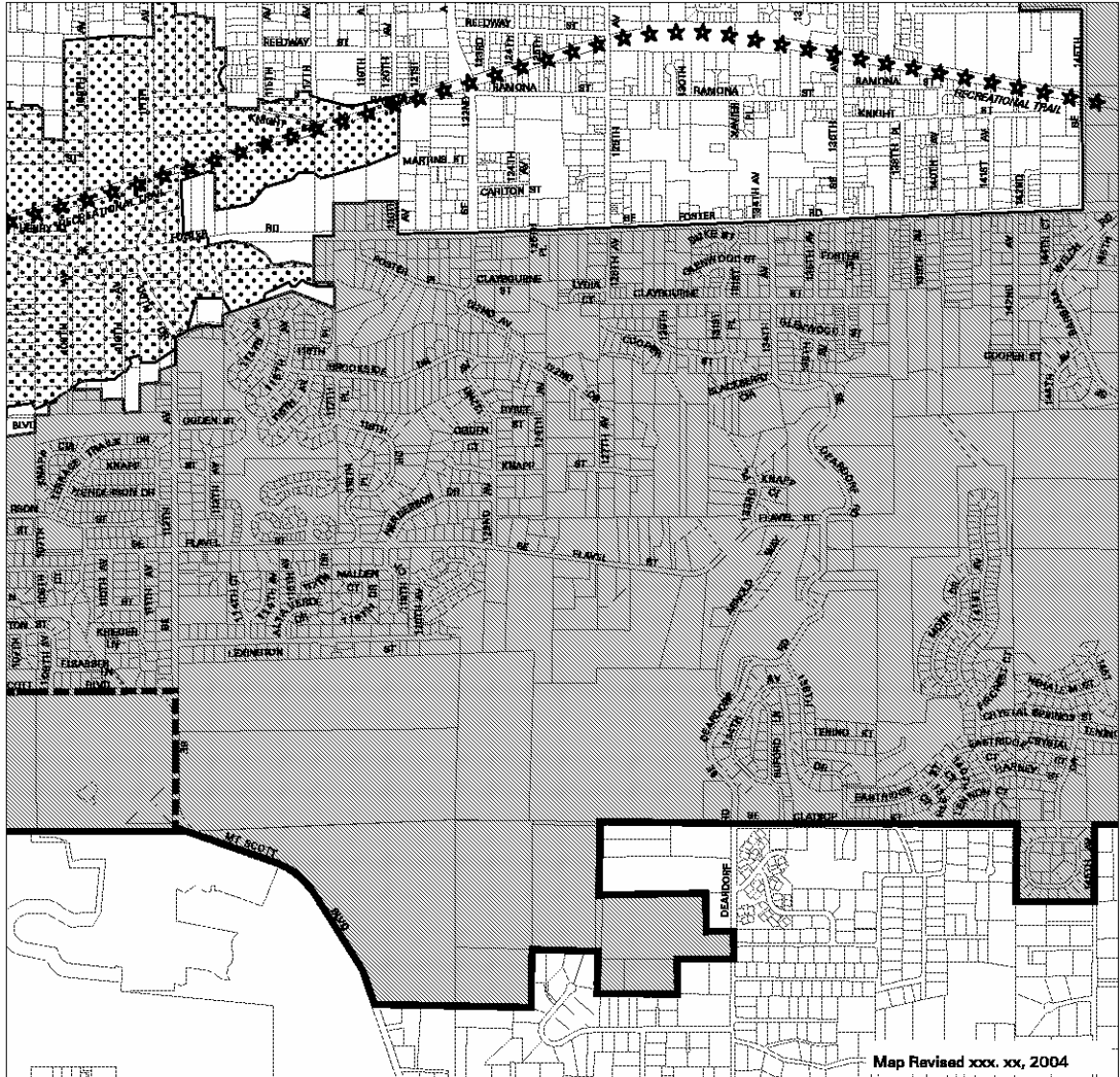
Johnson Creek Basin



Plan District

Map 6 of 8

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Recommended Map 537-1, Map 6 of 8



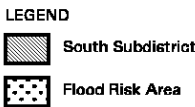
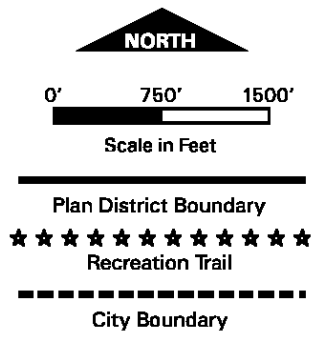
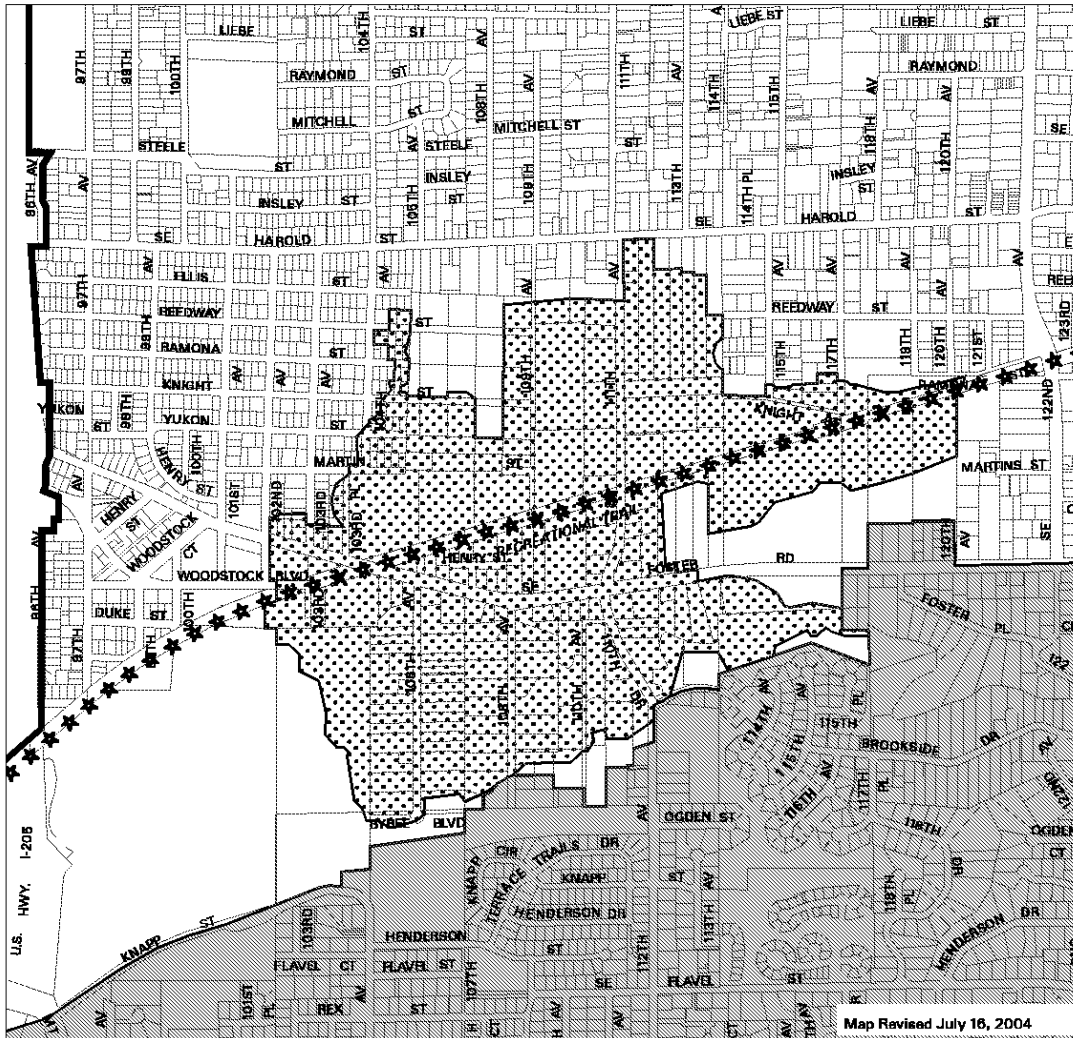
- LEGEND
-  South Subdistrict
 -  Flood Risk Area

Map 537-1
Johnson Creek Basin
Plan District
Map 6 of 8

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33.537 Johnson Creek Basin Plan District (continued)

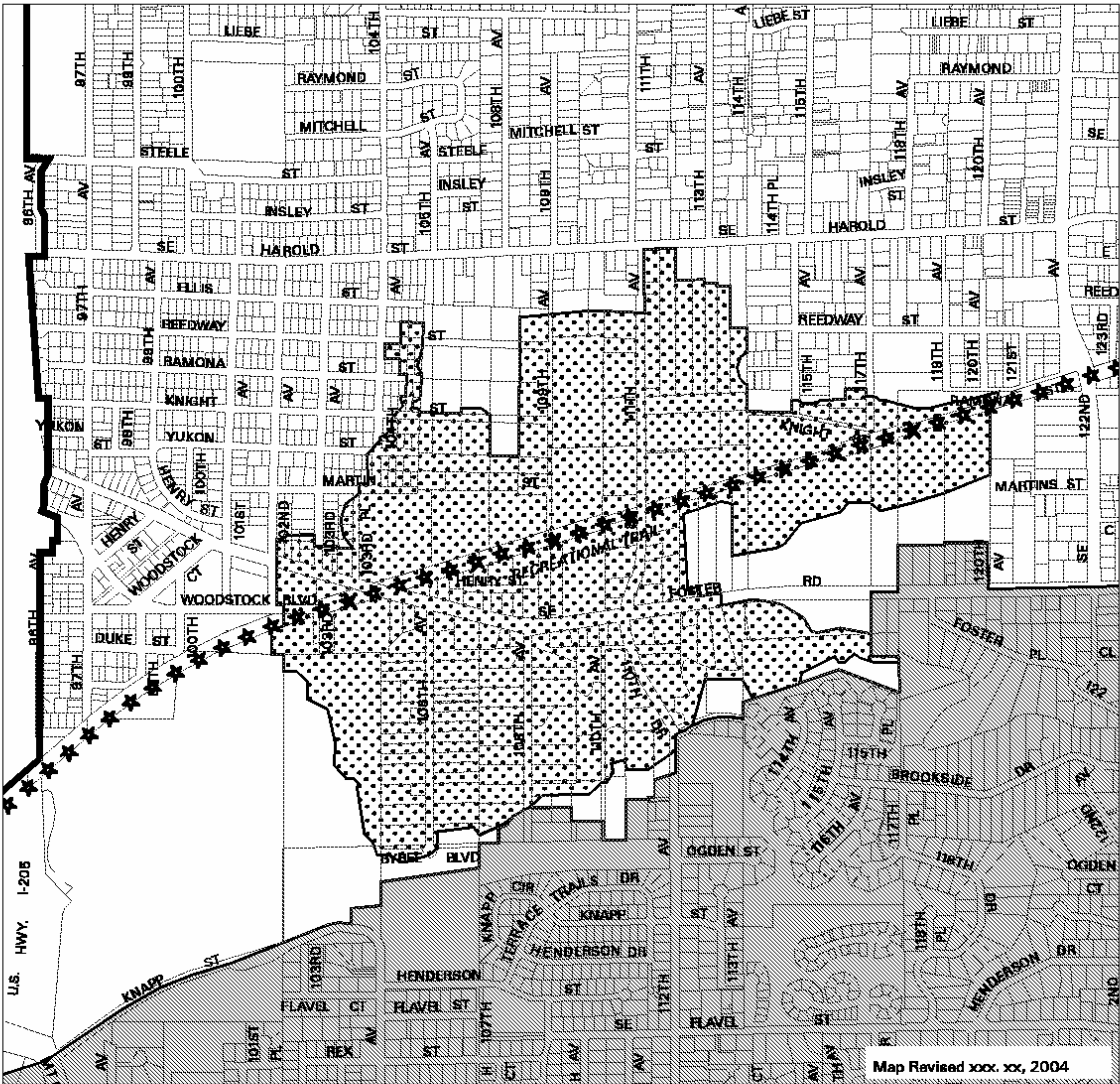
Current Map 537-1, Map 8 of 8



Map 537-1
Johnson Creek Basin
Plan District
Map 8 of 8

Bureau of Planning • City of Portland, Oregon

Recommended Map 537-1, Map 8 of 8



0' 750' 1500'

Scale in Feet



Plan District Boundary





Recreation Trail



City Boundary

LEGEND

-  South Subdistrict
-  Flood Risk Area

Map 537-1

Johnson Creek Basin
Plan District

Map 8 of 8

Bureau of Planning • City of Portland, Oregon

CHAPTER 33.570
ROCKY BUTTE PLAN DISTRICT

33.570.030 Development Standards

C. Street setback.

This subsection regulates what is allowed in required street setbacks. However, all of Rocky Butte is zoned Open Space or Single-Dwelling residential. These zones regulate front, side, and rear setbacks, but not street setbacks. The recommended amendment clarifies that the regulation applies to a front or side lot line that abuts Rocky Butte Road.

CHAPTER 33.570
ROCKY BUTTE PLAN DISTRICT

33.570.030 Development Standards

A. through B. [No change]

C. Street setback. The following must be met where a front or side lot line abuts NE Rocky Butte Road:

1. No more than 25 percent of the front or side building ~~street~~ setback ~~adjacent to NE Rocky Butte Road~~ can be used for parking, maneuvering and circulation areas. For lots with an average slope down of 20 percent or more, the maximum area devoted to parking, maneuvering and circulation is 35 percent of the front or side building ~~street~~ setback.
2. The remainder of the front or side setback must be landscaped to at least the L1 level. Emphasis should be placed on the use of native species as listed on the *Portland Plant List*.

D. through G. [No change]

**CHAPTER 33.631
SITES IN FLOOD HAZARD AREAS**

This chapter has two somewhat confusing references for its application. The first is in 33.631.020, Where the Standard and Approval Criteria Apply, which refers to Map 631-1, Potential Flood Hazard Area Map. The second is in 33.631.100, Flood Hazard Area Approval Criteria, where the text refers to the flood hazard area.

Map 631-1 is based on the 100-year floodplain as defined by the Federal Emergency Management Agency (FEMA). When the FEMA maps are updated or modified through an administrative decision, this map becomes outdated. FEMA has made a number of administrative changes to their published map and has also begun the process of updating the 100-year floodplain map. FEMA expects to have the new map published in the next few months. In the Johnson Creek Basin Plan District a number of regulations are dependent on the FEMA data. The plan district was recently modified so the references to FEMA maps now say within "the 100-year floodplain as currently defined by the Federal Emergency Management Agency (FEMA)," thus avoiding the need to update the Zoning Code maps every time FEMA makes an administrative change or updates the published map.

Two amendments are recommended to clarify the application of these regulations and to keep this chapter current when FEMA makes changes to the 100-year floodplain map. The first amendment is to delete Map 631-1 and refer instead to the flood hazard area. The second amendment is to modify the definition of flood hazard area to 1) clarify that the flood hazard area is the 100-year floodplain, and 2) to assure that the reference to the floodplain will remain current as FEMA changes the area included in the 100-year floodplain. This change is consistent with the changes recently made to the Johnson Creek Basin Plan District. The second amendment is in 33.930, Definitions and modifies the definition of flood hazard area

**CHAPTER 33.631
SITES IN FLOOD HAZARD AREAS**

Sections:

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

~~Map 631-1 Potential Flood Hazard Area Map~~

33.631.010 Purpose

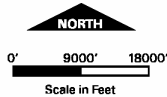
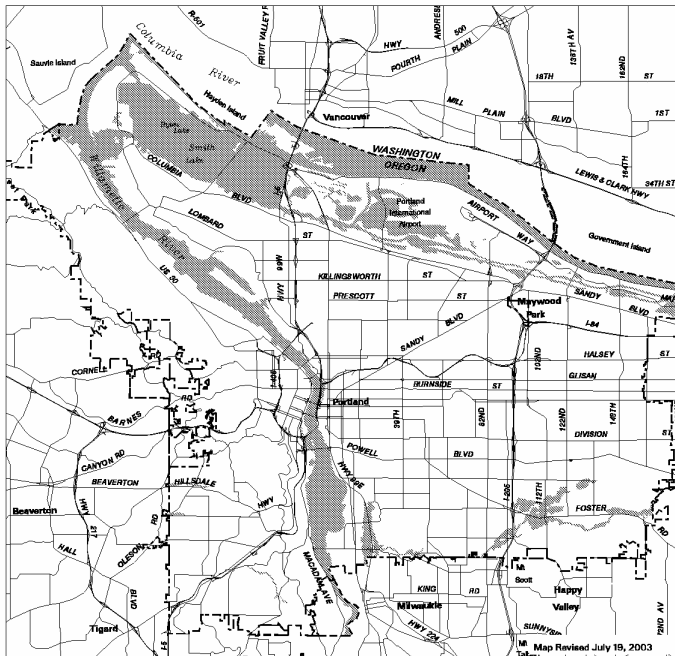
The regulations for lands subject to regular or periodic flooding will help minimize public and private losses from flooding. The standard and approval criteria limit the creation of lots on lands subject to flood in order to direct development away from hazardous areas. The standard and approval criteria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

33.631.020 Where the Standard and Approval Criteria Apply

The approval criteria of this chapter apply to proposals for land divisions where any portion of the land division site is in the flood hazard areas shown on Map 631-1.

33.631.020 Where the Standard and Approval Criteria Apply [No change]

Map 631-1, Potential Flood Hazard Area



Potential Flood Hazard

Map 631-1

**Potential Flood Hazard
Area Map**

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

33.660.220 Approval Standards

This amendment is one of several minor clean ups to the 2002 adoption of the Land Division Code Rewrite Project. If read literally this section would require that all Final Plats be reviewed under these regulations. However, the standards only make sense for Final Plat review where the Preliminary Plan was reviewed under the regulations of this chapter. Also, applications that were received prior to the effective date of these regulations are vested in the regulations in effect at the time of application. These amendments clarify that the final plat approval standards only apply to Final Plats where the Preliminary Plan review used these regulations.

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

Review of Final Plat

33.660.210 Review Procedures [No change]

33.660.215 Voiding of Final Plat Application [No change]

33.660.220 Approval Standards

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

A. through F. [No change]

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

33.662.220 Approval Standards

This amendment is one of several minor clean ups to the 2002 adoption of the Land Division Code Rewrite Project. If read literally this section would require that all Final Plats be reviewed under these regulations. However, the standards only make sense for Final Plat review where the Preliminary Plan was reviewed under the regulations of this chapter. Also, applications that were received prior to the effective date of these regulations are vested in the regulations in effect at the time of application. These amendments clarify that the final plat approval standards only apply to Final Plats where the Preliminary Plan review used these regulations.

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

Review of Final Plat

33.662.210 Review Procedures [No change]

33.662.215 Voiding of Final Plat Application [No change]

33.662.220 Approval Standards

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

A. through F. [No change]

**CHAPTER 33.664
REVIEW OF LAND DIVISIONS ON LARGE SITES IN INDUSTRIAL ZONES**

33.664.220 Approval Standards

This amendment is one of several minor clean ups to the 2002 adoption of the Land Division Code Rewrite Project. If read literally this section would require that all Final Plats be reviewed under these regulations. However, the standards only make sense for Final Plat review where the Preliminary Plan was reviewed under the regulations of this chapter. Also, applications that were received prior to the effective date of these regulations are vested in the regulations in effect at the time of application. These amendments clarify that the final plat approval standards only apply to Final Plats where the Preliminary Plan review used these regulations.

**CHAPTER 33.664
REVIEW OF LAND DIVISIONS ON LARGE SITES IN INDUSTRIAL ZONES**

Review of Final Plat

33.664.210 Review Procedures [No change]

33.664.215 Voiding of Final Plat Application [No change]

33.664.220 Approval Standards

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

A. through G. [No change]

**CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT**

33.700.075 Automatic Changes to Specified Dollar Thresholds

The recent Nonconforming Thresholds project included language that annually adjusts the dollar thresholds for nonconforming upgrades using the national average of the Construction Cost Index (CCI), as determined by the Engineering News-Record. For consistency and ease of use, a current dollar amount should be established for Design Review and Historic Review thresholds and these should be adjusted annually as well.

