

# **Code Maintenance 2001**

## **City Council Adopted Report (Ordinance # 175837)**



**City of Portland  
Office of Planning and Development Review  
Land Use Review Division**

**Date Adopted: August 8, 2001**

**Amendments Effective: September 7, 2001**

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# Project Summary

Code Maintenance 2001 is a package of approximately 70 amendments to the Portland Zoning Code, which have been selected by the Office of Planning and Development Review in consultation with the Bureau of Planning. The amendments were selected from a database of requests to amend the Zoning Code that have been submitted over the past several years by Office of Planning and Development Review and Bureau of Planning staff, staff from other city agencies, and customers in the City's Development Services Center.

These amendments are intended to further certain objectives of the Blueprint 2000 process, such as consistency and correctness of land use regulations used by the City bureaus. In addition, these amendments are intended to improve clarity and implementation of the Zoning Code without changing basic policy or intent of the regulations. Several amendments with minor policy implications are also included. It was determined in these cases the significance of the policy change is low while the benefit of the change in the daily administration of the Zoning Code is high.

**City Council Action.** On August 8, 2001, the City Council took the following actions:

- Adopted this report;
- Amended the *Portland Zoning Code* as consistent with this report; and
- Adopted the commentary on Code Maintenance 2001, included in this report, as legislative intent and further findings.



# **Background**

## **Why undertake Code Maintenance 2001?**

Code Maintenance 2001 is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code as an ongoing code maintenance project. It is intended to make corrections and clarifications to the Zoning Code that improve its usability, without changing basic policy or intent. This adopted amendments package is the most recent of the 13 major packages recommended and adopted by the City Council since the current Zoning Code was adopted in 1990. It also clarifies major additions that have been recently incorporated into the Zoning Code, such as regulations addressing the Transportation Planning Rule and the base zone design standards.

## **What is the source of the amendments contained in Code Maintenance 2001?**

The adopted amendments have been chosen from a database of over 500 code amendment requests received from customers of the City, development review and policy staff, as well as the City Attorney's office and other service agency staff.

Approximately 100 amendment requests in the database will be assigned to ongoing Bureau of Planning legislative projects, including River Renaissance, Design for Quality Neighborhoods, Land Division Code Rewrite, Amendments to Historic Resource Code Regulations, Environmental Zoning Update Project, and Electronic Equipment Facilities/Telecom Project. More than 75 of the amendment requests included in the database involve substantial policy changes that are beyond the scope of Code Maintenance 2001.

## **How were the amendments contained in Code Maintenance 2001 selected?**

A joint advisory team of planners from the Office of Planning and Development Review Land Use Review Division and the Bureau of Planning collaborated in developing the list of proposed amendments for this package. Approximately 70 amendment requests were selected from the database for the Code

Maintenance 2001 package. Those that have been selected meet the following objectives:

- The amendment request is consistent with the objectives of the Blueprint 2000 process, which call for regulatory reform to meet the goal of providing a predictable, seamless delivery of the City's development review functions;
- The amendment request improves the clarity and usability of the Zoning Code without changing the intent behind the specific regulation in question, and clarifies wording that may be open to interpretation;
- The amendment request addresses ongoing problems with administration of the existing Code language, and may result in a minor policy change with low significance; and
- The amendment request will help implement the City's Comprehensive Plan and be consistent with existing Policies and Objectives of that plan.

The adopted amendments have been organized into the following three general categories:

- Technical: This category identifies inconsistent or ambiguous wording in the Code, typographical errors, or incorrect placement of lines on maps in the Code. A total of 14 amendments are in this category.
- Clarification: These amendments are intended to clarify existing language so as to facilitate daily use and improve readability of the Code. This category contains 29 adopted amendments.
- Minor Policy: The 15 amendments in this category are intended to address ongoing problems with administration of the Code, which require immediate attention due to the importance of the issue, or the frequency the issue arises. The significance of these policy changes is considered low, while the benefits to the daily administration of the Code are considered high. A summary of the amendments included in the minor policy category are summarized in a table at the end of this section.

Appendix A summarizes the issues related to the amendments, and identifies their category.