The first amendment to this section changes the effective date of the yearly increase to allow enough time for the Engineering News-Record to publish the annual national average for the CCI. The second amendment cross-references the code citations where these thresholds occur in the Design Review and Historic Review chapters. Amendments to adjust the dollar amounts occur in those chapters.

**CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT**

33.700.075 Automatic Changes to Specified Dollar Thresholds

The sections listed below include dollar thresholds. These thresholds will be increased or decreased each year on ~~February~~January 1. The change will occur automatically, and the new dollar amount will be placed in the Zoning Code without being subject to the procedures for amending the Zoning Code. The change will be based on the annual national average of the Construction Cost Index (CCI), as ~~determined~~ published in by the second January issue of the Engineering News-Record. Any increase or decrease that is not a multiple of \$50 will be rounded to the nearest multiple of \$50.

The sections subject to this regulation are:

- A.** 33.258.070.D.2.a;
- B.** 33.258.070.D.2.d(2);
- C.** 33.440.230.D.1;
- D.** 33.480.040.B.2.b(2);
- E.** 33.508.330.B.17.a(1); ~~and~~
- F.** 33.515.278.B.17.a(1);~~;~~
- G.** 33.825.025.A.1.a;
- H.** 33.825.025.A.1.b;
- I.** 33.825.025.A.1.e;
- J.** 33.825.025.A.2.a;
- K.** 33.825.025.A.2.b;
- L.** 33.825.025.A.2.c;
- M.** 33.846.060.B.2.a;
- N.** 33.846.060.B.2.b;
- O.** 33.846.060.B.2.f;
- P.** 33.846.060.B.2.g;
- Q.** 33.846.060.B.4.a;
- R.** 33.846.060.B.4.b;
- S.** 33.846.060.B.4.c; and
- T.** 33.846.060.B.4.d;

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.015 Type I Procedure

- C. Notice of request
- F. Notice of decision.

Recent amendments to the Type II and Type III procedures, corrected the reference to the "filing" of decisions and moved the timing requirements for mailing the Notice of Decision. Those changes reflect the actual practices of the Land Use Services group. These amendments make the same changes to the Type I procedure.

In addition, the recording of land use decisions is now done through the County Recorder's office, and not through the City Auditor's office. The City Auditor has requested that notices of decision and notices of appeals (other than appeals of Type III cases) no longer be sent to the City Auditor. This recommended amendment implements that change. Similar amendments are recommended for the other review procedures.

Finally, references to "lot" are changed to "site."

33.730.015 Type I Procedure

The Type I procedure is an administrative process with public notice but no hearing.

A. through B. [No change]

C. Notice of a request. ~~Within 5 days of receiving the~~ Upon receipt of a complete application, the Director of BDS will mail a notice of the request to all property owners within 100 feet of the ~~site~~, and to the recognized organization(s) in which the ~~site~~ is located. The notice will contain all information listed in 33.730.070.B, Type I notice of request.

D. Processing time. Upon determining that the application is complete the Director of BDS will make a decision on the case as follows:

1. The director of BDS will not make the decision until at least 30 days after the notice required by Subsection C is mailed; and
2. The Director of BDS will make the final decision on the case and mail a notice of decision within 45 days after the application is determined to be complete. The applicant may extend this time limit.

E. [No change]

F. Notice of decision. The Director of BDS will ~~file the notice of decision by the next working day after the decision is made. Within 5 days of filing the notice of decision, the Director of BDS will~~ mail notice of the decision to the applicant and to any person or organization who submitted written comments, ~~and to the City Auditor.~~ See 33.730.070.F, Type I procedure notice of decision.

G. [No change]

33.730.020 Type II Procedure

- F. Notice of decision (pending appeal)**
- I. When an appeal is filed.**
 - 2. Notification of appeal hearing
 - 8. Notice of final decision

The recording of land use decisions is now done through the County Recorder's office, and not through the City Auditor's office. The City Auditor has requested that notices of decision and notices of appeals (other than appeals of Type III cases) no longer be sent to the City Auditor. The recommended amendments implement that change.

Recent amendments to the Type II and Type III procedures, corrected the reference to the "filing" of decisions to reflect the actual practice, which is to mail the decision. This amendment makes the same change to other sections of the Type II procedure.

In addition, several amendments add "working" to the number of days specified for mailing notices.

Finally, references to "lot" are changed to "site."

- I. When an appeal is filed.**
 - 6. Appeal decision.
 - 8. Notice of final decision

Often the record for an appeal is held open following the close of the hearing to allow participants time to rebut or clarify information presented at the hearing. The time frame for mailing the decision should begin when the record closes not at the close of the hearing. These amendments change the appropriate references.

33.730.020 Type II Procedure

The Type II procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A. through D. [No change]

F. Notice of decision (pending appeal). The Director of BDS will mail the notice of the decision to the owner, the applicant if different, all property owners within 150 feet of the ~~sitelet~~ when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the ~~sitelet~~ is located, to all recognized organizations within 400 feet of the ~~sitelet~~, and to any person who submitted written comments, ~~and to the City Auditor.~~ See 33.730.070.G, Notice of Type II or Type IIX decision (pending appeal).

G. through H. [No change]

I. When an appeal is filed. Appeals must comply with this subsection.

1. [No change]

2. Notification of appeal hearing. The Director of BDS will ~~file~~ mail a copy of the appeal within 3 working days of its receipt to the ~~City Auditor and the~~ applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will ~~send~~ mail a notice of the appeal hearing to the applicant and all persons and recognized organizations who received the notice of the decision. See 33.730.070.H, Notice of a Type II or Type III appeal hearing.

3. through 5. [No change]

6. Appeal decision. [No change]

a. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the ~~hearing~~ close of the record.

b. Other review bodies. [No change]

7. [No change]

8. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the ~~hearing close of the record~~, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the ~~City Auditor,~~ applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.

9. through 10. [No change]

33.730.025 Type IIx Procedure

- F. **Notice of decision (pending appeal)**
- I. **When an appeal is filed.**
 - 2. Notification of appeal hearing
 - 8. Notice of Final Decision

Recent amendments to the Type II and Type III procedures, corrected the reference to the "filing" of decisions to reflect the actual practice, which is to mail the decision. The prior changes also moved the number of days to another section. These amendments make the same change to the Type IIx procedure.

The recording of land use decisions is now done through the County Recorder's office, and not through the City Auditor's office. The City Auditor has requested that notices of decision and notices of appeals (other than appeals of Type III cases) no longer be sent to the City Auditor. This recommended amendment implements that change.

In addition, several amendments add "working" to the number of days specified for mailing notices.

Finally, references to "lot" are changed to "site."

- I. **When an appeal is filed.**
 - 6. Appeal decision.

Often the record for an appeal is held open following the close of the hearing to allow participants time to rebut information presented at the hearing. The time frame for mailing the decision should begin when the record closes not at the close of the hearing. These amendments change the appropriate references.

33.730.025 Type IIx Procedure

The Type IIx procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A. through C. [No change]

D. Processing Time. Upon determining that the application is complete the Director of BDS will make a final decision on the case as follows:

1. The Director of BDS will not make the decision until at least 30 days after the notice required by Subsection C is mailed; and
2. The Director of BDS will make the final decision on the case and mail a notice of decision within 42 days after the application is determined to be complete. The applicant may extend this time limit.

E. [No change]

F. Notice of decision (pending appeal). The Director of BDS will ~~file the notice of decision (pending appeal) by the next working day after the decision is made. Within 5 days of filing the notice of decision, the Director of BDS will mail a notice of the decision to all property owners within 150 feet of the sitelet when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the sitelet is located, to all recognized organizations within 400 feet of the sitelet, and to any person who submitted written comments, and to the City Auditor.~~ See 33.730.070, Notice of decision (pending appeal).

G. through H. [No change]

I. When an appeal is filed. Appeals must comply with this subsection.

1. [No change]
2. Notification of appeal hearing. The Director of BDS will ~~file~~ mail a copy of the appeal within 3 working days of its receipt to the ~~City Auditor and the~~ applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will ~~send~~ mail a notice of the appeal hearing to the applicant, unless the applicant is also the appellant and all persons and recognized organizations which received the notice of the decision. See 33.730.070 H, Notice of an appeal hearing.
3. through 5. [No change]
6. Appeal decision. [No change]
 - a. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the ~~hearing~~ close of the record.
 - b. Other review bodies. [No change]
7. [No change]

33.730.025 Type IIx Procedure (continued)

I. When an appeal is filed.

8. Notice of final decision

Often the record for an appeal is held open following the close of the hearing to allow participants time to rebut information presented at the hearing. The time frame for mailing the decision should begin when the record closes not at the close of the hearing. These amendments change the appropriate references.

8. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 14 days of the ~~hearing close of the record~~, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the ~~City Auditor~~, applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.

9. through 10. [No change]

33.730.030 Type III Procedure

E. Notice of decision (pending appeal)

3. Review body decision.
 - a. Hearing Officer.
5. Notice of decision (pending appeal).

Often the record for an appeal is held open following the close of the hearing to allow participants time to rebut information presented at the hearing. The time frame for mailing the decision should begin when the record closes not at the close of the hearing. Several amendments here and on the next page change the appropriate references.

The recording of land use decisions is now done through the County Recorder's office, and not through the City Auditor's office. The City Auditor has requested that notices of decision and notices of appeals (other than appeals of Type III cases) no longer be sent to City Auditor. The recommended amendments, here and on the next page, implement this change.

H. When an appeal is filed.

Recent amendments to the Type II and Type III procedures, corrected the reference to the "filing" of decisions to reflect the actual practice, which is to mail the decision. These amendments make the same change to other sections of the Type III procedure.

In addition, several amendments add "working" to the number of days specified for mailing notices.

33.730.030 Type III Procedure

A Type III procedure requires a public hearing before an assigned review body. Subsections A through D apply to all sites. If the site is within the City of Portland, Subsections E through H also apply. If the site is in the portion of unincorporated Multnomah County that is subject to City zoning, Subsection I also applies.

A. through D. [No change]

E. Decision by review body if site is in City of Portland.

1. through 2. [No change]

3. Review body decision. [No change]

a. Hearings Officer. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the ~~hearing~~ close of the record.

5. Notice of decision (pending appeal). When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the ~~hearing~~ close of the record, the Hearings Officer or Director of BDS will mail notice of the review body's decision (pending appeal) to the ~~City Auditor~~, applicant, owner, and to any recognized organizations or persons who responded in writing to the notice of the request, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice.

F. through G. [No change]

H. When an appeal is filed.

1. Content of the appeal. [No change]

2. Notice of the appeal hearing. The Director of BDS will ~~file~~ mail a copy of the appeal within 3 working days of its receipt to the ~~City Auditor and the~~ applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will send a notice of the appeal hearing to the City Auditor, applicant, the review body, and all persons and recognized organizations who received the notice of the decision. See 33.730.070.H, Notice of a Type II or Type III appeal hearing.

3. through 9. [No change]

33.730.030 Type III Procedure (continued)

I. Decision by review body if site is not in City of Portland

These amendments deleted references to the City Auditor and change the time frame for mailing decisions.

I. Decision by review body if site is not in City of Portland.

1. through 2. [No change]
3. Review body decision. The review body may adopt the Director of BDS's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.
 - a. Hearings Officer. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the hearing close of the record.
 - b. [No change]
4. Amended decision report. If the review body modifies or rejects the Director of BDS's report, an amended report with findings supporting the decision will be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the hearing close of the record. The report must comply with 33.730.090, Reports and Record Keeping.
5. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the hearing close of the record, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the ~~City Auditor~~, applicant, owner, and to any recognized organizations or persons who commented in writing, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.I, Notice of final decision.
6. through 7. [No change]

33.730.060 Application Requirements

D. Required information for land divisions.

1. Preliminary Plan.

e. Tree map.

This amendment clarifies the application requirements for a Tree Map and a Tree Report including an Arborist's Report.

This is not a new requirement. The regulations of 33.630 require a tree report, including a written assessment from an arborist. However, the application requirements section in 33.730 lacks any reference to a report. This lack of reference misleads land division applicants into thinking that a map is sufficient, without a written report. This amendment makes 33.730.060 more consistent with the actual requirements of 33.630. Additional minor policy amendments to 33.630 will be considered via Policy Package 3.

33.730.060 Application Requirements

A. through C. [No change]

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

a through d [No change]

e. Tree map. A tree map showing the following:

- All trees over 6 inches in diameter;
- Significant Trees, showing type and size, and indicating which will remain and which will be removed;
- Heritage and Historic Landmark Trees;
- Location, type, and size of trees to be removed;
- Location, type, and size of trees to be preserved; and
- Existing and proposed tree preservation tracts; ~~and~~
- ~~• How the regulations of Chapter 33.630, Tree Preservation, are met.~~

f. Tree Report. A tree report including the following:

- How the regulations of Chapter 33.630, Tree Preservation, are met;
and
- An arborist's report as required in Chapter 33.630, Tree Preservation.

Renumber f. through k. to g. through l.

2. through 4. [No change]

33.730.130 Expiration of an Approval

B. When approved decisions expire.

The first amendment will change references from "building permit" to "City permit". This section requires that a building permit be obtained within 3 years of approval. In some cases, such as an Environmental review, no building permit is required but a Site Development permit may be issued.

The second amendment rearranges existing language to clarify the application of conditions of approval on sites where permits are not obtained for all approved development within the time limit.

33.730.130 Expiration of an Approval

A. [No change]

B. When approved decisions expire.

1. The following apply to all land use approvals, except for zoning map or Comprehensive Plan map amendments, land divisions, planned unit developments, and Planned Developments, and conditional use master plans and impact mitigation plans:

a. Land use approvals except those listed in B.1.b., below expire under any of the following circumstances:

(1) If within 3 years of the date of the final decision a ~~building City~~ City permit has not been issued for approved development. Where a site has received approval for multiple developments, and a ~~building City~~ City permit is not issued for all development within this time limit, all conditions of approval continue to apply to the site. ~~the approval does not expire but n~~No additional development may occur without another review. ~~However, all conditions of approval continue to apply.~~ Examples of multiple developments include phased development plans and multi-building proposals; or

[2] [No change]

b. [No change]

2. [No change]

C. through D. [No change]

**CHAPTER 33.815
CONDITIONAL USES**

33.815.040 Review Procedures

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

Several amendments are recommended in this subsection. They clarify the text and allow some additional changes to occur on a site without requiring a Conditional Use Review.

The first amendment allows an increase in exterior improvement area of up to 1,500 square feet. Currently floor area increases up to 1,500 square feet are allowed without review. Fences, handicap ramps, decks, and on-site pedestrian circulation systems are allowed with no size limit other than the base zone regulations and prior conditions of approval. Examples of exterior improvements that would require review are a concrete pad for a card key entry system at a water pump station and a contemplation patio at a convalescent center. Allowing up to 1,500 square feet of exterior improvement is consistent with current limit on floor area. The exception for fences, handicap ramps and on-site pedestrian system is maintained but decks would be limited to 1,500 square feet.

**CHAPTER 33.815
CONDITIONAL USES**

33.815.040 Review Procedures

A. Proposals that affect the use of the site. [No change]

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

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

1. Conditional use review not required. A conditional use review is not required for alterations to the site that comply with Subparagraphs a through ~~eg.~~ All other alterations are subject to Paragraphs 2. ~~and 3.~~, below. Alterations to development are allowed by right provided the proposal:
 - a. Complies with all conditions of approval;
 - b. Meets one of the following:
 - (1) Complies with the development standards of this Title, or
 - (2) Does not comply with the development standards of this Title, but an adjustment or modification to the development standards has been approved through a land use review;
 - c. Does not increase the floor area by more than 1,500 square feet;
 - d. Does not increase the exterior improvement area, ~~except as allowed in subparagraph B.2, below~~ by more than 1,500 square feet. Fences, handicap access ramps, and on-site pedestrian circulation systems are exempt from this limitation; and
 - e. Will not result in a net gain or loss ~~in parking or~~ of site area.;
 - f. Will not result in a net gain in the number of parking spaces; and-

33.815.040 Review Procedures (continued)

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

The second amendment allows a limited reduction in parking without a review. Currently an alteration cannot result in an increase or decrease in parking or site area. This means that alterations to move an existing parking lot closer into conformance with the interior landscape requirements or stormwater management standards and result in a small decrease in the number of parking spaces, requires a review. Other examples include adding handicap ramps, pedestrian paths and additions of floor area. The specific limits on when and how much parking can be reduced have been developed in consultation with PDOT.

The provisions of Paragraph 2 are deleted because they are now incorporated in Paragraph 1.d. above.

33.815.040 Review Procedures (continued)

g. Will not result in a net loss in the number of parking spaces except as follows:

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

- No reduction in shared parking spaces is allowed;
- 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and
- An individual or cumulative removal of parking spaces in excess of 5 spaces is prohibited. The cumulative loss of parking is measured from the time the use became a conditional use, [the effective date of this ordinance], or the last conditional use review of the use, whichever is most recent, to the present.

~~2. Additional structures and improvements allowed without conditional use review. Fences, handicap ramps, decks, and on-site pedestrian circulation systems do not require a conditional use review if they do not violate or change any conditions of approval, or change the number of parking spaces. Adjustments to the development standards for fences, handicap ramps, decks, and on-site pedestrian circulation systems may be requested without a conditional use review.~~

33.815.040 Review Procedures (continued)

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

The third amendment proposes to add the circumstance of a "net loss in site area" to the list of situations requiring a Type II review. Currently any "net gain or loss" in site area would require a Type III review. In a recent example, the applicant was interested in reducing the site size for an automatic conditional use, and based on current code language, a Type III Conditional Use Review is required. By comparison, the Conditional Use Master Plan chapter provides an option for reducing site size through a Type II review when all other standards are met (33.820.090.A.3). This amendment adds similar language to the Conditional Use chapter.

The amendment also adds a limit on when a Type II procedure can be used that refers to the recommended amendment that allows but limits some parking removal (see prior page). This amendment only allows a Type II procedure when a site area reduction removes parking less than what is allowed under the recommended amendment relating to parking reductions. Site reductions that remove of parking beyond that limit would require a Type III procedure.

- ~~32~~. Conditional use required. Conditional use review is required for the following:
- a. Minor alterations. Except as provided in Paragraphs B.1-~~and B.2~~, above, conditional use review through a Type II procedure is required for the following:
- (1) When proposed alterations to the site will not violate any conditions of approval;
 - (2) When there will be a net loss in site area that:
 - Will not take the site out of conformance, or further out of conformance, with a development standard; and;
 - Will be within the parking reduction limits stated in B.1.g above;
 - (3) When the individual or cumulative alterations will not increase the floor area on the site by more than 10 percent, up to a maximum of 25,000 square feet;
 - (~~34~~) When the individual or cumulative alterations will not increase the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet; or
 - (~~45~~) When the individual or cumulative alterations will not increase the floor area and the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet.
 - (~~56~~) The increases in subparagraphs ~~23~~ through ~~45~~, above, are measured from the time the use became a conditional use, the effective date of this ordinance, or the last Type III conditional use review of the use, whichever is most recent, to the present.
- b. Major alterations. [No change]

33.815.120 Commercial Parking Facilities in the RX, CX, CG, and E Zones, Outside the Central City Plan District, the Columbia South Shore Plan District and the Cascade Station/Portland International Center Plan District.

- G. The proposed parking will provide storage for recreational vehicles in the CG, EG1, or EG2 zones;

Approval Criteria G. treats the storage of recreational vehicles as parking. Since the storage of recreational vehicles was clarified in a prior Code Maintenance project as Exterior Storage and not parking, this criterion should be removed.

33.815.128 Retail Sales and Service Uses in the EG Zone

These amendments change "recommended use" to "proposed use," which is consistent with similar text throughout the code.

33.815.120 Commercial Parking Facilities in the RX, CX, CG, and E Zones, Outside the Central City Plan District, the Columbia South Shore Plan District and the Cascade Station/Portland International Center Plan District.

These approval criteria provide for commercial parking facilities that support development outside the Central City, Columbia South Shore, and the Cascade Station/Portland International Center plan districts. It is not intended to allow parking facilities in such quantity, concentration, or appearance that they detract from the desired commercial, employment, or residential character of the zones. Commercial parking facilities must meet criteria A. through E. and one of F., or G., ~~or H.~~ The approval criteria are:

A. through F. [No change]

~~**G.** The proposed parking will provide storage for recreational vehicles in the CG, EG1, or EG2 zones; or~~

HG. The proposed parking will provide parking for passengers, employees, and visitors to Portland International Airport in the CG, EG1, or EG2 zones.

33.815.128 Retail Sales And Service Uses in the EG Zone

These approval criteria apply to Retail Sales And Service uses in order to allow commercial development that serves the immediate employment area while ensuring that the development will not have a detrimental impact on the character of the employment zone. The approval criteria are:

A. The ~~recommended~~ proposed use will not have significant adverse effects on neighboring employment uses;

B. The transportation system is capable of supporting the ~~recommended~~ proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity, level of service or 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;

C. through D. [No change]

**CHAPTER 33.820
CONDITIONAL USE MASTER PLANS**

33.820.080 Implementation

These amendments make the list of development allowed without a plan amendment the same as Conditional Uses in 33.815.040. The current provision in the Conditional Use Master Plan chapter only covers a portion of the items currently allowed for Conditional Uses. The amendments recommended here include the recommended additions to the allowed alteration for a Conditional Use.

**CHAPTER 33.820
CONDITIONAL USE MASTER PLANS**

33.820.080 Implementation

- A.** [No change].
- B. Not conforming to the plan.** Uses that are not in conformance with the master plan require an amendment to the plan. Development that is not in conformance with the plan and does not meet the following requires an amendment to the plan, ~~except for additions up to 1,500 square feet that will not result in a net gain or loss of parking or site area. See 33.820.09.~~ Development that is not in conformance with the plan and does meet all of the following is allowed:
1. All conditions of approval must be met;
 2. One of the following must be met:
 - a. Complies with the development standards of this Title, or
 - b. Does not comply with the development standards of this Title, but an adjustment or modification to the development standards has been approved through a land use review;
 3. Does not increase the floor area by more than 1,500 square feet;
 4. Does not increase the exterior improvement area by more than 1,500 square feet, except that fences, handicap access ramps, and on-site pedestrian circulation systems are exempt from this limitation;
 5. Will not result in a net gain or loss of site area;
 6. Will not result in a net gain in the number of parking spaces; and
 7. Will not result in a net loss in the number of parking spaces except as follows:
 - a. Sites with 16 or more spaces may decrease the number of spaces as follows:
 - (1) No reduction in shared parking spaces is allowed;
 - (2) 1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and
 - (3) An individual or cumulative removal of parking spaces in excess of 5 spaces is prohibited. The cumulative loss of parking is measured from the time the use became a conditional use, [the effective date of this ordinance], or the last conditional use review of the use, whichever is most recent, to the present.

33.820.090 Amendments to Master Plans [No change]

**CHAPTER 33.825
DESIGN REVIEW**

33.825.025 Review Procedures

33.825.025.A.1.a

33.825.025.A.1.b

33.825.025.A.1.e

33.825.025.A.2.a

33.825.025.A.2.b

33.825.025.A.2.c

Each of these subparagraphs has a dollar threshold that effects the review procedure for the required Design Review. All of them are stated "in 1990 dollars." It is difficult to calculate the current equivalent to these amounts and even harder when no specific multiplier is indicated.

The recent Nonconforming Thresholds project included language that annually adjusts the dollar thresholds for nonconforming upgrades using the national average of the Construction Cost Index, as determined by the Engineering News-Record. For consistency and ease of use, these amendments propose to replace the threshold in 1990 dollars with a current dollar amount based on the same index. Similar amendments are recommended for the Historic Review thresholds. These thresholds are also added to 33.700.075 so they will be automatically adjusted annually as well.

**CHAPTER 33.825
DESIGN REVIEW**

33.825.025 Review Procedures [No change]

A. Procedures for design review. Procedures for design review vary with the type of proposal being reviewed and the design district in which the site is located. Design review in some design districts requires an additional procedural step, the "Neighborhood Contact Requirement," as set out in Section 33.730.045, Neighborhood Contact Requirement. Some proposals in the Central City plan district must provide a model of the approved proposal, as set out in Paragraph A.5, below.

1. Type III. The following proposals are processed through a Type III procedure:
 - a. Proposals in the Downtown Design District that are over 1,000 square feet in area, or require an exterior alteration and have a value over ~~\$290,100~~200,000 in 1990 dollars;
 - b. Proposals in the River District Design District that are over 1,000 square feet in area, are in a CX or OS zone, and have a value over ~~\$290,100~~200,000 in 1990 dollars;
 - c. through d. [No change]
 - e. Proposals in the following design districts with a value over ~~\$1,450,500~~1,000,000 in 1990 dollars:
 - (1) through (9) [No change]
2. Type II. The following proposals are processed through a Type II procedure:
 - a. Proposals in the Downtown Design District that are up to 1,000 square feet in area, or require an exterior alteration with a value of ~~\$290,100~~200,000 in 1990 dollars;
 - b. Proposals in the River District Design District that are up to 1,000 square feet in area and are in a CX or OS zone, and have a value of ~~\$290,100~~200,000 in 1990 dollars;
 - c. Proposals in the design districts identified in Subparagraph 1.e that have a value of ~~\$1,450,500~~1,000,000 in 1990 dollars;
 - d. through r. [No change]

**CHAPTER 33.846
HISTORIC REVIEWS**

33.846.060 Historic Design Review

33.846.060.B.2.a.

33.846.060.B.2.b.

33.846.060.B.2.f.

33.846.060.B.2.g.

33.846.060.B.4.a.

33.846.060.B.4.b.

33.846.060.B.4.b.

33.846.060.B.4.d.

Each of these subparagraphs has a dollar threshold that effects the review procedure for the required Design Review. All of them are stated "in 1990 dollars." It is difficult to calculate the current equivalent to these amounts and even harder when no specific multiplier is indicated.

The recent Nonconforming Thresholds project included language that annually adjusts the dollar thresholds for nonconforming upgrades using the national average of the Construction Cost Index, as determined by the Engineering News-Record. For consistency and ease of use, these amendments propose to replace the threshold in 1990 dollars with a current dollar amount based on the same index. Similar amendments are recommended for the Historic Review thresholds. These thresholds are also added to 33.700.075 so they will be automatically adjusted annually as well.

**CHAPTER 33.846
HISTORIC REVIEWS**

33.846.060 Historic Design Review

A. Purpose. [No change].

B. Review procedure. Procedures for historic design review are as follows:

1. Neighborhood Contact Requirement.
2. For Historic Landmarks, including those in Historic Districts or Conservation Districts:
 - a. Proposals for alterations of a landmark-designated interior public space if the value of the alteration is more than ~~\$290,100~~200,000 ~~in 1990 dollars~~ are processed through a Type III procedure.
 - b. Proposals for alterations of a landmark-designated interior public space if the value of the alteration is ~~\$290,100~~200,000 ~~in 1990 dollars~~ are processed through a Type II procedure;
 - c. through e. [No change]
 - f. Proposals for alterations to its exterior if the value of the alteration is more than ~~\$290,100~~200,000 ~~in 1990 dollars~~ are processed through a Type III procedure;
 - g. Proposals for alterations to its exterior if the value of the alteration is ~~\$290,100~~200,000 ~~or less in 1990 dollars~~ are processed through a Type II procedure.
3. For Conservation Landmarks, including those in Historic Districts or Conservation Districts: [No change]

33.846.060 Historic Design Review (continued)

4. For Historic Districts.
 - a. Except as specified in B.4.d, below, proposals for the construction of a new structure within the district if the value of the construction is more than ~~\$290,100~~200,000 ~~in 1990 dollars~~ are processed through a Type III procedure;
 - b. Proposals for the construction of a new structure within the district if the value of the construction is ~~\$290,100~~200,000 ~~or less in 1990 dollars~~ are processed through a Type II procedure;
 - c. Proposals for alterations to the exterior of a structure that is not a Historic Landmark if the value of the construction is more than ~~\$290,100~~200,000 ~~in 1990 dollars~~ are processed through a Type III procedure;
 - d. Proposals for alterations to the exterior of a structure that is not a Historic Landmark if the value of the construction is ~~\$290,100~~200,000 ~~or less in 1990 dollars~~ are processed through a Type II procedure;
 - e. [No change]
5. For Conservation Districts. [No change]

**CHAPTER 33.900
LIST OF TERMS**

This amendment will add a new Transportation-Related Definition - Peak Hour Service to the List of Terms. The definition is described in another amendment.

**CHAPTER 33.900
LIST OF TERMS**

Transportation-Related Definitions

- Alley
- Arterial
- Bus Stop
- Common Green
- Dead-End Street
- Light Rail Line
- Light Rail Alignment
- Partial Street
- Peak Hour Service
- Pedestrian Connection
- Preferred Alternative Light Rail Alignment
- Public Access Easement
- Rail Right-Of-Way
- Right-Of-Way
- Roadway
- Street
- Streetcar Alignment
- Streetcar Line
- Through Street
- Transit Station
- Transit Street

**CHAPTER 33.910
DEFINITIONS**

33.910.030 Definitions

Exterior Storage

The amendment clarifies that operable vehicles in impound yards (tow lots) are considered exterior storage. The existing definition of exterior storage does not include this type of vehicle "storage." The characteristics of this situation are not comparable to a parking lot where the owner parks the vehicle and leaves when he chooses, and the vehicles are generally left in a tow lot for several days or longer.

Flood Hazard Area.

Chapter 33.631 has two somewhat confusing references for its application. The first is in 33.631.020, Where the Standard and Approval Criteria Apply, which refers to Map 631-1, Potential Flood Hazard Area Map. The second is in 33.631.100, Flood Hazard Area Approval Criteria, where the text refers to the flood hazard area. Two amendments are recommended to clarify the application of these regulations and to keep Chapter 33.631 current when FEMA makes changes to the 100-year floodplain maps. The first amendment is to delete Map 631-1 and refer instead to the flood hazard area. The second amendment is to modify the definition of flood hazard area to 1) clarify that the flood hazard area is the 100-year floodplain, and 2) to assure that the reference to the floodplain will remain current as FEMA changes the area included in the 100-year floodplain.

Transportation Related Definitions

Peak Hour Service (new term)

This amendment defines the term "Peak Hour Service". The parking standards in Chapter 33.266 provide some flexibility based on proximity to transit streets with 20-minute peak hour service. Questions have arisen about whether this standard requires service in both directions of travel on the street and whether the standard can be met through the combined service of multiple transit lines. The amendment provides a definition, moves some text from the standards, and clarifies that Peak Hour Service applies to transit in one direction and includes bus or rail lines.

**CHAPTER 33.910
DEFINITIONS**

33.910.030 Definitions

Exterior Storage. Exterior storage includes the outdoor storage of goods that generally have little or no differentiation by type or model. The goods may be for sale or lease, but if so, they are the type that customers generally do not inspect and compare. Exterior storage also includes the outdoor storage of goods for sale, lease or rent that may be differentiated by type or model, but that are not accessible for customers to inspect or compare. Exterior storage includes the storage of raw or finished goods (packaged or bulk), including gases, oil, chemicals, gravel; building materials, packing materials; salvage goods; machinery, tools, and equipment; vehicles that are for sale, lease or rent, which are not accessible to the customer to inspect or compare; vehicles that have been unloaded at port facilities and are waiting transport to off-site locations; vehicles that have been towed and are being kept in an impound lot, and other similar items. The storage of recreational vehicles outdoors is also considered exterior storage. Damaged or inoperable vehicles or vehicles which have missing parts, that are kept outside, are also included as exterior storage. Examples of uses that often have exterior storage are lumber yards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or car rental establishments, and port facilities. See also, Exterior Display and Exterior Work Activities.

Flood Hazard Area. Land that is ~~subject to a one percent or greater chance of flooding in any given year~~ in the 100-year floodplain as currently defined by the Federal Emergency Management Agency (FEMA).

Peak Hour Service. Service provided by public transit to a site, measured on weekdays between 7:00 AM and 8:30 AM and between 4:00 PM and 6:00 PM. The service is measured in one direction of travel, and counts bus lines, streetcars, and light rail lines.

CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES

33.920.520 Detention Facilities

D. Exceptions

As part of the last CM project, the term "sworn officer" was replaced with the term "peace officer" in 33.920.520.A (Characteristics). The term "sworn officer" is also included in 33.920.520.D (Exceptions), and should also be changed to "peace officer."

CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES

33.920.520 Detention Facilities

A. through C. [No change]

D. Exceptions. Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by ~~sworn~~ peace officers are classified as Group Living. Programs that provide transitional living experience for former offenders, such as halfway houses, where residents are not supervised by sworn officers, are also classified as Group Living.

Part 1B: Amendments Related to Radio Frequency Transmission Facilities

CHAPTER 33.274
RADIO FREQUENCY TRANSMISSION FACILITIES

These amendments will conform Title 33 to the City Council's adopted Cable Office right-of-way franchise policy for wireless facilities and Federal Communications Commission (FCC) regulations. The threshold of 100 watts effective radiated power (ERP) is outdated, particularly for cellular telephones, because of changes in radio communication technology and in the FCC standards. In addition, this threshold impedes implementation of the franchise policy, which is intended to encourage placement of cellular telephone equipment in the right-of-way whenever possible. These amendments propose to increase 100 watts ERP to 1,000 watts ERP in most places in this chapter and in the conditional use approval criteria in 33.815.225.

Some cellular telephone technology operates with facilities of 100 watts, or less, ERP. Newer wireless technology operates at higher frequencies and requires higher ERP to achieve the same coverage. Though these two technologies provide the same service, operators of higher frequency wireless facilities are subject to a higher review standard under the current code. All wireless telephone providers were intended to be reviewed under the approval criteria currently stated for facilities of less than 100 watts ERP. Increasing the threshold to 1,000 watts ERP will level the field for all providers and make the Zoning Code regulations consistent with FCC regulations.

33.274.030 Facilities Exempt from this Chapter

The first amendment sets the threshold for review of existing facilities that increase their emission level to be consistent with the other thresholds for review. The second amendment is the first of several places where the ERP is raised from 100 watts to 1,000 watts.

33.274.035 Facilities Allowed Without a Conditional User Review

Increasing the threshold to 1,000 watts ERP allows paragraph C., D. and E. to be deleted because the circumstances described in them are covered by paragraphs A. and B.

CHAPTER 33.274

RADIO FREQUENCY TRANSMISSION FACILITIES

(Amended by: Ord. No. 166920, effective 10/1/93; Ord. No. 165376, effective 5/29/92; Ord. No. 171718, effective 11/29/97; Ord. No. 174263, effective 4/15/00.)

Sections:

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

33.274.030 Facilities Exempt from this Chapter

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

- A.** Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components of previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels above 1,000 watts ERP;
- B. through J.** [No change]
- K.** Facilities operating at ~~400~~ 1,000 watts ERP or less, locating on any existing radio transmission tower that has been approved as a conditional use or allowed under Section 33.274.035, below. Triangular “top hat” style antenna mounts are prohibited. Antennas must be mounted to a tower either on davit arms that are no longer than 5 feet, flush with the tower, or within a unicell style top cylinder.

33.274.035 Facilities Allowed Without a Conditional Use Review

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

- A.** Facilities in C, E, or I zones operating at ~~400~~ 1,000 watts ERP or less, mounted on an existing building or other non-broadcast structure provided that the facility is more than 50 feet from an R zone.
- B.** Facilities in C, E, or I zones operating at ~~400~~ 1,000 watts ERP or less, supported by a new tower provided that:
 - 1. The tower is more than 50 feet from an R zone;
 - 2. The tower meets the height requirement for buildings in the base zone; and
 - 3. The tower is more than 2,000 feet from any other facility that is supported by a tower not operated by the applicant.

33.274.035 Facilities Allowed Without a Conditional User Review (continued)

Increasing the threshold to 1,000 watts ERP allows paragraph C., D. and E. to be deleted because the circumstances described in them are covered by paragraphs A. and B. This also makes Title 33 consistent with the federal laws that regulate wireless facilities.

33.274.040 Development Standards

This amendment changes the ERP from 100 watts to 1,000 watts.

- ~~C. Facilities in C or EX zones operating at between 101 and 999 watts ERP mounted on an existing building or other non-broadcast structure provided that the facility is more than 50 feet from an R zone.~~
- ~~D. Facilities in EG or I zones operating at between 101 and 999 watts ERP mounted on an existing building or other non-broadcast structure.~~
- ~~E. Facilities in C, E, or I zones operating at between 101 and 999 watts ERP supported by a new tower provided that:
 - ~~1. The tower is more than 50 feet from an R zone;~~
 - ~~2. The tower meets the height requirement for buildings in the base zone; and~~
 - ~~3. The tower is more than 2,000 feet from any other facility that is supported by a tower.~~~~

33.274.040 Development Standards

A. through B. [No change]

C. General requirements

1 through 10 [No change]

11. Mounting device. The device or structure used to mount facilities operating at ~~400~~ 1,000 watts ERP or less to an existing building or other non-broadcast structure may not project more than 10 feet above the roof of the building or other non-broadcast structure.

12. [No change]

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

1. Purpose. These additional regulations are intended to ensure that facilities operating at ~~400~~ 1,000 watts ERP or less have few visual impacts. The requirements encourage facilities that look clean and uncluttered.

2. Standards. In addition to the regulations in Subsection C., above, facilities operating at ~~400~~ 1,000 watts ERP or less located in OS, R, C, or EX zones or EG or I zones within 50 feet of an R zone must meet all of the following standards:

a through c [No change]

E. [No change]

33.274 Radio Frequency Transmission Facilities (continued)

33.274.050 Procedures for Conditional Use Review

A. Type I procedure.

The first amendment eliminates the Type I procedure for Radio Frequency Transmission Facilities and assigns equipment associated with and RF facilities that are in the ROW a Type I review procedure.

The Cable Office franchise policy for wireless facilities seeks to have radio frequency transmission facilities operating at 1,000 watts ERP or less placed in the right-of-way as much as possible. However, some associated equipment is too large to be placed on poles and sometimes the sidewalk and planting area do not have enough room for additional fixtures. In some cases this equipment can be placed on an existing building but in many cases it has to be placed on the ground. Under the current regulations equipment associated with transmission facilities in the right-of-way must go through a Type III review procedure. Assigning these reviews to the Type I review will encourage the placement of the transmission facility in the ROW.

33.274.050 Procedures for Conditional Use Review

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

- A. Type I procedure.** ~~Requests for Radio Frequency Transmission Facilities operating at 100 watts ERP or less, to be located on an existing building or other non broadcast structure in an OS or R zone or within 50 feet of an R zone are processed through a Type I procedure. In all zones, requests for equipment cabinets or shelters located on private property associated with Radio Transmission Facilities mounted in a right-of-way are processed through a Type I procedure.~~
- B. Type II procedure.** Requests for Radio Frequency Transmission Facilities operating ~~between 101 and 999~~ at 1,000 watts ERP or less to be located on an existing building or other non-broadcast structure in an OS or R zone or C or EX zone within 50 feet of an R zone are reviewed through a Type II procedure.
- C. Type III procedure.** All other requests for Radio Frequency Transmission Facilities are reviewed through a Type III procedure.

**CHAPTER 33.420
DESIGN OVERLAY ZONE**

33.420.045 Exempt From Design Review

N. Radio frequency transmission facilities

This section is another location in Title 33 where the reference to 100 watts ERP is recommended to be amended to 1,000 watts ERP.

**CHAPTER 33.420
DESIGN OVERLAY ZONE**

33.420.045 Exempt From Design Review

The following items are exempt from design review:

A. through M. [No change]

N. Radio frequency transmission facilities operating at ~~100~~ 1,000 watts ERP or less that are added to the facade of an existing penthouse that contains mechanical equipment provided the antenna and any accessory equipment are no higher than the top of the penthouse and painted to match.