## **Are all the amendments proposed by OPDR staff included in the Planning Commission's Report and Recommendation?**

The Planning Commission held a public hearing on June 12, 2001, to receive testimony and discuss the proposed amendments included in the Office of Planning and Development Review's *Proposed Report and Recommendations*. The Planning Commission voted to forward a favorable recommendation to City Council on the majority of amendments proposed by the Office of Planning and Development Review. However, pending further discussion by Planning Commission members, no recommendation was made on seven amendments included in the original report.

The Planning Commission will schedule an additional hearing on August 14, 2001, to further consider these seven amendments; no additional public testimony will be heard on these items. The amendments include:

- Modifying the definition of drive-through facilities;
- Modifying when an Impact Mitigation Plan is required;
- Modifying regulations for the storage of vehicles;
- Clarifying the amount of vehicle area allowed in front setbacks for houses, attached houses and duplexes;
- Clarifying the expiration of land use approvals;
- Clarifying how to calculate maximum transit street setbacks; and
- Clarifying the height of fences allowed along street setbacks.

The Commission also requested the opportunity for further public testimony, and discussion by Commission members, on staff's proposed amendment that clarifies the requirements for appeal fee waivers requested by recognized organizations.

Additionally, two new amendments not included in the original report were presented by the public at the Commission's June 12 hearing. These amendments propose modifying the Marine Drive landscape requirements in the Columbia South Shore plan district near the toe of the slope, and modifying the way in which height bonuses in the Central City plan district are calculated. The Planning Commission will hear additional testimony and make a recommendation on these two items at the August 14 hearing.

The Commission's recommendation on these amendments will be considered at a public hearing before the City Council in September, 2001.

# **Summary of Minor Policy Amendments**

The following table summarizes the policy implications of the amendments that are identified as minor policy:

## **Summary of Minor Policy Amendments to the Zoning Code**

<b>Page</b>	<b>Code Section</b>	<b>Amendment Summary</b>	<b>Policy Implication</b>
20 34	33.110.250.C.1 33.120.280.C.1	This amendment allows mechanical structures that are within fully enclosed buildings, when six feet in height or less, to be located in side and rear setbacks.	Existing regulations allow sheds, storage buildings and other covered structures when six feet in height or less to be located in side and rear setbacks. The amendment extends this allowance to enclosed mechanical structures. Such structures would be subject to the Off-Site Impact standards of Chapter 33.262.
22 36	33.110.250.E.2 33.120.280.E.2	The amendment allows garages that are nonconforming due to their placement in a required setback to be rebuilt on a new foundation. Current language allows the garage to be rebuilt only on the existing foundation.	The amendment does not change existing policy that allows nonconforming garages to be reconstructed. The amendment does modify policy by allowing the applicant to replace an existing substandard foundation with a new one of the same size and in the same location as the existing foundation.

<b>Page</b>	<b>Code Section</b>	<b>Amendment Summary</b>	<b>Policy Implication</b>
26	33.110.250.E.5.b		
40	33.120.280.E.5.b		
48	33.130.250.E.4.a		
58	33.140.265.F.4.a	Existing regulations state that a garage wall may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, the amendment will require that this standard be met only on the street-facing façade on which the main entrance is located.	The amendment will allow garage walls to be placed closer to the street than some walls of an existing dwelling unit under limited circumstances. However, the fundamental objective of the base zone design standards that seeks to establish a clear pedestrian entrance, and visual connections between the dwelling and the street, is retained by requiring that no garage wall be placed closer to the street than the façade on which the main entrance is located.

<b>Page</b>	<b>Code Section</b>	<b>Amendment Summary</b>	<b>Policy Implication</b>
70	33.258.050.C.1	The amendment modifies the limitation on expanding nonconforming uses beyond property lines existing in 1991. This is replaced by a limitation on expanding the nonconforming use beyond property lines that existed two years prior to the use becoming nonconforming.	The 1991 date corresponds to when the Zoning Code became effective, and to when a number of legislative zone changes made existing uses nonconforming. This date has little relevance 10 years later. The amendment will still minimize speculative expansions of uses that may occur immediately prior to a zone change.
78	33.258.070.D (Nonconforming Upgrades and Ground Leases)	The amendment allows applicants to limit nonconforming upgrade requirements to within the surveyed boundaries of the ground lease where development is proposed.	This amendment reduces the area of a site where nonconforming upgrade must be completed. The amendment addresses situations where there are several unrelated uses on a site. Current standards would require the tenant making an improvement within the boundaries of one ground lease to complete nonconforming upgrades within the boundaries of other, unrelated leaseholds on the site.