O. through Q. [No change]

**CHAPTER 33.815
CONDITIONAL USES**

33.815.225 Radio Frequency Transmission Facilities

These amendments make the review criteria consistent with the changes recommended in 33.274, Radio Frequency Transmission Facilities. The changes in that chapter make Title 33 consistent with the City Council adopted Cable Office right-of-way franchise policy for wireless facilities and FCC regulations. An addition to the criterion requires documentation as to why the facility cannot be placed in the right-of-way. This is consistent with the City Council approved utilities franchise policy, which seeks to encourage RF facilities to be placed in the ROW whenever feasible. However, the range of reasons why a facility cannot be located in the right-of-way includes but is not limited to: pole height, location, and availability, the feasibility of placing the facility in the right-of-way, the lack of a signed agreement with the City; and the applicant's business preferences for placement on private property.

**CHAPTER 33.815
CONDITIONAL USES**

33.815.225 Radio Frequency Transmission Facilities

These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

- A.** Approval criteria for facilities operating at ~~100~~ 1000 watts ERP or less, proposing to locate on an existing building or other non-broadcast structure in an OS or R zone or in a C, E, or I zone within 50 feet of an R zone:

1 through 3 [No change]

- B.** Approval criteria for facilities operating at ~~100~~ 1000 watts ERP or less, proposing to locate on a tower in an OS or R zone, or in a C, E, or I zone within 50 feet of an R zone:

1. The applicant must prove that a tower is the only feasible way to provide the service, including documentation as to why the proposed facility cannot feasibly be located in a right-of-way;

2. through 6. [No change]

- C.** Approval criteria for facilities operating at ~~100~~ 1000 watts ERP or less, proposing to locate on a tower in a C or EX zone more than 50 feet from an R zone:

1. The applicant must prove that a tower that is taller than the base zone height standard allows or is within 2,000 feet of another tower is the only feasible way to provide the service, including documentation as to why the proposed facility cannot feasibly be located in a right-of-way;

2. through 6. [No change]

- D.** [No change]

Part 2: South Waterfront Related Amendments

**CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT**

This amendment adds a new map - Map 510-17, South Waterfront 2002 Top of Bank Line - to the list of maps in this chapter. The purpose for this new map is explained in the next amendment.

**CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT**

Sections:

General [No change]

Use Regulations [No change]

Development Standards [No change]

Parking and Access [No change]

Map 510-1 Central City Plan District and Subdistricts

Map 510-2 Maximum Floor Area

Map 510-3 Maximum Heights

Map 510-4 Bonus Options Target Areas

Map 510-5 Required Residential Development Areas

Map 510-6 Required Building Lines

Map 510-7 Active Building Use Areas

Map 510-8 Core and Parking Sectors

Map 510-9 Parking Access Restricted Streets

Map 510-10 Areas Where Additional Uses are Allowed in the OS Zone

Map 510-11 Special Areas

Map 510-12 Streetcar Alignment

Map 510-13 Park Blocks Frontages

Map 510-14 Areas Where Additional Uses are Allowed in the RX Zone

Map 510-15 South Waterfront Greenway Public Access Map

Map 510-16 South Waterfront Height Opportunity Area

Map 510-17 South Waterfront 2002 Top of Bank Line

Reference to top of bank and new map

The South Waterfront regulations use the "top of bank" to establish setbacks from the greenway. The location of the "top of bank" is currently determined from a definition in the code. When the South Waterfront Plan was adopted, it was intended that the "top of bank" be determined from a fixed line. Determining the top of bank from a fixed line will not penalize landowners that lay back the riverbank in order to create a more natural and wildlife friendly slope. The South Waterfront Plan specifically calls for the adoption of a map that depicts the location of the top of bank at the time the plan was adopted. This also requires that several code references be amended to refer to the new map.

33.510.210 Floor Area and Height Bonus Options

This amendment will change "top of bank" to reference Map 510-17, South Waterfront 2002 Top of Bank Line.

33.510.210 Floor Area and Height Bonus Options

A. through F. [No change]

G. Bonus height in the South Waterfront Subdistrict. Within the South Waterfront Subdistrict, buildings receive bonus height if they include bonus floor area or floor area transferred onto the site. Buildings that include any floor area achieved through bonuses or from transfers onto the site earn a height bonus of 125 feet, up to a maximum building height of 250 feet. The additional height may not be applied to any portion of a building within 150 feet of the top of bank line as shown on Map 510-17, South Waterfront 2002 Top of Bank Line.

33.510.253 Greenway Overlay Zone in South Waterfront Subdistrict

C. and D.4.b.(2)

The *Greenway Design Coordination Plan* is nearing completion and is now being called the *Greenway Development Plan*. This amendment changes references to reflect the new name. A similar amendment is included in Chapter 33.851, *South Waterfront Greenway Review*.

D. Required South Waterfront Greenway Improvements.

4. Timing of improvements.

Applicants may choose between two options for making the required improvements in the greenway. Under the second option in 33.510.253.D.4.b.(2), the applicant must complete improvements within 4 years or within the timeframe determined by a the *Greenway Development Plan* and the current language says "whichever is earlier." The *Greenway Development Plan* anticipates that some improvements will need to be completed over a longer period of time to allow for financing or transfer ownership to the public. This amendment would remove the "whichever is earlier" clause to allow longer-term improvements in compliance with the *Greenway Development Plan* to occur.

33.510.253 Greenway Overlay Zone in South Waterfront Subdistrict

A. through B. [No change]

C. ~~Greenway design coordination development plan~~ South Waterfront Greenway Development Plan. If the site is included in the ~~Greenway design coordination development plan~~ South Waterfront Greenway Development Plan, it may be eligible for special provisions for the timing of improvements. See Paragraph 33.510.253.D.4., Timing of improvements. The site may also be eligible for special provisions allowing Greenway improvements that would not otherwise meet the standards of Section 33.510.253. See Subsection 33.510.253.H., South Waterfront Greenway Review.

D. Required South Waterfront Greenway improvements. Adjustments to this subsection are prohibited.

1 through 3 [No change]

4. Timing of improvements. The applicant may choose one of the following options for making the improvements required by this subsection:

a. [No change]

b. Option 2. Under Option 2, the required improvements may be deferred if the following are met:

(1) [No change]

(2) The required improvements must be constructed or installed within 4 years of issuance of the performance guarantee or within the timeline approved through a ~~South Waterfront Greenway Design Coordination Plan~~ South Waterfront Greenway Development Plan, ~~whichever is earlier;~~

4. [No change]

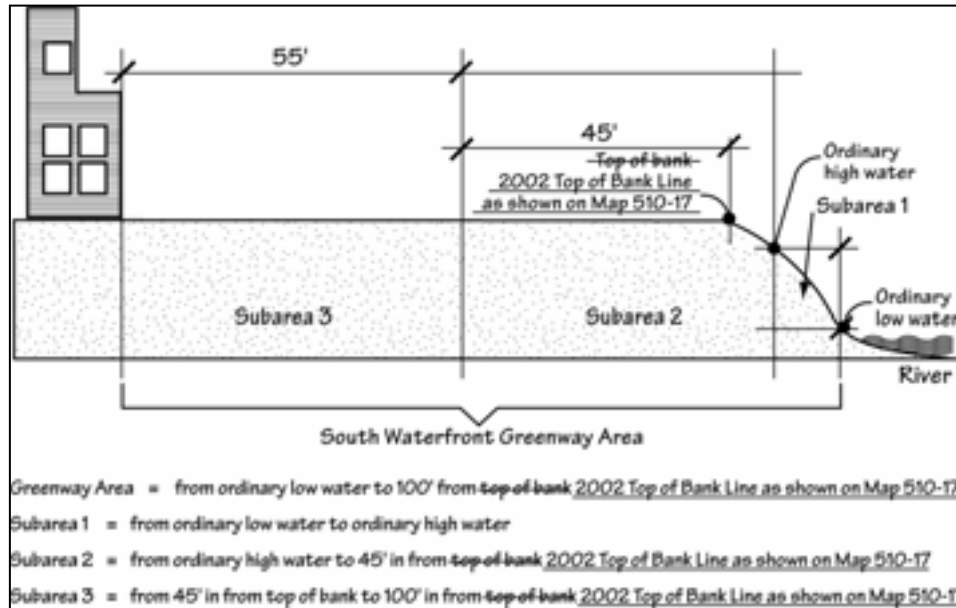
33.510.253 Greenway Overlay Zone in South Waterfront Subdistrict (continued)

Figure 510-2, South Waterfront Greenway Area and Subareas

E.2.a

These amendments will change "top of bank" to reference Map 510-17, South Waterfront 2002 Top of Bank Line.

**Figure 510-2
South Waterfront Greenway Area and Subareas**



E. Development standards. Development and alterations to structures, sites, and rights-of-way must meet the following standards. Adjustments to this subsection are prohibited; however, development that does not meet the standards of this subsection may be approved through a South Waterfront Greenway Review.

1. Where these regulations apply. The regulations of this subsection apply in the South Waterfront Greenway Area as shown on Figure 510-2.
2. Non-landscaped area. Limiting the percentage of non-landscaped area allowed in the South Waterfront Greenway Area ensures that the area will be configured to accommodate a minimum percentage of living plant cover. Non-landscaped area includes all aboveground structures and paving materials, including permeable paving materials.
 - a. Subareas 1 and 2. Up to 20 percent of the portion of the site in subareas 1 and 2 may be covered by non-landscaped area; however, paved surfaces that are required under the provisions of Paragraph E.6., Public viewpoints, are exempt from this limitation. Non-landscaped area is not allowed within 10 feet of the top of bank line as shown on Map 510-17, South Waterfront 2002 Top of Bank Line;
 - b. Subarea 3. [No change]

3. through 4. [No change]

33.510.253 Greenway Overlay Zone in South Waterfront Subdistrict (continued)

E.5.b.(1)

This amendment will change "top of bank" to reference Map 510-17, South Waterfront 2002 Top of Bank Line.

5. Trails and pedestrian connections.
 - a. Purpose. [No change]
 - b. Public recreational trails. Public recreational trails must meet the following standards. When required by Subsection D., sites with a public recreational trail symbol shown on the Official Zoning Maps must provide easements that would accommodate construction, maintenance, and public use of a trail that meets the following standards. See Figure 510-3.
 - (1) Location. The trail must be located in the South Waterfront Greenway Area shown on Figure 510-2. All portions of the trail must be at least 10 feet and no more than 75 feet from the top of bank line as shown on Map 510-17, South Waterfront 2002 Top of Bank Line; however, any portion of the trail that is within 45 feet of the top of bank line as shown on Map 510-17, South Waterfront 2002 Top of Bank Line is subject to the maximum non-landscaped area limitations of Paragraph E.2.;

33.510.267 Parking in the South Waterfront Subdistrict.

This amendment will change "top of bank" references in Chapter 33.510, Central City Plan District, to reference Map 510-17, South Waterfront 2002 Top of Bank Line.

33.510.267 Parking in the South Waterfront Subdistrict.

The regulations of this section apply to the South Waterfront Subdistrict shown on Map 510-8.

A. through D. [No change]

F. All parking. The regulations of this subsection apply to all parking.

1. through 3. [No change]

4. Surface parking lots.

a. through b. [No change]

c. Surface parking is prohibited on the portion of a site within 300 feet of the top of bank line as shown on Map 510-17, South Waterfront 2002 Top of Bank Line.

d. [No change]

5. through 8. [No change]

G. [No change]

New Map 510-17, South Waterfront 2002 Top of Bank Line

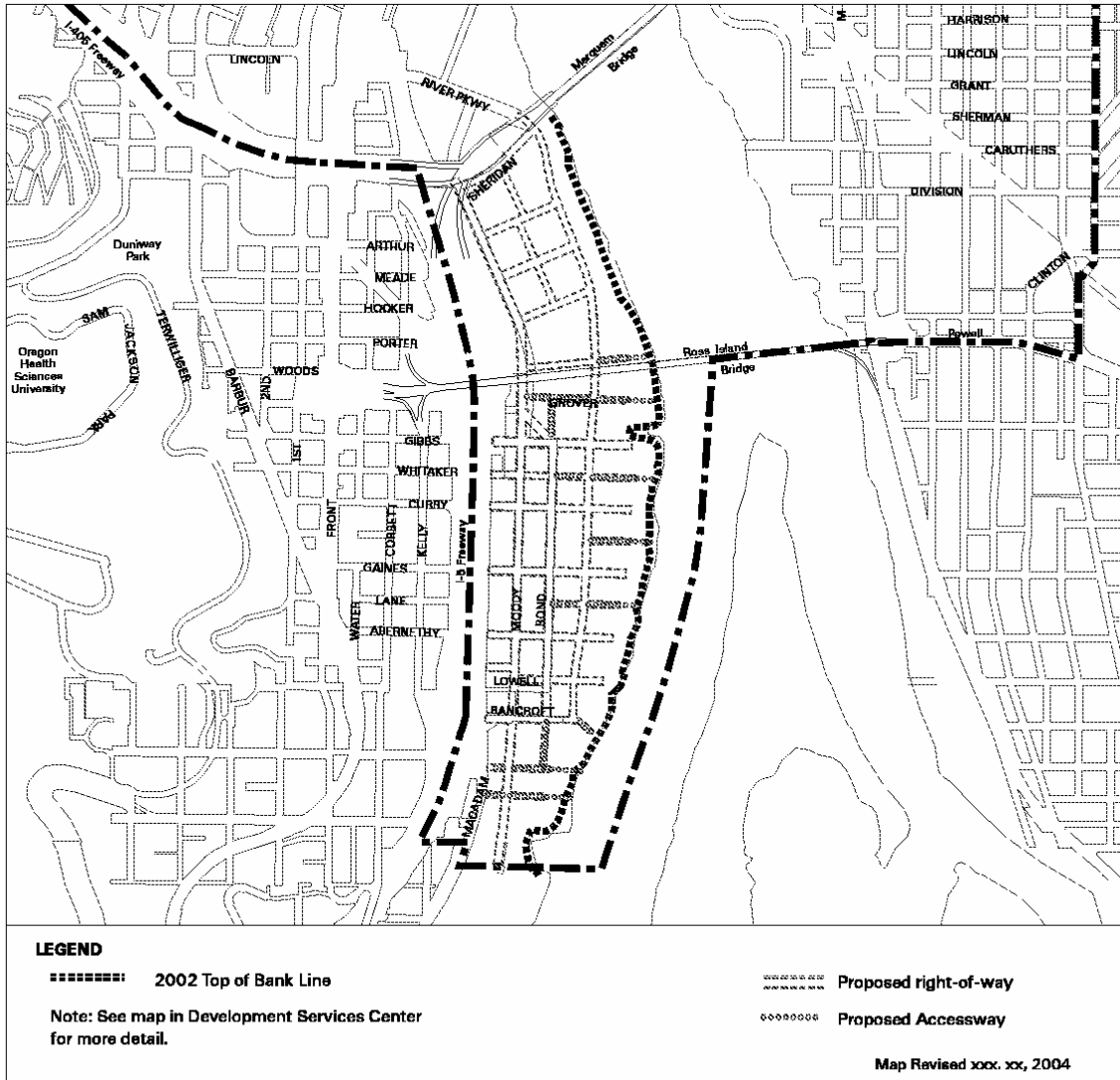
This amendment adds Map 510-17, South Waterfront 2002 Top of Bank Line, to show where the "top of bank" line was located at the time of the South Waterfront Plan's adoption in October 2002.

When the South Waterfront Plan was adopted, it was intended that the "top of bank" measurement be determined from a fixed "top of bank" line. Determining the top of bank from a fixed line will not penalize landowners that lay back the riverbank in order to create a more natural and wildlife friendly slope. The South Waterfront Plan specifically calls for the adoption of a map that depicts the location of the top of bank at the time the plan was adopted.

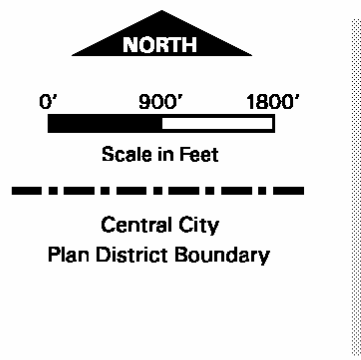
The map is based primarily on survey information provided by the Office of Transportation, as was called for in the South Waterfront Plan. However, survey information is not available for the portion of the subdistrict south of the Old Spaghetti Factory or about SW Bancroft Street. In this area, the line is based on the code definition of top of bank and is located on the map from the digitized topographic data for the area. In addition, this method was applied to the two major inlets in the subdistrict where no survey data is available.

The affected property owners were provided an opportunity to review and comment on this map before it was completed. They have also been provided digital and large format printed versions of the map.

New map 510-17



Map Revised xxx. xx, 2004



Map 510-17
South Waterfront
2002 Top of Bank Line

Bureau of Planning • City of Portland, Oregon

CHAPTER 33.851
SOUTH WATERFRONT GREENWAY REVIEW

33.851.300 Approval Criteria

The *Greenway Design Coordination Plan* is now being called the *Greenway Development Plan*. These amendments change the references to reflect the new name.

**CHAPTER 33.851
SOUTH WATERFRONT GREENWAY REVIEW**

33.851.300 Approval Criteria

Requests for a South Waterfront greenway review will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

A. through C. [No change]

D. Buildings within the South Waterfront greenway area. If the proposal includes buildings that do not meet the standards of 33.510.253.E.3., at least one of the following approval criteria must be met:

1. through 3. [No change].

4. The proposal meets all of the requirements of a ~~greenway design coordination development plan~~ the South Waterfront Greenway Development Plan and a modified setback distance has been identified on the site by the City as part of the plan.

E. Trails, viewpoints, and pedestrian connections. If the proposal will include trails, viewpoints, or pedestrian connections that do not meet the standards of Subsection 33.510.253.E.5. or E.6., the proposal must meet approval criteria E.1. and E.2., and either E.3. or E.4.:

1. through 3. [No change]

4. The proposal meets all of the requirements of a ~~greenway design coordination development plan~~ the South Waterfront Greenway Development Plan and the proposed trail, viewpoints, and pedestrian connections comply with those identified on the site as part of the plan.

F. Landscaping and non-landscaped area. If the proposal will include landscaping or non-landscaped area that does not meet the standards of Subsection 33.510.253.E.2. or E.7., the proposal must meet either approval criteria F.1. and F.2., or approval criterion F.3.:

1. through 2. [No change]

3. The proposal meets all of the requirements of a ~~greenway design coordination development plan~~ South Waterfront Greenway Development Plan and modified landscaping or non-landscaped area has been identified on the site by the City as part of the plan.

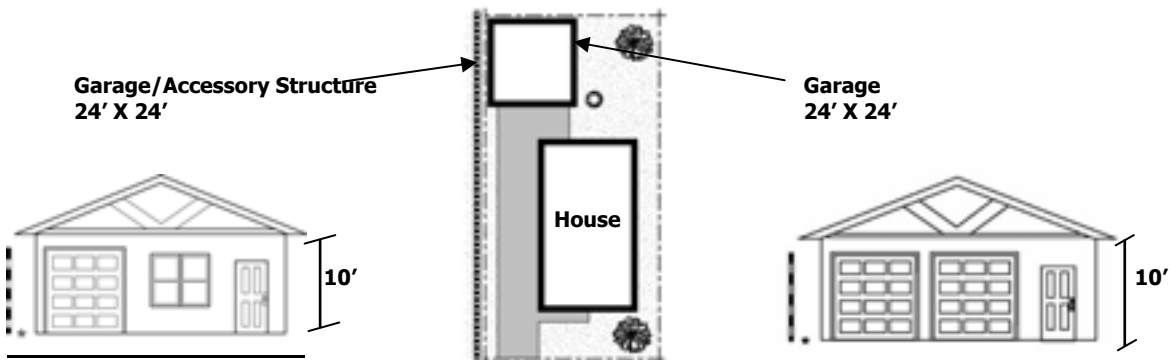
Accessory Structures Amendments

33.110.250 Accessory Structures

In the R7, R5 and R2.5 zones, only detached garages, no greater than 24 by 24 feet with walls no higher than 10 feet, are allowed to be located in side or rear setbacks.. The definition of a garage is a covered structure designed to shelter a vehicle. Requests to convert existing detached garages that are in side and rear setbacks for other non-living activities such as storage and garden sheds are common. Requests to convert them to living activities such as workshops, studios, offices, and accessory dwelling units are also very common. Inquiries about constructing new buildings that are in side and rear setbacks for both living and non-living activities are also frequent.