80	33.258.070.D (Nonconforming Upgrades and Compliance Period)	The amendment allows applicants between two and five years (depending on site size) to bring the site <i>fully</i> into compliance with the required nonconforming upgrades. Current standards require a <i>portion</i> of the nonconforming upgrades to be completed as part of each building permit.	Because the required upgrades are presently capped at 10% of the permit's value, only a portion of the upgrades are completed as part of each permit. While the proposal allows applicants greater flexibility in when the upgrades must be completed, it ensures that the site will be brought entirely into compliance within a limited timeframe.
86	33.266.130.C.1	This amendment modifies limitations on vehicle area between a building and a street by allowing driveways that provide a straight line connection between the street and parking interior to the building.	The amendment recognizes that existing regulations do not allow practical access between a street and parking within the interior of a building. All other restrictions related to vehicle area between the building and the street are retained.

<b>Page</b>	<b>Code Section</b>	<b>Amendment Summary</b>	<b>Policy Implication</b>
90	33.285.050.B.1	This amendment transfers the certification of mass shelters from the Multnomah County Housing and Community Services Division to the Portland Office of Neighborhood Involvement (ONI).	In 1999, ONI and Multnomah County established the Community Residential Siting Program (CRSP). CRSP serves as a central point of contact in siting residential facilities and group homes. In this capacity, CRSP is best suited to certify such facilities. Multnomah County supports this transfer of certification.

92	33.296.030.A.1	This amendment allows an existing dwelling unit to be temporarily used as a residence while a new dwelling unit is being constructed on the same site.	This amendment is consistent with existing policy that allows a mobile home to be used as a temporary residence while a new dwelling unit is being constructed on the same site. Requirements for the timely removal of the temporary residence are unchanged.
92	33.296.030.A.7	The amendment expands the duration of temporary public utility staging areas from one year to three years.	The amendment is needed to allow major public utility projects, such as IMAX and the combined sewer overflow project, to be completed. Existing and adopted requirements minimize the impact of such staging areas on surrounding neighborhoods.
106	33.526.270.B	The amendment exempts houses, attached houses and duplexes from on-site pedestrian circulation requirements of the Gateway plan district.	The amendment removes a requirement that is intended for urbanized, multi-dwelling development.
110	33.730.110.A	The amendment clarifies that only communication relating to the issue before the review body must be declared as an ex parte contact. Existing regulations require any contact, regardless of content, to be declared as an ex parte contact.	The amendment clarifies the extent of contact allowed between a member of the review body and persons interested in the outcome. This is consistent with language in the Oregon Revised Statutes.

<b>Page</b>	<b>Code Section</b>	<b>Amendment Summary</b>	<b>Policy Implication</b>
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112	33.730.120	This amendment modifies the way in which approved land use reviews are recorded by requiring the applicant to pay recording fees to the County Recorder instead of to the City Auditor. Additionally, the County Recorder, rather than the City Auditor, will be required to record the decision in county records.	The amendment simplifies and expedites the recording process. Checks for recording fees, while received by the City Auditor, are presently made out to the County, and the act of recording the decision is completed by the County. The amendment merely reflects existing practice.
118	33.805.040.B	This amendment clarifies how Adjustment Approval Criterion B applies to sites in Open Space zones.	The Code is silent on how Approval Criterion B is applied to sites in the OS zone. Approval Criterion B requires one set of findings for development located in C, E or I zones, and another set of findings for development in R zones. The amendment applies the same findings required for development in the C, E or I zones to development in the OS zone.
126	33.910.030 (Building coverage)	This amendment includes in the calculation of building coverage uncovered horizontal structures such as decks that are more than six feet above grade.	It is not clear from existing regulations whether uncovered horizontal structures are included in building coverage calculations. Present practice considers such structures that are entirely impervious as building coverage. However, the results of this practice are inconsistent, and it does not adequately address issues of bulk.



# Project Schedule and Next Steps

- May 11, 2001:** On May 11, 2001, the Office of Planning and Development Review published the *Code Maintenance 2001: Proposed Report and Recommendation*, containing approximately 70 proposed amendments to the Portland Zoning Code. Copies of this document were made available to the public, and copies were delivered to each neighborhood coalition office.
- May 22, 2001:** An informational open house was held to allow the public to review the document and ask questions of staff.
- June 12, 2001:** The Code Maintenance 2001 project was presented to the Planning Commission. Public testimony on the project was heard, and the Commission voted to forward to City Council a favorable recommendation on the majority of the proposed amendments. The remaining amendments will be further considered at a public hearing on August 14, 2001 (see below).
- August 2, 2001:** City Council held a hearing at 2:00 p.m. in Council Chambers, City Hall, 1221 SW Fourth Avenue. City Council received public testimony, and considered the Planning Commission's recommendation on the amendments.
- August 8, 2001:** City Council adopted, without modifications, the Planning Commission's recommendation on the amendments. These amendments are included in this report.
- August 14, 2001:** The Planning Commission will hold an additional public hearing to further discuss and make a recommendation on the remaining ten amendments initially discussed at the June 12<sup>th</sup> Planning Commission hearing. The Commission's Recommendation on these amendments will be considered by City Council in September, 2001.

Please contact Douglas Hardy, Project Manager for Code Maintenance 2001, at (503) 823-7816 if you have questions regarding the document, or if you would like to receive additional copies of this report.



# **Adopted Code Amendments**



## **How to read this section**

This section is organized numerically by Zoning Code chapter and proposes changes to the chapters included. Odd-numbered pages show Zoning Code language with the adopted changes. Language to be added to the Zoning Code is underlined. Language to be deleted is shown with a ~~strike-through~~.

Even-numbered pages contain commentary on the adopted amendments.

## **Adopted Amendment**

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### **CHAPTER 33.10 LEGAL FRAMEWORK AND RELATIONSHIPS**

#### **33.10.030 When the Zoning Code Applies**

**B. Clarification for rights-of-way.** This amendment clarifies that public rights-of-way located in the Scenic Resource Zone overlay are subject to both Title 17, Public Improvements, and to Title 33, Portland Zoning Code.

Existing Code language in Section 33.480.030 (Application) clearly states that provisions of the Scenic Resource Zone overlay apply to "any changes to land or development, including rights-of-way." It is also clear from the legislative intent of this overlay zone that in order to protect significant views (33.480.040.A.1), and to preserve and enhance the scenic character and scenic vistas along corridors (33.480.040.B.1), the regulations must apply to rights-of-way.

## **Commentary**

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### **CHAPTER 33.10 LEGAL FRAMEWORK AND RELATIONSHIPS**

#### **33.10.030 When the Zoning Code applies**

**B. Clarification for rights-of-way.** Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:

1. Rights-of-way in the greenway and, environmental, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;

# **Adopted Code Amendment**

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## **CHAPTER 33.110 SINGLE-DWELLING ZONES**

### **33.110.220 Setbacks**

#### **D. Exceptions to the required setbacks.**

2. Flag lots. For the lot in front of a flag lot, existing Code language allows the side building setback along the flag pole lot line to be reduced to three feet. However, the regulations do not address how far eaves may encroach into the reduced setback area.

The legislative purpose for requiring minimum setbacks, as identified in Section 33.110.220.A (Purpose), is to maintain light, air, separation for fire protection and access for fire fighting. The minimum setback also promotes a reasonable physical relationship between residences, and promotes options for privacy for neighboring properties.

The amendment allows the eaves to be within two feet of the reduced side setback from the flag pole lot line. Because this side setback will be adjacent to a flag pole, which is required by Code to be a minimum of 12 feet in width, allowing the eave to be within two feet of the lot line will have no impact on the stated purpose for requiring a minimum side setback. Additionally, placing an eave within two feet of a lot line is in conformance with new building code standards.

### **33.110.245 Institutional Development Standards**

This amendment corrects a typographical error in Table 110-5 dealing with development standards for institutions. When the Transportation Planning Rule amendments were adopted in 1996, the term "street lot line" was inadvertently included in the standard regulating minimum building setbacks. (The term "street lot line" has relevance only to maximum building setbacks.) This amendment is consistent with the wording of the regulation included in the Multi-Dwelling Zones.