Changes to these regulations were recommended by the Planning Commission due to issues encountered by applicants and development review staff when an existing garage was proposed to be converted to another accessory structure (workshop, artist studio etc.), or if a new garage was proposed that also included a separate area not used for the parking of a vehicle. If the original garage was legally built within the setback, the conversion would need an adjustment, since only a building functioning as a garage could be in the setback. Often the structures had similar features, yet one could be in the setback while the other would require an adjustment (see figure below). Adjustments in these situations were often approved without any conditions.

Figure: Note that often an accessory structure can have similar characteristics to a standard garage that is proposed in the setback.



Continuing to allow only garages in the side and rear setbacks has a number of potential negative implications. The demand for increased living and storage space is clear from national and local housing trends. Portland's housing stock must remain competitive and the desire to use existing buildings, or to build new spaces for activities other than vehicle storage, has been demonstrated through inquiries in the Development Services Center. Not allowing the conversion of existing structures and construction of new buildings with the limitations described above is resulting in construction without building permits and therefore without adequate attention to fire, life, and safety considerations. In addition, the 2003 Accessory Dwelling Unit Monitoring Report indicates that allowing accessory dwelling units to meet similar setback requirements as detached garages would remove a regulatory impediment to the development of this desired housing option.

Code language provided on following pages.

33.110.250 Accessory Structures Con't

At the Planning Commission's request, additional research using the City's TRACs database, which is the database used by the Bureau of Development Services to record building and land use permits, provided an overview of the recent history of building activities for accessory structures. (While TRACs is not intended to be used for this type of research, it did provide enough information to review permits for accessory structures, accessory dwelling units and whether adjustments to the zoning code were needed in certain cases.) The research revealed that during the last two years (2002 and 2003) the majority of garages (55%) are built within either the side or rear setbacks as is currently allowed in the Zoning Code. During the last three years, other accessory structures which required an Adjustment to be placed in the side or rear setback accounted for 27% of the 41 Adjustments that were granted for all accessory structures that were not accessory dwelling units. Adjustments for garages that exceeded the 24' x24' maximum size or 10' high walls limitation accounted for 56% of the requested Adjustments.

The initial amendment request, as included in the RIW list, was to expand the existing regulations to allow any accessory structures with non-living space to be in side and rear setbacks. However, Bureau of Planning and Bureau of Development Services staff concluded that expansion of the allowance to include living space was consistent with the City's Comprehensive Plan goals and improves their implementation. The Planning Commission concurred and forwarded a recommendation to allow any detached structure that met the size limitations to be placed in the side or rear setback.

During the initial City Council hearing, the public testimony focused on the potential for livability impacts to occur on adjoining properties if the Planning Commission's recommendation were adopted. Most testifiers expressed the opinion that conversion of an existing garage structure was less likely to create a negative impact since it was already present on the site. As a result, the City Council amended the Planning Commission's recommendation so that an existing garage that is within the side or rear setback can be converted for other uses only if the garage exists as of the effective date of these amendments.

The following pages include amendments to the regulations on covered accessory structures that will:

- change the description of covered accessory structures to include living space such as accessory dwelling units;
- allow an existing detached garage that is in the side and rear setbacks, meets the existing size and height limits and exists as of the effective date of these amendments to be used for other activities; and
- add an additional standard for dormers when an existing garage is converted.

The current exception to allow a garage that meets the size limits to be placed within the side or rear setback is maintained.

Similar amendments are made in the Multi-Dwelling zones.

Code language provided on following pages.

33.110.250 Accessory Structures

B. General Standards

This amendment is necessary for consistency with the amendments to C.4. below.

C. Setbacks.

4. Covered accessory structures.

a. Description.

This amendment adds examples that include living space to the description of covered accessory structures.

b. This amendment is necessary for consistency with subparagraph C.4.c. proposed below.

c. Side and rear setbacks. (New subparagraph)

This amendment will allow a detached garage that is in the side and rear setbacks and that exists as of the effective date of these amendments to be used for other activities. The language maintains the size limits that are currently applied to garages and adds an additional standard for dormers to address privacy concerns. While this change has minor policy implications it is still consistent with the overall legislative intent of the Council's 1997 adoption of the provisions that allow accessory dwelling units in all residential zones. It is important to note that the building code places additional restrictions on a structure placed within 3 feet of the lot line, such as prohibiting openings and requiring firewalls. The zoning code will allow these structures to be fully within the setback (i.e. at zero feet from the lot line) if they meet the size limitations.

33.110.250 Accessory Structures

A. Purpose. This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.

B. General standards.

1. The regulations of this section apply to all accessory structures ~~except detached accessory dwelling units~~. The Additional regulations for detached accessory dwelling units are stated in Chapter 33.205.
2. through 4. [No change]

C. Setbacks.

1. through 3. [No change]
4. Covered accessory structures.
 - a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, covered decks, covered porches, and covered recreational structures.
 - b. Setback standard. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c. below, Covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Subsection E., below.
 - c. Side and rear setbacks. In the R7, R5 and R2.5 zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure if all of the following are met:
 - (1) The garage was legally constructed before January 1, 2005;
 - (2) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line;
 - (3) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
 - (4) The structure walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - (5) Dormers are set back at least 5 feet from the side and rear lot lines.

33.110.250 Accessory Structures

E. Special standards for garages.

2. Existing detached garages.

This amendment adds language to the section on existing garages to cross reference the ability to convert a garage to another detached accessory structures (i.e. the language added to Paragraph C above).

3. Side and rear setbacks.

No changes are made to this subparagraph. The language is included for clarity.

D. Building coverage for detached covered accessory structures. (No change)

E. Special standards for garages.

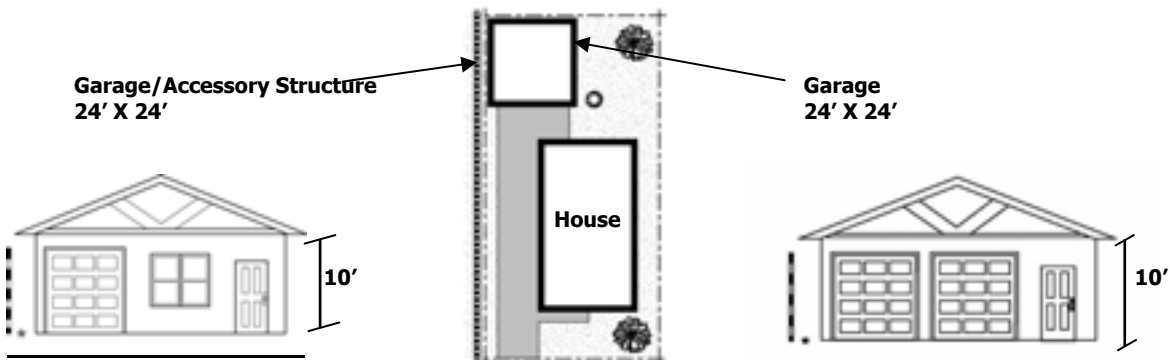
1. Purpose. [No change]
2. Existing detached garages.
 - a. Change of use. In the R7, R5 and R2.5 zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure as specified in Paragraph C.4., above.
 - ba. Rebuilding. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. The garage walls may be up to 10 feet high, excluding the portion of the wall within a gable. The rebuilt garage is not required to comply with other standards of this chapter except for building height.
 - cb. Additions. An addition may be made to a detached garage that is nonconforming due to its location in a setback as follows:
 - (1) The expanded garage complies with all other standards of this chapter; or
 - (2) The combined size of the existing foundation and the addition is no larger than 12 feet wide by 18 feet deep. The walls of the addition may be up to 10 feet high, excluding the portion of the wall within a gable. The expanded garage is not required to comply with other standards of this chapter except for building height.
3. Side and rear setbacks. In the R7, R5 and R2.5 zones, detached garages are allowed in the side and rear building setbacks if all of the following are met.
 - a. The garage entrance is 40 feet from a front lot line, and if on a corner lot, 25 feet from a side street lot line;
 - b. The garage has dimensions that do not exceed 24 feet by 24 feet;
 - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.
4. Length of street-facing garage wall. [No change]
5. Street lot line setbacks. [No change]

33.220.280 Accessory Structures

In the R3 through RX zones, only detached garages, no greater than 24 by 24 feet with walls no higher than 10 feet, are allowed to be located in side or rear setbacks.. The definition of a garage is a covered structure designed to shelter a vehicle. Requests to convert existing detached garages that are in side and rear setbacks for other non-living activities such as storage and garden sheds are common. Requests to convert them to living activities such as workshops, studios, offices, and accessory dwelling units are also very common. Inquiries about constructing new buildings that are in side and rear setbacks for both living and non-living activities are also frequent.

Changes to these regulations were recommended by the Planning Commission due to issues encountered by applicants and development review staff when an existing garage was proposed to be converted to another accessory structure (workshop, artist studio etc.), or if a new garage was proposed that also included a separate area not used for the parking of a vehicle. If the original garage was legally built within the setback, the conversion would need an adjustment, since only a building functioning as a garage could be in the setback. Often the structures had similar features, yet one could be in the setback while the other would require an adjustment (see figure below). Adjustments in these situations were often approved without any conditions.

Figure: Note that often an accessory structure can have similar characteristics to a standard garage that is proposed in the setback.



Continuing to allow only garages in the side and rear setbacks has a number of potential negative implications. The demand for increased living and storage space is clear from national and local housing trends. Portland's housing stock must remain competitive and the desire to use existing buildings, or to build new spaces for activities other than vehicle storage, has been demonstrated through inquiries in the Development Services Center. Not allowing the conversion of existing structures and construction of new buildings with the limitations described above is resulting in construction without building permits and therefore without adequate attention to fire, life, and safety considerations. In addition, the 2003 Accessory Dwelling Unit Monitoring Report indicates that allowing accessory dwelling units to meet similar setback requirements as detached garages would remove a regulatory impediment to the development of this desired housing option.

Code language provided on following pages.

33.220.280 Accessory Structures Con't

At the Planning Commission's request, additional research using the City's TRACs database, which is the database used by the Bureau of Development Services to record building and land use permits, provided an overview of the recent history of building activities for accessory structures. (While TRACs is not intended to be used for this type of research, it did provide enough information to review permits for accessory structures, accessory dwelling units and whether adjustments to the zoning code were needed in certain cases.) The research revealed that during the last two years (2002 and 2003) the majority of garages (55%) are built within either the side or rear setbacks as is currently allowed in the Zoning Code. During the last three years, other accessory structures which required an Adjustment to be placed in the side or rear setback accounted for 27% of the 41 Adjustments that were granted for all accessory structures that were not accessory dwelling units. Adjustments for garages that exceeded the 24' x24' maximum size or 10' high walls limitation accounted for 56% of the requested Adjustments.

The initial amendment request, as included in the RIW list, was to expand the existing regulations to allow any accessory structures with non-living space to be in side and rear setbacks. However, Bureau of Planning and Bureau of Development Services staff concluded that expansion of the allowance to include living space was consistent with the City's Comprehensive Plan goals and improves their implementation. The Planning Commission concurred and forwarded a recommendation to allow any detached structure that met the size limitations to be placed in the side or rear setback.

During the initial City Council hearing, the public testimony focused on the potential for livability impacts to occur on adjoining properties if the Planning Commission's recommendation were adopted. Most testifiers expressed the opinion that conversion of an existing garage structure was less likely to create a negative impact since it was already present on the site. As a result, the City Council amended the Planning Commission's recommendation so that an existing garage that is within the side or rear setback can be converted for other uses only if the garage exists as of the effective date of these amendments.

The following pages include amendments to the regulations on covered accessory structures that will:

- change the description of covered accessory structures to include living space such as accessory dwelling units;
- allow an existing detached garage that is in the side and rear setbacks, meets the existing size and height limits and exists as of the effective date of these amendments to be used for other activities; and
- add an additional standard for dormers when an existing garage is converted.

The current exception to allow a garage that meets the size limits to be placed within the side or rear setback is maintained.

Similar amendments are recommended in the Single-Dwelling zones.

Code language provided on following pages.

33.120.280 Accessory Structures

B. General Standards

This amendment is necessary for consistency with the amendments to C.4. below.

C. Setbacks.

4. Covered accessory structures.

a. Description.

This amendment adds examples that include living space to the description of covered accessory structures.

b. This amendment is necessary for consistency with subparagraph C.4.c. proposed below.

c. Side and rear setbacks. (New subparagraph)

This amendment will allow a detached garage that is in the side and rear setbacks and that exists as of the effective date of these amendments to be used for other activities. The language maintains the size limits that are currently applied to garages and adds an additional standard for dormers to address privacy concerns. While this change has minor policy implications it is still consistent with the overall legislative intent of the Council's 1997 adoption of the provisions that allow accessory dwelling units in all residential zones. It is important to note that the building code places additional restrictions on a structure placed within 3 feet of the lot line, such as prohibiting openings and requiring firewalls. The zoning code will allow these structures to be fully within the setback (i.e. at zero feet from the lot line) if they meet the size limitations.

33.120.280 Accessory Structures

A. Purpose. This section regulates structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front yard areas.

B. General standards.

1. The regulations of this section apply to all accessory structures ~~except detached accessory dwelling units~~. The Additional regulations for detached accessory dwelling units are stated in Chapter 33.205.
2. through 4. [No change]

C. Setbacks.

1. through 3. [No change]
4. Covered accessory structures.
 - a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, covered decks, covered porches, and covered recreational structures.
 - b. Setback regulations. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c. below, Covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Subsection E. below.
 - c. Side and rear setbacks. In the R3 through RX zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure if all of the following are met:
 - (1) The garage was legally constructed before January 1, 2005;
 - (2) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line;
 - (3) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
 - (4) The structure walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - (5) Dormers are set back at least 5 feet from the side and rear lot lines.

33.120.280 Accessory Structures

E. Special standards for garages.

2. Existing detached garages.

This amendment adds language to the section on existing garages to cross reference the ability to convert a garage to another detached accessory structures (i.e. the language added to Paragraph C above).

3. Side and rear setbacks.

No changes are made to this subparagraph. The language is included for clarity.

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

E. Special standards for garages.

1. Purpose. [No change]
2. Existing detached garages.
 - a. Change of use. In the R3 through RX zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure as specified in Paragraph C.4., above.
 - ba. Rebuilding. A detached garage that is nonconforming due to its location in a setback may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. The garage walls may be up to 10 feet high, excluding the portion of the wall within a gable. Except for building height, other standards of this chapter do not apply.
 - cb. Additions. An addition may be made to a detached garage that is nonconforming due to its location in a setback as follows:
 - (1) The expanded garage meets all other standards of this chapter; or
 - (2) The combined size of the existing foundation and the addition is no larger than 12 feet wide by 18 feet deep. The walls of the addition may be up to 10 feet high, excluding the portion of the wall within a gable. Except for building height, other standards of this chapter do not apply.
3. Side and rear setbacks. In the R3 through RX zones, detached garages are allowed in the side and rear building setbacks if all of the following are met:
 - a. The garage entrance is 40 feet from a front lot line, and if on a corner lot, 25 feet from a side street lot line;
 - b. The garage has dimensions that do not exceed 24 feet by 24 feet;
 - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.
4. Length of street-facing garage wall. [No change]
5. Street lot line setbacks. [No change]

**CHAPTER 33.205
ACCESSORY DWELLING UNITS**

One of the findings of the Accessory Dwelling Unit Monitoring Project showed that current code provisions created a disincentive for converting existing structures into ADUs because the code provisions require detached ADUs to match the house in architectural features, and many existing accessory structures could not meet these design standards. They would thus require an Adjustment for each standard that they didn't meet, even though the buildings exterior did not significantly change. Staff wanted to explore a way to provide some leeway for the existing conversion of structures into ADUs while still requiring new ADUs to meet the design standards.

A number of changes are recommended to this chapter that will:

- clarify how the design standards apply;
- exempt existing detached accessory structures that do not meet the design standards from the design standards but require existing accessory structures that do meet the design standards to continue to meet the design standards; and
- modify the design standard for eaves and windows.

33.205.030 Design Standards

Clarify application of design standards.

Removing Paragraph D. clarifies that the four standards for design compatibility of the accessory dwelling units (ADU) with the primary structure apply to all ADUs.

Windows.

The Building Code requires egress windows in bedrooms to be of a certain size. These dimensions can conflict with the design compatibility requirement, particularly for a basement conversion. The recommended amendment will not apply the standard when it conflicts with Building Code requirements.

**CHAPTER 33.205
ACCESSORY DWELLING UNITS**

33.205.030 Design Standards

A. through B. [No change]

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

1. Creation. [No change]
2. Number of residents. [No change]
3. Other uses. [No change]
4. Location of entrances. [No change]
5. Parking. [No change]
6. Maximum size. [No change]

~~**D. Additional requirements for accessory dwelling units created through the addition of floor area.** Accessory dwelling units created through the addition of floor area must meet the following:~~

- ~~17.~~ Exterior finish materials. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the house, attached house, or manufactured home.
- ~~28.~~ Roof pitch. The roof pitch must be the same as the predominant roof pitch of the house, attached house, or manufactured home.
- ~~39.~~ Trim. Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the rest of the house, attached house, or manufactured home.
- ~~410.~~ Windows. Windows must match those in the house, attached house, or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical). This standard does not apply when it conflicts with building code regulations.

33.205.030 Design Standards (continued)

Eaves.

An amendment to the eaves requirement will eliminate an unintended outcome of the regulation for detached ADUs. Eaves on a detached accessory dwelling unit are required to project the same distance as those on the house, which means there can be very large eaves on a small building. The original intent was to make sure that eaves were proportional to the house eaves, but that would be a very complex regulation to implement. The amendment modifies the eave requirement so the eaves can either match the house or project at least 1 foot unless the primary building doesn't have eaves, in which case no eave is required. The 1 foot eave projection is used in the Community Design Standards.

511. Eaves. Eaves must meet one of the following:

- a. The eaves must project from the building walls the same distance as the eaves on the rest of the house, attached house, or manufactured home;
- b. The eaves must project from the building walls at least 1 foot on all elevations; or
- c. If the house, attached house, or manufactured home has no eaves, no eaves are required on the accessory dwelling unit.

ED. **Additional requirements for detached accessory dwelling units.** Detached accessory dwelling units must meet the following.

1. Setbacks. The accessory dwelling unit must be at least:
 - a. 60 feet from the front lot line; or
 - b. 6 feet behind the house, attached house, or manufactured home.
32. Height. The maximum height allowed for a detached accessory dwelling unit is 18 feet.

33.205.030 Design Standards (continued)

Detached accessory dwelling units.

The amendments for detached ADU's will improve implementation of the policies that were most prominent when the Accessory Dwelling Unit (ADU) chapter was adopted. One goal of this chapter is to encourage and facilitate the conversion of garages to ADUs in order to encourage appropriate infill development, encourage home ownership, allow aging in place and to support other affordable housing goals. The standards for design compatibility apply to the conversion of all existing garages and are difficult to meet if the existing features don't match the primary structure. In many cases these regulations require costly design changes to an existing garage or require multiple Adjustments. These choices deter conversion of existing garages into ADUs.

The recommended amendments will 1) change the reference from garages to include all detached accessory structures; 2) retain the design standards for an existing detached accessory structure where the standard is already met, and 3) exempt detached accessory structures from the design standards that are not already met. For example, if the roof pitch of an existing garage matches the roof pitch of the primary structure it must be retained. If the trim does not match the primary structure, it does not have to be replaced nor is an Adjustment required. Finally, the amendment does not allow this exemption if any additional floor area is proposed. This amendment will encourage the conversion of existing detached structures to ADUs and at the same time maintain any existing congruity of building design with the primary structure.