## Commentary

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### CHAPTER 33.110 SINGLE-DWELLING ZONES

#### 33.110.220 Setbacks

##### D. Exceptions to the required setbacks.

2. Flag lots. The lot in front of a flag lot may reduce its side building setback along the flag pole lot line to 3 feet. Eaves may be within 2 feet of the flag pole lot line. All other setback requirements remain the same.

#### 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] <del>Street Lot Line</del>	1 ft. back for every 2 ft. of bldg. height, but in no case less than 15 ft.
Maximum Building Setback Street Lot Line	None
Transit Street or Pedestrian District [6]	25 ft
Maximum Building Coverage [2]	50% of site area
Minimum Landscaped Area [2,4]	25% of site area
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

## **Adopted Code Amendment**

Signs	See Title 32, Signs and Related Regulations
Notes:	

[No Change]

## **Commentary**

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### **33.110.250 Accessory Structures**

#### **C. Setbacks**

1. Mechanical Structures. This amendment clarifies when mechanical structures may be placed in required building setbacks. Existing language states that mechanical structures are not allowed in any required building setback. However, Section 33.110.250.C.4 allows covered accessory structures that are no more than six feet in height to be located in side and rear building setbacks. It is not clear whether mechanical structures located in covered accessory structures that are no more than six feet in height are allowed in side and rear building setbacks.

The stated purpose for limiting the location of accessory structures within building setbacks is to ensure that they remain the secondary development on a site, and that privacy for adjacent residents and adequate access around such structures is maintained. The intent of not allowing unenclosed mechanical structures equipment within side and rear building setbacks is to reduce related off-site impacts, primarily noise.

The adopted code amendment clarifies that a mechanical structure that is fully enclosed in a building that is no more than six feet in height is allowed within the required side and rear building setbacks. This setback limitation is consistent with regulations that presently apply to covered accessory structures. Such equipment would still be subject to the noise standards of Off-Site Impacts (Chapter 33.262), and Title 18 (Nuisance Abatement and Noise Control).

## **Adopted Code Amendment**

### **33.110.250 Accessory Structures**

#### **C. Setbacks.**

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

## **Commentary**

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### **33.110.250 Accessory Structures**

#### **E. Special standards for garages.**

2. Existing detached garages. Existing Code language allows garages that are currently nonconforming because of their location in a setback to be rebuilt only on the existing foundation. The intent for this allowance, as cited in the commentary for the recommended draft of the 1991 Zoning Code, was based on the recognition that there is a large number of nonconforming garages in older, built-up neighborhoods throughout the City. The traditional development style in these older neighborhoods generally places garages in the back corner of the site.

The adopted amendment modifies the requirement that the garage be rebuilt on the existing foundation by allowing the garage to be rebuilt on the footprint of the existing foundation. This amendment recognizes that it is not always practical or possible to rebuild one of these nonconforming garages on an existing foundation that may be unsuitable to support new construction, and that does not meet current Building Code requirements.

In recognition that garages often have gable roofs, and to encourage rebuilt garages with roof forms that are consistent with the architecture of the dwelling on the lot and other structures in the neighborhood, this amendment also clarifies how the maximum height of the rebuilt garage wall is calculated.

3. Side and rear setbacks. In recognition that garages often have gable roofs, and to encourage garages with roof forms that are consistent with the architecture of the dwelling on the lot and in the surrounding neighborhood, this amendment clarifies how the maximum height of garage walls built in side and rear setbacks is calculated. This is consistent with the original intent of the regulation, which was to prevent two-story structures from being placed within side and rear setbacks.

### **33.110.250 Accessory Structures**

#### **E. Special standards for garages.**

2. Existing detached garages. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on ~~its~~ the footprint of the existing foundation, if ~~it~~ the garage was originally constructed legally. An addition may be made to these types of garages if the addition complies with the standards of this section, or if the combined size of the existing foundation and any additions is no larger than 12 feet wide by 18 feet deep. The garage walls may be up to 10 feet high, excluding the portion of the wall within a gable.
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 which do not exceed 24 feet by 24 feet; and
  - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable.

## **Commentary**

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### **33.110.250 Accessory Structures**

#### **E. Special standards for garages.**

##### **4. Length of street-facing garage wall.**

c. Exception. For buildings less than 24 feet in width, existing regulations allow a garage wall to be more than 50 percent of the length of the street-facing building wall if living area is above the garage. The living area may be up to four feet behind the face of the garage wall. This is illustrated in Figure 110-9 (Length of Street-Facing Garage Wall Exception). However, Figure 110-9 is incorrect as drawn, in that the living area above the garage is the longest street-facing façade of the dwelling unit, and placed four feet back from the face of the garage, which is not allowed. [Per 33.110.250.E.5.b (Street lot line setbacks), the longest street-facing wall of the dwelling may be set back no further from the street lot line than the garage wall.] The adopted amendment corrects Figure 110-9 so that the street-facing length of the wall above the garage is not the longest wall of the dwelling.

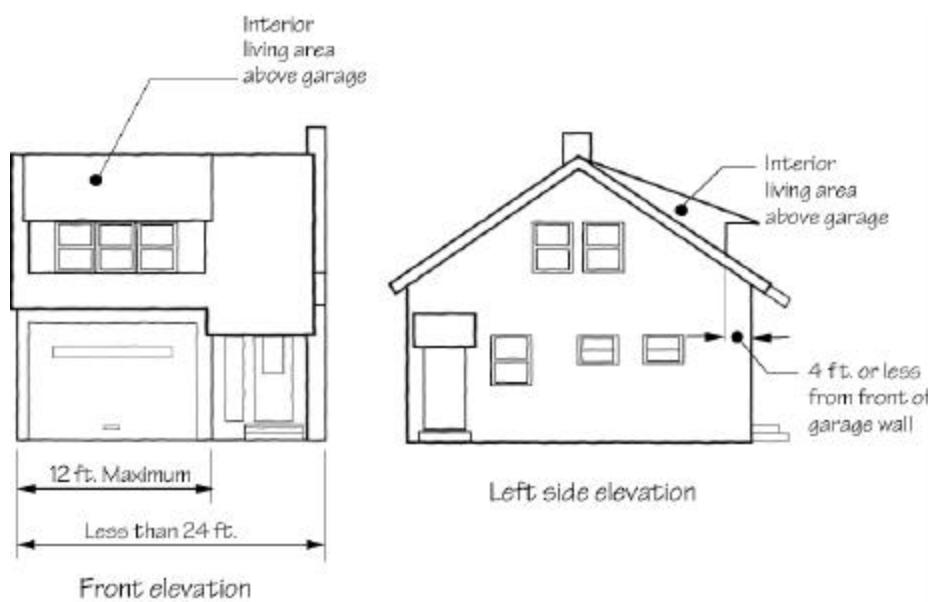
**33.110.250 Accessory Structures**

**E. Special standards for garages.**

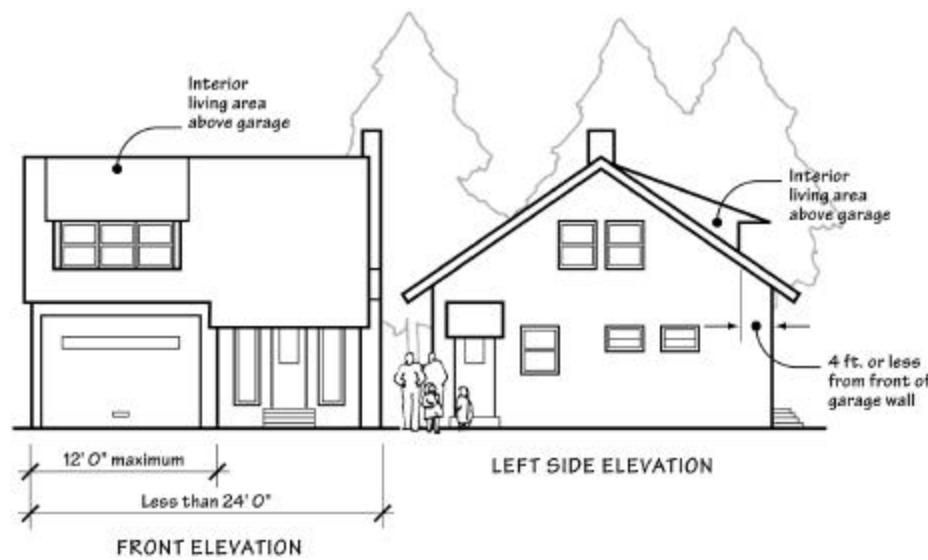
4. Length of street-facing garage wall.

c. Exception.