43. Bulk limitation. The building coverage for the detached accessory dwelling unit may not be larger than the building coverage of the house, attached house, or manufactured home. The combined building coverage of all detached accessory structures may not exceed 15 percent of the total area of the site.
24. Conversion of existing detached ~~garages~~ accessory structures.
- a. In RF through R2.5 zones, conversion of an existing detached ~~garage accessory structure~~ that is in a front, rear, or side building setback required by Table 110-3 is not allowed. Conversion of an existing detached accessory structure that is in a rear or side building setback ~~This restriction also applies to garages that are~~ is allowed to be in side or rear setbacks as provided by Subsection 33.110.250.C, Setbacks 33.110.250.E, Special Standards for Garages.
 - b. In R3 through IR zones, conversion of an existing detached ~~garage accessory structure~~ that is in a front, rear, or side building setback required by Table 110-3 120-3 is not allowed. Conversion of an existing detached accessory structure that is in a rear or side building setback ~~This restriction also applies to garages that are~~ is allowed to be in side or rear setbacks as provided by Subsection 33.120.280.C, Setbacks 33.120.280.E, Special Standards for Garages.
 - c. If the accessory dwelling unit is proposed for an existing detached accessory structure that meets any of the standards of Paragraphs C. 7 through C.11 and Paragraphs D.2 and D.3, alterations that will move the structure out of conformance with the standards that are met are not allowed;
 - d. If the accessory dwelling unit is proposed for an existing detached accessory structure that does not meet one or more of the standards of Paragraphs C. 7 through C.11, the structure is exempt from the standard it does not meet. If any floor area is added to the detached accessory structure, the entire structure must meet the standards of Paragraphs C.7 through C.11.

33.205.030 Design Standards (continued)

This change removes the design standards that are now applied in Paragraph C.

- ~~5. Exterior finish materials. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the house, attached house, or manufactured home.~~
- ~~6. Roof pitch. The roof pitch must be the same as the predominant roof pitch of the house, attached house, or manufactured home.~~
- ~~7. Trim. Trim must be the same in type, size, and location as the trim used on the house, attached house, or manufactured home.~~
- ~~8. Windows. Windows must match those in the house, attached house, or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical).~~
- ~~9. Eaves. Eaves must project from the building walls the same distance as the eaves on the house, attached house, or manufactured home.~~

33.205.040 Density

Accessory dwelling units are not included in the minimum or maximum density calculations for a site.

Appendix A

Table of Amendments

Note: The minor policy amendments included in the Code Maintenance 2004 project are shown with gray shading ■. The items were all approved through Code Maintenance 2004, unless otherwise noted. The summary descriptions have been modified to reflect changes made as a result of the Planning Commission or City Council deliberations.

No.	Code Section	Item Description
1	33.34.020.C.1.b Moved to another package of non-title 33 City code amendments.	Title 32 – Sign Code: Update outdated reference to Section 33.445.24, Exempt from Historic Design Review.
2	33.10	Format of Title 33: Clarify that underlined text refers to a specific document outside of the Portland City Code.
3	33.100.200.A.2 33.110.245.C.4	Open Space and Single-dwelling Zones: Exempt outdoor activity facilities from the required setback when the abutting residentially zoned property is a School use.
4	33.100.200.B.1	Open Space Zone: For consistency with Transportation System Plan changes, delete reference to measuring setbacks from the curb.
5	33.110.220.D.3 33.120.220.B.1	Exceptions to Minimum Setbacks: Modify language for setback exceptions when site has Environmental overlay so base zones and overlay zone are consistent.
6	33.110.225 Table 110-4	Building Coverage: Modify regulations so Group Living uses in single dwelling zones, which are also conditional uses, are subject to building coverage standards for institutional uses.
7	33.110.245 Table 110-5	Minimum Landscaping for Institutional Uses: Clarify the minimum landscape requirement for institutional uses in Single-Dwelling zones.
8	33.110.245.C 33.120.250.C 33.130.235.C 33.140.235.C	Screening of Mechanical Equipment: In all base zones, clarify the minimum screening standard for mechanical equipment located at ground level.
9	33.110.250 33.120.280	Minimum Setbacks for Accessory Structures: Allow, with limitations, existing garages, in side and rear setbacks to be converted to other accessory structures. The change includes allowing detached accessory dwelling units in the side and rear setbacks. Minor policy issue.
10	33.110.255.C.2 33.120.285.C.2 33.130.270.C.2 33.140.275.C.2	Pedestrian Connections and Fences: In all base zones, clarify the allowed fence height in side and rear setbacks abutting a pedestrian connection.

Appendix A

No.	Code Section	Item Description
11	33.120.215 Table 120-3	Maximum Building Height: Replace the term "light rail station or stop" in Table 120-3 with the defined term "transit station" for consistency with Transportation System Plan.
12	33.120.220 Table 120-4	Minimum Setbacks for Institutional Uses: Clarify that the setbacks of Table 120-3 apply to development in the IR zone by deleting IR from the title of Table 120-4.
13	33.120.220.B.2.d 33.130.215.B.1.d 33.140.215.B.2.d	Maximum Building Setbacks: In the Multi-dwelling, Commercial, and Employment and Industrial Zones, add a standard for the required building setbacks in pedestrian districts when there is one transit street and an intersecting non-transit street. This was inadvertently left out of the Transportation System Plan.
14	33.120.220 Table 120-3	Minimum Garage Entrance Setback: For consistency with Single-Dwelling zones, eliminate setbacks requirements for lot lines abutting alleys in the Multi-Dwelling zones.
15	33.120.255.B.1.a 33.130.240.B.1.a 33.140.240.B.1.a	Pedestrian Standards: Modify these standards to require only one on-site pedestrian connection if the main entrance is close to the street lot line and accessible from other streets by a public sidewalk. Minor policy issue.
16	33.120.270.D.2	Alternative Development Options: Eliminate the required double side setback for attached duplexes. Minor policy issue.
17	33.130.215.B.1.d.(2)	Building Setbacks: Change title from "One transit street and one non-intersection non-transit street" to "Through lot with one transit street" for consistency with other chapters and Transportation System Plan.
18	33.130.215.B.3	Building Setbacks: Clarify that the required five foot deep landscaped area along lot lines that abut a residentially zoned lot only applies when there is a required building setback.
19	33.130.220 Table 130-3	Maximum Building Coverage: Clarify that the maximum building coverage is calculated for the entire site of an attached housing development in Commercial zones.
20	33.130.220 Table 130-3	Minimum Building Coverage and Environmental Zones: Exempt CS and CM sites with Environmental overlay from minimum building coverage requirement. This situation usually requires either an Adjustment to minimum building coverage so development can stay out of environmental area or an Environmental Review to meet building coverage requirement.
21	33.130.230.B.1	Ground Floor Windows: Clarify that the ground floor window standards apply only to ground level street-facing facades within 20 feet of a street lot line.

No.	Code Section	Item Description
22	33.130.253 Item deleted from Code Maintenance 2004 and may be considered in a future policy package.	Additional Requirements in the CM zone: Clarify this section and modify requirements for existing limited uses (Retail Sales And Service, Office, Manufacturing And Production and Wholesale Sales) to allow expansions up to 10,000 sq. ft. without triggering the housing ratio requirement. Minor policy issue.
24	33.203.050.B	Accessory Home Occupations: Modify reference to hazardous substances. The regulations on hazardous substances were removed from the Zoning Code in the 2003 Code Maintenance project.
24a	33.203.050.D	Accessory Home Occupations: Allow pickup trucks with dual rear wheels to be used in conjunction with a Home Occupation provided the vehicle is not parked between the front lot line and the front building line. This item is for consistency with #35, which is a minor policy issue.
25	33.205.030.E.4	Accessory Dwelling Units: Modify the way in which the "bulk" of detached covered accessory structures is measured to be consistent with how bulk for accessory structures is measured in the base zones. Change "footprint" to "building coverage."
26	33.205.030.E.5 33.205.030.E.6 33.205.030.E.7 33.205.030.E.8 33.205.030.E.9	Accessory Dwelling Units: Clarify application of design standards and provide some flexibility for conversion of existing detached structures to ADUs. Also, modify window and eaves requirements. Minor policy issue.
27	33.258.070.C	Nonconforming Uses: Clarify that "changes in conformance with development standards" includes plan district, overlay zones as well as base zone regulations.
28	33.258.070.D.2.b.(1)	Nonconforming Upgrades: Change "exterior development" to "exterior improvement" - a defined term in the code.
29	33.258.070.D.2.d	Nonconforming Upgrades: Add language to better define what is required when an applicant selects Option 2 and delays implementation of required nonconforming development upgrades. This amendment will make the language for this alternative - called Option 2 - conform to the current Development Services Center procedures and forms.
30	33.266.100.G 33.266.130.F	Parking and Loading: Add a reference in 33.266.100 to Title 17 section that regulates minimum driveway width and remove similar text from 33.266.130.
30a	33.266.110 33.266.115 33.900 33.910	Parking and Loading: Move language from minimum and maximum parking regulations to new definition for Peak Hour Service. Add new term to list of terms.

Appendix A

No.	Code Section	Item Description
31	Table 266-2	Parking and Loading: Modify table to allow parking for schools to be calculated as part of a conditional use review.
32	33.266.120.C. Item deleted from Code Maintenance 2004 and may be considered in a future policy package.	Parking and Loading: Modify regulations to allow parking associated with a house, attached house or duplex to be located within the front setback. — Minor policy issue.
33	33.266.120.C.3	Parking and Loading: Allow flag lots in all residential zones to have a 12 foot wide driveway or up to 40% of the area between the front lot line and the front building line to be paved. Minor policy issue.
34	33.266.120.D	Parking and Loading: Specify the length of a nonrequired parking space as 18 feet.
35	33.266.150	Parking and Loading: Modify restriction on parking medium trucks to allow pickup trucks with dual rear wheels to park in residential zones. Minor policy issue.
36	33.266.300	Parking and Loading: Clarify that loading standards apply to required and nonrequired loading areas
37	33.266.310	Parking and Loading: Create a purpose statement that clarifies the intent of the requirement that vehicles enter and exit a loading facility in a forward motion. Minor policy issue.
38	33.274.030 33.274.035 33.274.040	RF Transmission Facilities: Conform Title 33 with City Council's adopted Cable Office right-of-way franchise policy for wireless facilities and FCC regulations. Change 100 watts ERP to 1,000 watts ERP. Minor policy issue.
39	33.274.050	RF Transmission Facilities: To conform to the Cable Office right-of-way franchise policy for wireless facilities, change review procedure for electronic equipment on private property that supports antennae in the public right-of-way. Minor policy issue.
40	33.405.070.C	Alternative Design Density Overlay: Clarify the minimum required landscape buffer for development on flag lots that were created through the "a" overlay provisions.
41	33.420.045.K	Design Review: In the IRd zone, exempt from Design Review development that complies with an approved Conditional Use. Currently only development that complies with an approved Conditional Use Master Plan is exempt from Design Review.
42	33.420.045.K	Design Review: In the IRd zone, exempt from Design Review an expansion or alteration that does not trigger Conditional Use Review under 33.815.040.
42a	33.420.045.N	Design Review: Conform Title 33 with City Council's adopted Cable Office right-of-way franchise policy for wireless facilities and FCC regulations. Change 100 watts ERP to 1,000 watts ERP.

No.	Code Section	Item Description
43	33.420.045.Q.3	Design Review: Clarify that all four situations listed for the Marquam Hill Design District are exempt from Design Review by changing "and" to "or."
44	33.430.090	Environmental Zones: Delete references to hazardous substances. The regulations on hazardous substances were removed from the Zoning Code in the 2003 Code Maintenance project.
45	33.430.140.K	Environmental Zones: Clarify the setback references to be consistent with the base zone language.
46	33.440.310 New section	Greenway Zones: Add a section that lists the triggers that <u>may</u> require Greenway Review. These situations are related to the nature of the proposed use and scattered throughout the chapter.
47	33.440.345	Greenway Zones: Clarify the application requirements for Greenway Reviews.
48	33.470.040.A	Airport Noise Impact Zone: Exempt non-living space in accessory structures from the noise insulation requirements of this overlay zone.
49	33.470.050.A	Airport Noise Impact Zone: Allow the replacement of a manufactured home in a mobile home park within this overlay zone.
50	33.480.040.B.2.b	Scenic Overlay Zone: Clarify that paved pedestrian areas that are in the required Scenic Overlay landscaped street setback are allowed and subject to the 25% limit on "vehicle" areas.
51	33.510.110.B	Central City Plan District: Mixed-Use Waterfront Development: Clarify that the reduced minimum residential density provided by this section only applies if there are also nonresidential uses on the site.
52	33.510 Map 510-4	Central City Plan District: Correct Map 510-4, Residential Bonus Target Area , to delete RX zoned area.
53	33.510.210 33.51.253 33.510.267	Central City Plan; South Waterfront Subdistrict: Change references to "top of bank" in South Waterfront subdistrict to refer to new map.
54	33.510.253.D.4.b.(2)	Central City Plan; South Waterfront Subdistrict: Clarify that greenway improvements that are consistent with the Greenway Development Plan can take longer than 4 years to complete by deleting "whichever is earlier."
55	33.510 33.851.300	Central City Plan; South Waterfront Subdistrict: Modify and make consistent references to the Greenway Development Plan.
56	33.510, List of Maps New Map 510-17	Central City Plan; South Waterfront Subdistrict: Create a new map for South Waterfront District that shows the top of bank line at the time of the South Waterfront Plan's adoption.

Appendix A

No.	Code Section	Item Description
57	33.515.120.A 33.515.120.B	Columbia South Shore Plan District: Clarify that exterior display is prohibited in the Columbia South Shore Plan District by adding "nonconforming" to the references to exterior display.
58	33.537.140.C 33.537.150.D 33.537.160	Johnson Creek Basin Plan District: Allow tree removal within utility easements outside Environmental zones in the South Subdistrict and Flood Plain Subdistrict. Also, clarify how the prohibition on land divisions and PDS applies in the Flood Risk Area. Minor policy issue.
59	33.537 Map 33.537 Maps 2, 3, 5, 6 and 8	Flood Risk Area: Update maps to make boundaries consistent with recent flood data.
60	33.570.030.C	Rocky Butte Plan District: Clarify that the development standards apply to front and side lot lines that abut Rocky Butte Road. Current text says "street" setbacks, which are not defined in the Open Space and Single-Dwelling zones.
61	33.631.020 Map 631-1 33.910	Potential Flood Hazard Area Map: Delete map and rely on reference to flood hazard area. The map is based on FEMA 100-year floodplain and becomes outdated when FEMA maps are updated. Also, modify the definition of flood hazard area to refer tot the 100-year floodplain as currently defined by FEMA.
62	33.660.220 33.662.220 33.664.220	Final Plat Approval Standards: Clarify that the approval standards only apply to Final Plat review when the Preliminary Plan review was under the regulations of 33.600.
63	33.700.075	Automatic Changes to Specific Dollar Thresholds: Add Design Review and Historic Review thresholds to those that will automatically increase each year based on the Construction Cost Index.
64	33.730.015 33.730.020 33.730.025 33.730.030	Land Use Notices Filed with City Auditor: Because land use decisions are not filed with the County, the City Auditor requests that the requirement that notices and decisions be sent to the City Auditor be eliminated.
65	33.730.015 33.730.025 33.730.030	Filing Notice of Decision: Update the references to the "filing" of land use decisions to say "mail." Also, change "lot" to site."
66	33.730.025	Appeals of Type IIX Review: Make the time period for notification of appeal consistent with Type II and Type III by adding "working" to the number of days.
67	33.730.020 33.730.025 33.730.030	Hearings Officer Decision: Clarify that the Hearings Officer must make a written decision and mail a notice of the decision with 17 days of the "close of the record" rather than the "close of the hearing."
68	33.730.060.D.1.e	Application Requirements: Conform this section to Chapter 630 to clarify in the application requirements that an arborist's report is required.

No.	Code Section	Item Description
69	33.730.130.B.1.a.(1)	Expiration of an Approval: Change reference from "building permit" to "city permit" so that situations that don't require a building permit, such as some Environmental Reviews, have a clear expiration date.
70	33.815.040.B.1 33.815.040.B.2	Conditional Use Review Procedures: Modify to allow limited reductions in parking without triggering a subsequent Conditional Use review. Also, modify and moderately expand the exterior improvements that are allowed without Conditional Use review. Minor policy issue.
71	33.815.040.B.3	Conditional Use Review Procedures: Assign some reductions in site area to a Type II Conditional Use procedure. Minor policy issue.
72	33.815.120.G	Conditional Use for Commercial Parking: Because recreational vehicle parking was previously added to the definition of exterior storage, this approval criterion, which refers to parking, needs to be deleted.
73	33.815.128.A 33.815.128.B	Retail Sales And Service in the EG Zone: Correct a minor text error by changing "recommended" use to "proposed" use.
74	33.815.225.B.1 33.815.225.C.1	RF Transmission Facilities: Conform the review approval criteria to be consistent to City Council adopted Cable Office right-of-way franchise policy for wireless facilities and changes proposed in Chapter 274. Minor policy issue.
75	33.820.080.B	Conditional Use Master Plans: Modify the list of development allowed without a plan amendment the same as proposed for Conditional Uses. Minor policy issue.
76	33.825.025.A	Design Review Procedures: The recent amendments to the nonconforming development threshold included language that annually adjusts the dollar thresholds using the annual national average of the Construction Cost Index, as determined by Engineering News-Record. For consistency and ease of use a current dollar amount is established for Design Review thresholds that are based on 1990 dollars which would then be adjusted annually using the Construction Cost Index.
77	33.846.060	Historic Review Procedures: The recent amendments to the nonconforming development threshold included language that annually adjusts the dollar thresholds using the annual national average of the Construction Cost Index, as determined by Engineering News-Record. For consistency and ease of use a current dollar amount is established for Historic Review thresholds that are based on 1990 dollars which would then be adjusted annually using the Construction Cost Index.
77a	33.851.300	South Waterfront Greenway Review: Modify and make consistent references to the Greenway Development Plan.

Appendix A

No.	Code Section	Item Description
78	33.910.030	Definitions: Exterior Storage: Clarify that operable vehicles impounded in a tow yard or lot are considered exterior storage and not parking.
79	33.910.030 Removed by Planning Commission action based on staff request.	Definitions – Garage: Due to an unintended consequence, delete the portion of this definition that reads "Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor to ceiling walls, is considered part of the garage."
80	33.920.520.D	Description of Detention Facilities Use Category: In the Exceptions, replace "sworn officer" with "peace officer" for consistency with change made to Characteristics in Code Maintenance 2003.

Appendix B

Impact Analysis Report

- Proposing Agency:** Bureau of Development Services, with assistance from:
- Bureau of Environmental Services
 - Bureau of Planning
 - Office of Transportation
 - Portland Development Commission
- Implementing Agency:** Bureau of Development Services – application of Title 33 regulations
- OMF Contact:** Doug Le
- Scope/elements of proposal:** The Code Maintenance 2004 package was over 75 technical, clarifying amendments to the Portland Zoning Code (Title 33).
- Proposed regulation:** The amendments included in the Code Maintenance 2004 package are intended to further certain objectives of the Regulatory Improvement Workplan, as well as the Blueprint 2000 process, which seeks consistency and correctness of land use regulations implemented by the City bureaus. Specifically, these amendments are intended to improve clarity and implementation of the City’s Zoning Code without changing basic policy or intent of the regulations.
- The Planning Commission’s recommendation on the Code Maintenance 2004 package was split into several documents. These included *Part 1A*, *Part 1B*, *Part 2* and *Accessory Structures Amendments*.
- Amendments in the whole CM 2004 package affect the following Zoning Code (Title 33) chapters:
- Base Zones**
- 33.100 Open Space Zone
 - 33.110 Single-Dwelling Zones
 - 33.120 Multi-Dwelling Zones
 - 33.130 Commercial Zones
 - 33.140 Employment and Industrial Zones
- Additional Use and Development Regulations**
- 33.203 Accessory Home Occupations
 - 33.205 Accessory Dwelling Units
 - 33.258 Nonconforming Situations
 - 33.266 Parking and Loading
 - 33.274 Radio Frequency Transmission Facilities

Overlay Zones

- 33.405 Alternative Design Density Overlay Zone
- 33.420 Design Overlay Zone
- 33.430 Environmental Zones
- 33.440 Greenway Overlay zones
- 33.470 Portland International Airport Noise Impact Overlay Zone
- 33.480 Scenic Resource Zone

Plan Districts

- 33.510 Central City Plan District
- 33.515 Columbia South Shore Plan District
- 33.537 Johnson Creek Basin Plan District
- 33.570 Rocky Butte Plan District

Land Divisions and Planned Developments

- 33.631 Sites in Flood Hazard Areas
- 33.660 Review in OS & R Zones
- 33.662 Review in C, E & I Zones
- 33.664 Review on Large Sites in I zones

Administration and Procedures

- 33.700 Administration and Enforcement
- 33.730 Quasi-Judicial Procedures

Land Use Reviews

- 33.815 Conditional Uses
- 33.820 Conditional Use Master Plans
- 33.825 Design Review
- 33.846 Historic Reviews

General Terms

- 33.900 List of Terms
- 33.910 Definitions
- 33.920 Descriptions of the Use Categories

**Decision-making/
Review bodies**

- Planning Commission – Makes recommendations on Zoning Code text amendments.
- City Council – Considers Planning Commission recommendations on Zoning Code text amendments.