**Figure 110-9 [existing]  
Length of Street-Facing Garage Wall Exception**



**Figure 110-9 [adopted]  
Length of Street-Facing Garage Wall Exception**



## **Commentary**

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## **Adopted Code Amendment**

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### **33.110.250 Accessory Structures**

#### **E. Special standards for garages.**

##### **5. Street lot line setbacks.**

- b. Generally.** The amendment addresses how to apply the garage wall placement standard on through lots and corner lots that are already developed with a dwelling unit. On corner lots, frequently it is not possible to place a garage anywhere on the site and meet this standard because of the location and size of the existing dwelling. Likewise, on through lots, the garage typically must be placed between the existing dwelling unit and one of the two streets. There are no alternative development standards available that would address such difficulties on corner or through lots.

Under the adopted amendment, on corner and through lots that are already developed with a dwelling unit, the standard must be met on only one of the street frontages. This amendment is still consistent with the intent of the base zone design guidelines, which is generally to ensure that the residence is more prominent than the garage, and to prevent garages from obscuring the main entrance. With the adopted amendment, the residence's main entrance must still be located within eight feet of the longest street-facing wall of the dwelling unit. Furthermore, the standards dealing with the length of garage wall and the placement of the garage wall in relation to the longest wall of the dwelling unit continue to apply to at least one street-facing facade.

## **Commentary**

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### **33.110.250 Accessory Structures**

#### **E. Special standards for garages.**

5. Street lot line setbacks.

b. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 110-10. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, this standard must be met only on the street-facing façade on which the main entrance is located.

## **Adopted Code Amendment**

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### **CHAPTER 33.120 MULTI -DWELLING ZONES**

#### **33.120.220 Setbacks**

##### **B. Building setback standard.**

1. Exceptions to the required minimum building setbacks.
  - a. Setback averaging. Existing regulations allow, as an exception, the minimum front building setback to be reduced to the average of the building setbacks on the abutting lots. The adopted amendment clarifies that this exception does not apply to sites along a transit street or a street in a pedestrian district .

As indicated in the commentary for regulations that implement the Transportation Planning Rule, "the minimum distance from the curb to the front building line will define convenient pedestrian access. This will help assure safe, nonthreatening walkways near travel lanes." The adopted amendment ensures that this intent is retained.

## **Commentary**

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### **CHAPTER 33.120 MULTI-DWELLING ZONES**

#### **33.120.220 Setbacks**

**B. Building setback standard.** The required minimum and 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. Outside of pedestrian districts and along non-transit streets, ~~the front building setback and the setback of decks, balconies, and porches may be reduced to the average of the respective building setbacks on the abutting lots. See Chapter 33.930, Measurements, for more information.~~

## **Adopted Code Amendment**

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### **33.120.230 Building Length**

- B. **Maximum building length.** The adopted amendment clarifies how to calculate the maximum building length when portions of a street-facing façade are more than 30 feet from the street lot line, such as a building that is articulated, or that angles away from the street. The adopted amendment is consistent with the intent of the standard in that it limits the amount of building bulk that is placed close to the street.

## Commentary

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### 33.120.230 Building Length

**B. Maximum building length.** The maximum building length for all the portion of buildings located within 30 feet of a street lot line is stated in Table 120-3.