- Related projects:** Policy packages described in the Regulatory Improvement Workplan (RIW).
- Project follow up:** Code monitoring, followed by proposed technical amendments in subsequent annual Code Maintenance legislative projects, if necessary.
- Purpose/Intent:** The amendments included in the Code Maintenance 2004 package are intended to further certain objectives of the City's annual Regulatory Improvement Work Plan, as well as the Blueprint 2000 process, which seeks consistency and correctness of land use regulations implemented by the City bureaus. Specifically, these amendments are intended to improve clarity and implementation of the City's Zoning Code without changing basic policy or intent of the regulations. Several amendments referred to as "minor policy" are included, which may change the way that existing land use policies are implemented but do not create new policy or change existing policy. It was determined in these cases the significance of the policy implication would be low, while the benefit of the change in the daily administration of the Code would be high.

1. Purpose/Intent

Code Maintenance 2004 is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. It consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing basic policy or intent. It is one of several amendment packages that make up the City's annual Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. The RIW seeks to build an effective process of continuous improvement to Portland's land use and building regulations, regulatory-related procedures, costs, and customer service. In adopting the RIW, City Council directed the Bureau of Development Services to bring to the Planning Commission proposed Code improvements that address issues identified on the Code Maintenance list.

The amendments in the CM 2004 package have been suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from the Bureau of Development Services, Bureau of Planning and other City agencies. Following the model of the FY2002-2003 Regulatory Improvement Workplan, an initial list of ideas to include in Code Maintenance 2004 was developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input to the RIW

including the Code Maintenance list of ideas.

An Advisory Team of neighborhood representatives, business representatives and city staff reviewed the initial list of Code Maintenance items (along with other RIW elements) before it was considered at public hearings by the Planning Commission and City Council. The City Council did not adopt a specific list of amendments for inclusion in Code Maintenance 2004. Instead, the Council directed the Bureau of Development Services to refine the list based on the goals of the ongoing Code Maintenance efforts.

The amendments were selected for inclusion in this proposal because they:

- Reduce conflict between regulations within the Zoning Code, and/or with regulations in other City and State codes;
- Clarify language that makes understanding and implementing the regulation difficult;
- Simplify overly complex regulations while still achieving the intended purpose of the regulation; and
- Eliminate regulations in the Zoning Code that duplicate those in other codes or regulations, or reduce the need for land use reviews that are typically approved.

Additionally, the amendments were required to meet at least one of the following objectives:

- The amendment clarifies wording that may be open to interpretation without changing the intent behind the specific regulation in question.
- The amendment addresses ongoing problems with administration of existing Code language.
- The amendment may result in a minor policy change with low significance if it also helps implement the City's Comprehensive Plan, and is consistent with existing Policies and Objectives of that plan.

2. Applicability

The Code Maintenance project 2004 includes over 75 amendments to Title 33, Planning and Zoning. The amendments do not create new land use regulations, nor change existing land use polices. Instead, the technical amendments are intended to facilitate the daily use of the Zoning Code by clarifying ambiguous or unclear language, and ensure that regulations in the Zoning Code do not duplicate or conflict with regulations found in other City regulations, the Oregon Revised Statutes or Federal laws. The amended regulations apply to a variety of situations, with amendments to all the base zones, several overlay zones and plan districts, as well as land use reviews and the administration of regulations.

These amendments most benefit those who use the Zoning Code on a regular basis. This includes developers of new projects, existing businesses and their representatives who may be expanding existing development, neighborhood activists, and environmental advocates who use the Code to review and monitor new and existing development, and City staff that implements the Zoning Code.

By clarifying, and in some cases simplifying often complex land use regulations, the amendments also benefit those who may not use the Zoning Code on a regular basis, but who need to apply for a one time permit to expand their home or business. Also included in this category are people who may be concerned about development in their neighborhood and want to know what the land use regulations allow.

3. Alternatives and Regulatory Coordination

This section of the Impact Analysis Report responds to the questions “*Is there a simpler regulation, or non-regulatory method, which would accomplish the same goals?*” “*Would a lesser level of review be appropriate?*” The process of examining these questions is intended to ensure that regulations are kept simple, and that when new regulations are proposed, they address a unique situation that is not addressed by existing regulations. Since these are the overall goals of the annual Code Maintenance process, many of the amendments seek to simplify, reduce and clarify regulations.

Code Maintenance 2004 contains several amendments that modify existing development standards to reflect what is frequently approved through Adjustment reviews. These Adjustments are routinely approved as the proposal is found to be consistent with the policy intent of the regulation. Other proposed amendments clarify the intent of existing regulations, and how they are applied in different situations. These amendments may reduce the number of Adjustments and other land use reviews that are required but also clarify the application of the standard to a particular situation when it is not clear. Other proposed amendments modify regulations or triggers for land use reviews so as to simplify the development review process yet ensure the intent of the regulation is still met. Together, these amendments simplify the Zoning Code and the development review process.

4. Stakeholder Involvement

The amendments considered in the CM 2004 project were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from the Bureau of Development Services, Bureau of Planning and other City agencies. Following the model of the FY2002-2003 Regulatory Improvement Workplan, an initial list of ideas to include in Code Maintenance 2004 was developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City’s neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input to the RIW including the Code Maintenance list of ideas.

An Advisory Team of neighborhood representatives, business representatives and city staff reviewed the initial list of Code Maintenance items (along with

other RIW elements) before it was considered at public hearings by the Planning Commission and City Council. The City Council did not adopt a specific list of amendments for inclusion in Code Maintenance 2004. Instead, the Council directed the Bureau of Development Services to refine the list based on the goals of the ongoing Code Maintenance efforts.

In developing proposed Code language for the amendments, the Bureau of Development Services Code Services Division worked with other City bureaus that may be affected by the proposed amendments. This included the Bureau of Planning, Bureau of Environmental Services, Office of Transportation, Portland Development Commission, and the City Attorney's office. In addition, advice was sought from a number of BDS divisions that are directly involved in the development review and enforcement processes including the Building Division, Site Development Division, Land Use Services Division, and Code Enforcement Services Division. Because the amendments focus on clarifying and simplifying existing land use regulations in the Zoning Code (and not establishing new policies or procedures), the proposal will not result in increased costs for these involved bureaus. Instead, several of the amendments reduce conflicts within the Zoning Code and reduce the number of land use reviews needed. These amendments will directly benefit the service agencies and the public by simplifying the development review process.

Code Maintenance 2004 information and materials have been available on the Bureau of Development Services web site since January 26, 2004.

The following dates identify additional opportunities for stakeholder involvement:

- **January 23, 2004:** BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004 and Planning Commission public hearings on February 24, 2004 and March 9, 2004.
- **February 2, 2004:** The *Proposed Report and Recommendation*, which contains commentary and proposed language for the amendments, was made available to the public. Copies of the report were available at the Bureau of Development Services' office, and the report was available on the Bureau's web site. Copies of the report were also mailed to each neighborhood coalition office and persons who requested it.
- **February 4, 2004:** An open house was held at the Development Services Building to allow interested stakeholders the opportunity to review the amendments and ask questions of Bureau of Development Services staff. Notices announcing the open house were mailed to approximately 536 interested stakeholders.
- **February 12, 2004:** An open house was held at the Development Services Building to allow interested stakeholders the opportunity to review the amendments and ask questions of Bureau of Development Services staff.

Notices announcing the open house were mailed to approximately 536 interested stakeholders.

- **February 4, 2004:** A Measure 56 Notice, as required by ORS 215.503, was mailed to approximately 25 property owners whose property value may be affected by Code Maintenance 2004 amendments.
- **February 24, 2004:** The Planning Commission heard public testimony on the amendments in Code Maintenance 2004. Interested stakeholders could testify at the hearing, or send written comments to the Planning Commission.
- **March 9, 2004:** The Planning Commission heard public testimony on Code Maintenance 2004. Interested stakeholders could testify at the hearing, or send written comments to the Planning Commission.
- **April 23, 2004:** BDS sent notice to individuals and who requested to be placed on the project mailing list to inform them of public hearings before the Portland City Council on the Planning Commission's recommendation on May 20, 2004.
- **May 11, 2004:** The Planning Commission held a work session on the Accessory Structure and Accessory Dwelling Unit provision of Code Maintenance 2004.
- **May 20, 2004:** The City Council held a hearing and received testimony on Code Maintenance 2004. At this hearing the Council voted to adopt the South Waterfront provisions through an emergency ordinance.
- **June 9, 2004:** The City Council continued their hearing from May 20 on the remainder of Code Maintenance 2004. At the conclusion of this hearing, the Council voted to adopt the Radio Frequency Provisions through an emergency ordinance. The remaining items were adopted through a second reading on June 16, 2004.
- **August 18, 2004:** The scheduled City Council hearing on the Planning Commissions recommendation on Accessory Structures Amendments including Accessory Dwelling Units was cancelled and rescheduled to October 20, 2004.
- **October 20, 2004:** The City Council held a hearing and received testimony on the Planning Commissions recommendation on Accessory Structures Amendments including Accessory Dwelling Units.

5. Implementation and Evaluation

Generally, the amendments in the CM 2004 package do not establish new policy or review procedures and they have little or no effect on compliance, enforcement, inspections, on-going reporting, or maintenance requirements.

6. Financial Impacts and Benefits

Given the limited scope of Code Maintenance, the amendments in this package will not result in increased costs for either Development Services applicants, or for the City. Instead, the amendments will directly reduce development review fees for applicants by deleting, or changing, the review procedure for several land use reviews. In addition, the Code Maintenance package contains amendments to other standards and review procedures that will save applicants additional time and application fees. Reducing the number of land use reviews, and the review procedure, allows the Bureau of Development Service/Land Use Review Division to reallocate limited staff resources to other responsibilities.

7. Comprehensive Plan Policy 10.10: Amendments to the Zoning and Subdivision Regulations

Policy 10.10 of the Portland Comprehensive Plan states that zoning and subdivision regulations should be clear, concise and applicable to the broad range of development situations faced by a growing urban city. Code Maintenance is specifically intended to further this comprehensive policy by addressing land use regulations that are unclear ambiguous, or which are redundant or conflict with other City titles. Consistent with Objective B of Policy 10.10, the principal objectives of Code Maintenance are to:

- Keep regulations simple and readable;
- Ensure that standards are written in a clear and objective manner;
- Maintain consistency among procedures in Title 33 and among other City titles, when possible;
- Clarify administrative procedures for land use reviews;
- Establish objective standards in lieu of discretionary reviews, when possible; and
- Use tables and figures when necessary to clarify regulations.

Ordinance No. 178509

Amend Title 33, Planning and Zoning to clarify and improve readability without changing policy or intent of the original regulations. (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
2. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need “fine-tuning” to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
3. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
4. Code Maintenance 2004 is part of the City’s 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
5. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City’s neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process.

Adopting Ordinance Part 1A

Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

6. On January 7, 2004, Notice of the Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
7. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
8. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
9. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
10. The Planning Commission's recommended amendments on Code Maintenance 2004 were initially presented to the City Council in two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning* and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.
11. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
12. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.
13. At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The

Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004. The findings in this ordinance pertain to *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, which contains approximately 65 amendments to Title 33, Planning and Zoning and will be considered for adoption through a regular ordinance.

14. On June 9, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, and public testimony was received.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

15. **Goal 1, Citizen Involvement**, requires 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. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
 - The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
 - On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.

Adopting Ordinance Part 1A

- In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
- On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
- Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.
- On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
- On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
- On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
- During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related*

Amendments contained the Commission’s full recommendation on Code Maintenance 2004.

- On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.
 - On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 32 and Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
 - On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
 - At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004.
 - On June 9, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, and public testimony was received.
16. **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 are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, which implements the policies of Portland’s *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination, and its related policies and objectives, also support this goal.
17. **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. The amendments are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources. Specific amendments to the Environmental Zones chapter clarifies the prohibition on the use of

hazardous substances within the Environmental Zones and the setback exceptions that help avoid placing buildings in resource areas.

18. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources, including the handling of solid wastes. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality. Portland Comprehensive Plan findings on Goal 8, Environment, and its related policies and objectives also support this goal. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment to the Environmental Zones chapter clarifies the prohibition on the use of hazardous substances within the Environmental Zones.
19. **Goal 7, Areas Subject to Natural Disasters and Hazards**, requires the protection of life and property from natural disasters and hazards. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to areas subject to natural disasters and hazards. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments refine the Flood Risk Area for the Johnson Creek Basin Plan District and clarify the regulations to better protect areas subject to flooding when a land division is proposed.
20. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments make the siting of outdoor activity areas in the Open Space zone adjacent to School uses more efficient and avoid the need for an Adjustment review.
21. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. Several specific amendments are supportive of this goal because they reduce land use reviews and the cost associated with them. Portland Comprehensive Plan findings on Goal 5, Economic Development, and its related policies and objectives also support this goal.
22. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to

housing. A specific amendment is supportive of this goal because it removes an impediment to the creation of attached duplexes.

23. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services. Several specific amendments are supportive of this goal by making outdoor areas associated with School uses easier to site and by making removal of parking for a Conditional Use possible without a review, which is often needed to add stormwater management landscaping. Portland Comprehensive Plan findings on Goals 11, Public Facilities, and related policies and objectives also support this goal.
24. **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 policy or intent of any of the existing regulations pertaining to transportation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment to the pedestrian connections regulation is supportive of this goal because it clarifies the requirements and reduces the need for land use reviews on sites with multiple street frontages. Portland Comprehensive Plan findings on Goal 6, Transportation, and its related policies and objectives also support this goal.
25. **Goal 13, Energy Conservation**, requires development of a land use pattern that maximizes the conservation of energy based on sound economic principles. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to energy conservation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment is supportive of this goal because it removes an impediment to the creation of attached duplexes. Portland Comprehensive Plan findings on Goal 7, Energy, and its related policies and objectives also support this goal.
26. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization. Portland Comprehensive Plan findings on Goal 2, Urban Development, and its related policies and objectives also support this goal.
27. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic,

historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway. A specific amendment is supportive of this goal because it clarifies the submission requirements for a Greenway Review.

28. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions.

29. **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 has been implemented through citywide analysis based on calculated capacities from land use designations. These amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1. A specific amendment is consistent with this title because it removes an impediment to the creation of attached duplexes.
30. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
31. **Title 3, Water Quality and Flood Management Conservation**, calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment is consistent with this title because it revises the Johnson Creek Plan District Flood Risk Area to update the boundaries to better reflect recent data and changes made by the Federal Emergency Management Agency (FEMA).

32. **Title 4, Retail in Employment and Industrial Areas**, calls for retail development that supports Employment and Industrial areas, and that does not serve a larger market area. The amendments are consistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.
33. **Title 5, Neighbor Cities and Rural Reserves**, defines Metro's policy regarding areas outside of the Urban Growth Boundary. This title does not apply because this ordinance, and the amendments it adopts, applies within the urban growth boundary.
34. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility. A specific amendment to the pedestrian connections regulation is supportive of this title because it clarifies the requirements and reduces the need for land use reviews on sites with multiple street frontages.
35. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the development of affordable housing. A specific amendment is consistent with this title because it removes an impediment to the creation of attached duplexes.
36. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

37. 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.
38. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals,

Adopting Ordinance Part 1A

policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.

39. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
40. **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. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments support this goal because they ensure that City land use regulations are consistent with policies and regulations of other City bureaus and State and Federal law.
41. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. Numerous amendments clarify regulations or reduce the need for land use reviews thereby making the development process more predictable and less expensive, which supports new opportunities for housing and jobs creation.
42. **Goal 3, Neighborhoods**, calls for 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 policy or intent of existing regulations relating to the stability and diversity of neighborhoods.
43. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments that further Goal 4 and its relevant policies include:
 - Elimination of the double side setback requirement for attached duplex units, which will encourage development of a type of structure

that will increase the opportunities for owner occupied dwellings in the city.

- Allowing mobile houses to be removed and replaced if they are in an existing mobile home park within the Portland International Airport noise impact zone. This preserves a housing option in the city.

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

- Changes that allow modest expansions of a Conditional Use without requiring an additional and use review.
- Elimination of the minimum building coverage requirements in the CS and CM zones when the site has Environmental zoning to reduce the need for either an adjustment of an Environmental Review and to avoid building in environmentally sensitive areas.
- Clarification of a number of standards and requirements for commercial and industrial development that reduce confusion or the need for land use reviews.

45. **Goal 6, Transportation**, calls for the development of a balanced, equitable and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. The amendments make word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments that further Goal 6 and its relevant policies include:

- An allowance for flag lots in all residential zones to have a paved driveway of either 40% of the area between the front lot line and front building line, or a 12 foot wide driveway, whichever is smaller. This allows for safe access to residential uses on flag lots and eliminates the need for an Adjustment review.
- Clarifying that loading standards apply to required and non-required parking and loading areas. This will ensure that all loading areas in the city meet requirements for safe loading activity.
- Adding a purpose statement to the loading requirement section that clarifies the intent of the requirement for forward motion access to

- loading areas. This will make the evaluation of Adjustment requests easier.
- Adding setback standards for sites that face one transit street and one intersecting non-transit street, which was inadvertently omitted when the Transportation System Plan was adopted.
 - Adding a definition for peak hour transit service, which will clarify parking standards throughout the city.
 - Clarifies that pedestrian paths are allowed in the landscaped street setback in the Scenic Overlay zone.
 - Allow limited, minor reductions in parking without requiring a Conditional Use review.
46. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the City by ten percent by the year 2000. The amendments are consistent with this goal because they do not change policy or intent of existing regulations. The amendments include word and structure changes that improve the clarity and implementation of existing regulations relating to energy. A specific amendment is supportive of this goal because it removes an impediment to the creation of attached duplexes.
47. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments that further Goal 8 and its relevant policies include:
- Clarifying the setback exceptions to allow side and front setbacks to be reduced to zero when a site has Environmental zoning. This clarifies the intended flexibility in building placement to avoid placing development in environmentally sensitive areas.
 - Eliminate the minimum building coverage requirements in the CS and CM zones when the site has Environmental zoning to reduce the need for either an adjustment of an Environmental Review and to avoid building in environmentally sensitive areas.
 - Update the Flood Risk Areas in the Johnson Creek Plan District to avoid building in areas that are subject to flood risks.
 - Allow minor reductions in parking without requiring a Conditional Use review. This encourages the reduction of impervious surfaces

and replacement with landscaping or other stormwater management areas.

48. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
49. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. These amendments are supportive of this goal because, beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process with the specific goals of clarifying the Zoning Code, eliminating conflicts, and reducing need for land use reviews.
50. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code.
51. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Several amendments support this goal because they clarify language or reduce the need for land use reviews that are often affect public facilities.
52. **Goal 11 C, Sanitary and Stormwater Facilities**, calls for an efficient, adequate, and self-supporting wastewater collection treatment and disposal system that will meet the needs of the public and comply with federal, state and local clean water requirements. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to sanitary and stormwater facilities. The amendments are limited to word and structure changes that improve the clarity and implementation of existing regulations. Specific amendments

support this goal because they allow minor reductions in parking without requiring a Conditional Use review, which will encourage the reduction of impervious surfaces and replacement with landscaping or other stormwater management areas.

53. **Goal 11 F, Parks and Recreation**, calls for maximizing the quality, safety and usability of parklands and facilities through the efficient maintenance and operation of park improvements, preservation of parks and open space, and equitable allocation of active and passive recreation opportunities for the citizens of Portland. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to parks and recreation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Several specific amendments support this goal. Some allow minor reductions in parking without requiring a Conditional Use review, which will encourage the reduction of impervious surfaces and replacement with landscaping or other stormwater management areas. Another makes the siting of outdoor activity areas in the Open Space zone adjacent to School uses more efficient and avoids the need for an Adjustment review.
54. **Goal 11 I, Schools**, calls for enhancing educational opportunities of Portland's citizens through assistance in planning educational facilities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to schools. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. Specific amendments support this goal because they make the siting of outdoor activity areas in the Open Space zone adjacent to School uses more efficient and avoid the need for an Adjustment review.
55. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments make word and structural changes that improve the clarity and implementation of existing. Specific amendments that support Goal 12 and its relevant policies include:
- Clarification of the minimum screening requirements in all zones for mechanical equipment on the ground.
 - Clarification of the minimum landscaping requirements for institutional uses in residential zones.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, dated May 28, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, dated May 28, 2004; and
- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1A: Amendments to Title 33, Planning and Zoning*, dated May 28, 2004

PASSED BY THE COUNCIL, JUN 16,2004

Mayor Vera Katz
Commissioner Randy Leonard
Susan Hartnett, Bureau of Development Services
May 26, 2004

GARY BLACKMER
Auditor of the City of Portland
By: Susan Parsons
Deputy

Ordinance No. 178480

*Amend Title 33, Planning and Zoning to clarify the regulations for Radio Frequency Transmission Facilities without changing policy or intent of the original regulations. (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

56. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
57. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need “fine-tuning” to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
58. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
59. Code Maintenance 2004 is part of the City’s 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
60. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City’s neighborhood

Adopting Ordinance Part 1B

- association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
61. On January 7, 2004, Notice of the Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
 62. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
 63. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
 64. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
 65. The Planning Commission's recommended amendments on Code Maintenance 2004 were initially presented to the City Council in two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning* and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.
 66. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
 67. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.

68. At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004. As divided, Part 1A contains all of the code amendments previously contained in Part 1, except for the amendments relating to radio frequency transmission facilities. Part 1A is being adopted by a separate ordinance. This ordinance is Part 1B and contains the code amendments and findings pertaining to radio frequency transmission facilities. Dividing Part 1 into two separate parts and ordinances has not changed the substance of the proposed code amendments, which were considered and recommended to the City Council by the Planning Commission.
69. On June 2, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities* and public testimony was received.
70. The changes being made to the Radio Frequency Transmission Facilities regulations as part of the Code Maintenance project are relatively limited. A more comprehensive review of these regulations would provide the opportunity to establish a city-wide tower location policy, to develop effective co-location strategies by and between service providers that may reduce the proliferation of monopoles, and to create new development standards for monopoles that address their aesthetics and reduce their visual impacts.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

71. **Goal 1, Citizen Involvement**, requires 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. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
- The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other

- individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
- On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.
 - In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
 - On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
 - Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.
 - On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
 - On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
 - On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the

Planning Commission held a second hearing and public work session to further discuss the amendments.

- During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments* contained the Commission's full recommendation on Code Maintenance 2004.
- On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.
- On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 32 and Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
- On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
- At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004.
- On June 2, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities* and public testimony was received.

72. **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 are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, which implements the policies of Portland's *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination, and its related policies and objectives, also support this goal.
73. **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. The amendments are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources.
74. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The amendments are supportive of this goal because they reduce land use reviews and the cost associated with them. Portland *Comprehensive Plan* findings on Goal 5, Economic Development, and its related policies and objectives also support this goal.
75. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services. The amendments are supportive of this goal by clarifying the regulations for Radio Frequency Transmission Facilities and making them consistent for all service providers. Portland *Comprehensive Plan* findings on Goals 11, Public Facilities, and related policies and objectives also support this goal.
76. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization. Portland *Comprehensive Plan* findings on Goal 2, Urban Development, and its related policies and objectives also support this goal.
77. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic,

historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway.

78. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions. Because Code Maintenance 2004 has a limited scope, the amendments adopted by this ordinance address only some of the titles in the UGMFP. Only the titles addressed below apply.

79. **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 has been implemented through citywide analysis based on calculated capacities from land use designations. These amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1.
80. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
81. Title 6, Regional Accessibility, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility.
82. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

83. 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.
84. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
85. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
86. **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. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. The amendments support this goal because they ensure that City land use regulations are consistent with policies and regulations of other City bureaus and State and Federal law.
87. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. The amendments clarify regulations related to the siting of Radio Frequency Transmission Facilities and reduce the need for land use reviews. These changes make the development process more predictable and less expensive, which supports new opportunities for jobs creation. The amendments also support the placement of Radio Frequency Transmission Facilities within the public right-of-way, which helps to retain the character of established neighborhoods.
88. **Goal 3, Neighborhoods**, calls for 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 policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendments also support the placement of Radio Frequency Transmission Facilities within the public right-of-way, which helps to preserve and reinforce the stability of the city's neighborhoods.

89. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development and support the growth and expansion of the cellular phone industry. The amendments support this goal because they reduce the need for land use reviews, provide equal level of regulations for all cellular phone service providers and make the city's threshold for regulations equivalent to those specified by the Federal Communications Commission.
90. **Goal 6, Transportation**, calls for the development of a balanced, equitable and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. The amendments further the Goal 6 intent to support a strong and diverse economy in that they remove existing impediments to the placement of Radio Frequency Transmission Facilities within the public right-of way.
91. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment. The amendments include word and structural changes that improve the clarity and implementation of existing regulations.
92. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
93. **Goal 10, Plan Review and Administration**, requires that Portland' Comprehensive Plan and its implementing ordinances undergo a periodic review. These amendments are supportive of this goal because, beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process with the specific goals of clarifying

the Zoning Code, eliminating conflicts, and reducing need for land use reviews.

94. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code.
95. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. The amendments support this goal because they clarify language or reduce the need for land use reviews that are often affect Radio Frequency Transmission Facilities.
96. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments make word and structural changes that improve the clarity and implementation of existing policy and regulations. The amendments that support Goal 12 and its relevant policies because they encourage the placement of Radio Frequency Transmission Facilities within the public right-of-way on existing utility poles.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities*, dated May 28, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities*, dated May 28, 2004;

Ordinance No. 178425

*Amend Title 33, Planning and Zoning, to implement the South Waterfront Plan and clarify the development regulations without changing the original policy or intent. (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

97. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
98. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need “fine-tuning” to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
99. The City Council adopted the South Waterfront Plan in October 2002 and directed that specific Zoning Code amendments be made in order to fully implement the Plan.
100. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
101. Code Maintenance 2004 is part of the City’s 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
102. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory

Adopting Ordinance Accessory Structures

Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

103. On January 7, 2004, Notice of the Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
104. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
105. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
106. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
107. The Planning Commission's recommended amendments on Code Maintenance 2004 are contained to two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The findings in this ordinance pertain to *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.

108. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
109. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

110. **Goal 1, Citizen Involvement**, requires 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. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
 - The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
 - On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.
 - In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.

Adopting Ordinance Accessory Structures

- On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
- Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.
- On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
- On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
- On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
- During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments* contain the Commission's full recommendation on Code Maintenance 2004.
- On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as

well as other interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.

- On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
 - On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the recommendation, and public testimony was received.
111. **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 are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, which implement the policies of Portland's *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination also support this goal.
112. **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. The amendments are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
113. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources, including the handling of solid wastes. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan. Portland

Adopting Ordinance Accessory Structures

Comprehensive Plan findings on Goal 8, Environment, and its related policies and objectives also support this goal.

114. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
115. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area.
116. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
117. **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 policy or intent of any of the existing regulations pertaining to transportation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
118. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to

urbanization. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.

119. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway. A specific amendment is supportive of this goal because it adopts a map that locates the top of bank line as directed by the City Council in their action on the South Waterfront Plan. Another specific amendment clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
120. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes**, and **Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions.

121. **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 has generally been implemented through citywide analysis based on calculated capacities from land use designations. The amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1. Specific amendments are consistent with this title because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
122. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy.

Adopting Ordinance Accessory Structures

123. **Title 3, Water Quality and Flood Management Conservation**, calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.
124. **Title 4, Retail in Employment and Industrial Areas**, calls for retail development that supports Employment and Industrial areas, and that does not serve a larger market area. The amendments are consistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.
125. **Title 5, Neighbor Cities and Rural Reserves**, defines Metro's policy regarding areas outside of the Urban Growth Boundary. This title does not apply because this ordinance, and the amendments it adopts, applies within the urban growth boundary.
126. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility.
127. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the development of affordable housing.
128. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

129. 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.

130. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
131. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
132. **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. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
133. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.
134. **Goal 3, Neighborhoods**, calls for 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 policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is expected to create a new neighborhood in the last largely undeveloped area of Portland's Central City.
135. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict

Adopting Ordinance Accessory Structures

and encourage development, which is expected to include significant housing for a range of incomes, in this area.

136. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in the area.
137. **Goal 6, Transportation**, calls for the development of a balanced, equitable and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
138. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
139. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
140. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. Beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process.

141. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code. The South Waterfront related amendments are consistent with the purposes of Code Maintenance projects.
142. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
143. **Goal 11 F, Parks and Recreation**, calls for maximizing the quality, safety and usability of parklands and facilities through the efficient maintenance and operation of park improvements, preservation of parks and open space, and equitable allocation of active and passive recreation opportunities for the citizens of Portland. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to parks and recreation. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated March April 26, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and*

Adopting Ordinance Accessory Structures

Recommendation Part 2 of 2: South Waterfront Related Amendments, dated April 26, 2004; and

- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated April 26, 2004.

Section 2. The Council declares an emergency exists because significant public and private funds and effort have been expended in pursuing development of the South Waterfront District since the South Waterfront Plan, which specifically calls for the adoption of a top of bank map, was adopted in October 2002. Delay in adopting the top of bank map will prevent the timely approval of building permits for development that is supportive of the South Waterfront Plan and the signed Development Agreement for the area.

PASSED BY THE COUNCIL, May 20, 2004

Mayor Vera Katz
Commissioner Randy Leonard
Susan Hartnett, Bureau of Development Services
May 11, 2004

GARY BLACKMER
Auditor of the City of Portland
By Susan Parsons
Deputy

Ordinance No. 178927

Amend Title 33, Planning and Zoning to clarify and improve the regulations for accessory structures including accessory dwelling units, without changing policy or intent of the original regulations. (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

144. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
145. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need “fine-tuning” to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
146. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
147. Code Maintenance 2004 is part of the City’s 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
148. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City’s neighborhood association network, business associations, and other individuals and

Adopting Ordinance Accessory Structures

groups involved in or affected by the development review process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

149. On January 7, 2004, Notice of Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
150. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
151. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
152. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission separated out the amendments on accessory structures from the bulk of the Code Maintenance amendments to allow for further review. The rest of the amendments were recommended for approval and later passed by City Council under separate documentation.
153. On May 11, 2004, the Planning Commission held an additional work session on the accessory structure amendments. Following discussion, the Planning Commission voted unanimously to forward the amendments for City council consideration with the recommendation that they be adopted.
154. Notice of the City Council hearing on the accessory structure amendments for Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on July 16, 2004.
155. On October 20, 2004, the Portland City Council held a hearing on the accessory structure amendments for the Code Maintenance 2004 project. Staff from BOP presented the Planning Commission's recommendation, and public testimony was received. At the conclusion of the hearing the Council directed staff to prepare revisions to the Planning Commission's recommendations and return for further consideration of those revisions.

156. On November 17, 2004 the Portland City Council held a hearing on the requested revisions. Staff from BOP presented the proposed revised language, and public testimony was received. The revisions requested by the Council limit the use of a detached garage that is located within the required rear or side setback as another accessory structure, such as home office, artist studio or accessory dwelling unit, to the conversion of a garage that was legally constructed before January 1, 2005. The garage would also have to meet the current size limitations for a garage in the setbacks. At the conclusion of the hearing the Council voted to adopt the revisions.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because the Accessory Structure amendments for Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

157. **Goal 1, Citizen Involvement**, requires 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. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
- The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
 - On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.
 - In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a

Adopting Ordinance Accessory Structures

- Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
- On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
 - Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.
 - On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
 - On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
 - On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
 - During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. The remainder of the amendments were forwarded by Planning Commission with slight modifications and eventually adopted by City Council under separate documentation.
 - On May 11, 2004, the Planning Commission held an additional work session on the accessory structure amendments. Following discussion, the Planning Commission voted unanimously to forward the recommendation that they be adopted.
 - On July 16, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons, to inform them of a City Council

public hearing on the accessory structure amendments for the Code Maintenance 2004 project.

- On July 19, 2004 BDS published the document *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Accessory Structures Amendments*. This document provided the Planning Commission’s recommendation on the final element of the Code Maintenance 2004 group of amendments. The required Impact Analysis Report was included in these documents.
 - On October 20, 2004 the Portland City Council held a hearing on the accessory structure amendments for the Code Maintenance 2004 project. Staff from BOP presented the Planning Commission’s recommendation, and public testimony was received. At the conclusion of the hearing the Council directed staff to prepare revisions to the Planning Commission’s recommendations and return for further consideration of those revisions.
 - On November 17, 2004 the Portland City Council held a hearing on the requested revisions. A letter notifying interested parties about the hearing date was mailed to 21 individuals on October 29, 2004
158. **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 are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, which implements the policies of Portland’s *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination, and its related policies and objectives, also support this goal.
159. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The accessory structure amendments are supportive of this goal because they reduce land use reviews for the conversion of a garage that was legally constructed before January 1, 2005 and the cost associated with them. Portland *Comprehensive Plan* findings on Goal 5, Economic Development, and its related policies and objectives also support this goal.
160. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing. Specifically, the amendments are consistent with the purposes for regulating the setbacks of accessory structures in that they continue to apply the limitation on the size of the structure allowed within the

setback. This size limitation assures that the allowed conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structure remains incidental to the primary building and maintains air, light and fire fighting access. By limiting the placement of dormers, the amendment maintains privacy for abutting lots. In conjunction with the regulations of the Uniform Building Code, the regulations also continue to maintain adequate fire protection. The amendments to the application of design standards to accessory dwelling units are supportive of this goal because they provide additional flexibility for the conversion of a garage that was legally constructed before January 1, 2005 to an accessory dwelling unit, which is an alternative housing type that is called for in the Housing goals.

161. **Goal 13, Energy Conservation**, requires development of a land use pattern that maximizes the conservation of energy based on sound economic principles. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to energy conservation. Specifically, the amendments support this goal because they allow the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structure which provides for more efficient use of land and existing resources. The amendments also remove impediments related to the application of design standards to accessory dwelling units, allowing for the more efficient use of existing resources. Portland Comprehensive Plan findings on Goal 7, Energy, and its related policies and objectives also support this goal.

Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions. Due to the limited scope of the accessory structures amendments for Code Maintenance 2004, only the Titles applicable to this proposal are included.

162. **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 has been implemented through citywide analysis based on calculated capacities from land use designations. These amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1. The amendments are supportive of this goal because they provide additional flexibility for the conversion of a garage that was legally constructed before January 1, 2005 to an accessory dwelling unit, allowing for additional housing on existing sites.

163. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. Generally, the amendments do not affect the City's ability to meet Title 2 because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy. The amendments are supportive of this goal because they provide additional flexibility for the conversion of a garage that was legally constructed before January 1, 2005 to an accessory dwelling unit, which allows the creation of additional units without needing additional parking.
164. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally, the amendments do not affect the City's ability to meet this title because they do not change policy or intent of existing regulations relating to the development of affordable housing. The amendments are supportive of this goal because they provide additional flexibility for the conversion of a garage that was legally constructed before January 1, 2005 to an accessory dwelling unit, which allows the creation smaller affordable housing units within existing neighborhoods.
165. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

166. 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.
167. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
168. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
169. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals,

Adopting Ordinance Accessory Structures

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. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.

170. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. These amendments clarify regulations or reduce the need for land use reviews for the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structures, including accessory dwelling units, making the development process more predictable and less expensive. They also help foster alternative housing opportunities through removing impediments to the creation of accessory dwelling units.
171. **Goal 3, Neighborhoods**, calls for 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 policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendment to the applicability of design standards to the conversion of a garage that was legally constructed before January 1, 2005 into an accessory dwelling units specifically supports this goal by removing some impediments to the creation of accessory dwelling units. This also allows the creation of additional housing while preserving the existing house. The amendment also assures design compatibility for new detached accessory dwelling units, for the expansion of existing primary structures and in the conversion of an existing garage that already has design features that match the primary structure. The amendments that allow the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structures are consistent with the purposes for regulating the setbacks of accessory structures. Specifically, the amendments are consistent with the purposes for regulating the setbacks of accessory structures by limiting the application to garages that were legally constructed before January 1, 2005 and that meet the existing size limitations. This size limitation assures that the structure remains incidental to the primary building and maintains air, light and fire fighting access. By limiting the placement of dormers, the amendment maintains privacy for abutting lots. In conjunction with the regulations of the Uniform Building Code, the regulations also maintain adequate fire protection. Also because the amendment applies only to garages legally constructed before January 1, 2005 and maintains the size limitation, the regulations still reflect the general building scale and placement of houses in the city's neighborhoods. The conversion of garages legally constructed before

January 1, 2005 to another accessory use will not negatively affect the overall scale and relationship of residential buildings to each other and to the neighborhood.

172. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. The amendments that allow the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structures provides flexibility by allowing the creation of more usable living space within an existing garage structure. The amendment for accessory dwelling units specifically supports this goal by removing some impediments to the creation of accessory dwelling units, which allows the provision of additional density while preserving the existing house. This encourages an alternate form of housing within single dwelling development.
173. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development. The amendments are supportive of this goal because they reduce land use reviews for the conversion of a garage that was legally constructed before January 1, 2005 and the cost associated with them.
174. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the City by ten percent by the year 2000. The amendments are consistent with this goal because they do not change policy or intent of existing regulations. The amendments include word and structure changes that improve the clarity and implementation of existing regulations relating to energy. The amendments are specifically supportive of this goal because they allow the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structure which provides for more efficient use of land and existing resources. The amendments also remove impediments related to the application of design standards to accessory dwelling units, allowing for the more efficient use of existing resources.
175. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.

176. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. These amendments are supportive of this goal because, beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process with the specific goals of clarifying the Zoning Code, eliminating conflicts, and reducing need for land use reviews.
177. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code.
178. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments make word and structural changes that improve the clarity and implementation of existing regulations. The amendments that allow the conversion of a garage that was legally constructed before January 1, 2005 to another type of accessory structures are consistent with the purposes for regulating the setbacks of accessory structures. Specifically, the amendments are limited in application to garages that were legally constructed before January 1, 2005 and that meet the existing size limitations. This size limitation assures that the structure remains incidental to the primary building and maintains air, light and fire fighting access. By limiting the placement of dormers, the amendment maintains privacy for abutting lots. In conjunction with the regulations of the Uniform Building Code, the regulations also maintain adequate fire protection. The amendment to the accessory dwelling unit design standards specifically supports Goal 12 because it is consistent with the design compatibility principle and clarifies the application of the standards. The amendment assures design compatibility for new detached accessory dwelling units, for the expansion of existing primary structures and in the conversion of existing detached garages that already has design features that match the primary structure. Also, because the amendment that allows conversion of a garage legally constructed before January 1, 2005 includes a size limitation, the regulations still reflect the general building scale and placement of houses in the city's neighborhoods and the conversion of an existing detached garage to a variety of accessory uses will not negatively affect

the overall scale and relationship of residential buildings to each other and to the neighborhood.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Accessory Structures Amendment As Revised by City Councils*, dated November 18, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Accessory Structures Amendments As Revised by City Council*, dated November 18, 2004; and
- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Accessory Structures Amendments As Revised by City Council*, dated November 18, 2004.

PASSED BY THE COUNCIL, December 1, 2004

Mayor Vera Katz
Susan Hartnett, Bureau of Development Services
November 19, 2004

GARY BLACKMER
Auditor of the City of Portland
By: Susan Parsons
Deputy



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