Standard	R3	R2	R1	RH	RX	IR
Maximum Density (See 33.120.205)						
Minimum Density (See 33.120.205)						
Minimum Lot Size <ul style="list-style-type: none"><li>- Min. lot area</li><li>- Min. lot width<ul style="list-style-type: none"><li>- Min. lot depth (See 33.120.210)</li></ul></li></ul>						
Maximum Height (See 33.120.215)						
Minimum Setbacks <ul style="list-style-type: none"><li>- Front building setback</li><li>- Street building setback</li><li>- Side and rear building setback. [16]</li><li>- Garage entrance setback [8] (See 33.120.220)</li></ul>				[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)	none	100 ft [10]	100 ft. [10]	none	none	none
Min. Landscaped Area (See 33.120.235)						
Required Outdoor Area <ul style="list-style-type: none"><li>Individual areas:<ul style="list-style-type: none"><li>- Minimum area</li><li>- Minimum dimension [11]</li></ul></li><li>Combined areas:<ul style="list-style-type: none"><li>- Minimum area</li><li>- Minimum dimension [11]</li></ul></li></ul> (See 33.120.240)				[NO CHANGE]		

Notes:

[1 - 9] No Change

[10] The 100 foot limit applies only to the portions of a buildings located within 30 feet of a street property line.

[11 16] No Change

## **Adopted Code Amendment**

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## **Commentary**

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### **33.120.260 Recycling Areas**

Title 33 presently requires a central recycling area for multi-dwelling developments containing three or more dwelling units. This is not consistent with requirements of Chapter 17.02 (Solid Waste and Recycling), implemented by the Bureau of Environmental Services' Office of Sustainable Development, Solid Waste & Recycling Program. The Title 33 requirement, which was adopted in 1990, was based on advice from BES. Since 1990, BES has instituted major policy changes in implementing the City's recycling program. One of these changes requires a central recycling collection area for multi-dwellings of five or more units.

The threshold of five dwelling units is based on the City's regulations dealing with garbage services (Titles 17 and 29), which require *individual* recycling bins for residential developments of one to four units. The *central* recycling collection area presently required through Title 33 is intended for larger multi-dwelling developments of five or more units.

To ensure that regulations in the Zoning Code are consistent with the City's titles dealing with garbage and recycling services, the adopted amendment requires a central recycling collection area for residential developments having five or more units.

## **Adopted Code Amendment**

### **33.120.260 Recycling Areas**

Multi-dwelling developments that have 3 5 or more units must provide for recycling collection areas as stated below:

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

## **Commentary**

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### **33.120.280 Accessory Structures**

#### **C. Setbacks**

1. Mechanical Structures. This amendment clarifies when mechanical structures may be placed in required building setbacks. Existing language states that mechanical structures are not allowed in any required building setback. However, Section 33.120.280.C.4 allows covered structures that are no more than six feet in height to be located in side and rear building setbacks. Existing regulations are not clear whether mechanical structures located in covered accessory structures that are no more than six feet in height are allowed in side and rear building setbacks.

The stated purpose for limiting the location of accessory structures within building setbacks is to ensure that they remain the secondary development on a site, and that privacy for adjacent residents and adequate access around such structures are maintained. The intent of not allowing unenclosed mechanical structures within side and rear building setbacks is to reduce related off-site impacts, primarily noise.

The adopted code amendment clarifies that a mechanical structure that is fully enclosed in a building that is no more than six feet in height is allowed within the required side and rear building setbacks. This setback limitation is consistent with regulations that presently apply to covered accessory structures. Such equipment would still be subject to the noise standards of Off-Site Impacts (Chapter 33.262), and Title 18 (Nuisance Abatement and Noise Control).

### **33.120.280 Accessory Structures**

#### **C. Setbacks.**

1. Mechanical structures.
  - a. Description. Mechanical structures are items such as heat pumps, air conditioners, emergency generators, and water pumps.
  - b. Front Ssetback regulations. Mechanical structures are not allowed in a required front setback. ~~Mechanical structures must be located at least 10 feet from any side or rear lot line.~~
  - c. Side and rear setback regulations. Mechanical structures are allowed in side and rear building setbacks if the following are met:
    - (1) They are in a fully enclosed building; and
    - (2) The building is no more than 6 feet high.

## **Commentary**

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### **33.120.280 Accessory Structures**

#### **E. Special standards for garages.**

2. Existing detached garages. Existing Code language allows garages that are currently nonconforming because of their location in a setback to be rebuilt only on the existing foundation. The intent for this allowance, as cited in the commentary for the recommended draft of the 1991 Zoning Code, was based on the recognition that there is a large number of nonconforming garages in older, built-up neighborhoods throughout the City. The traditional development style in these older neighborhoods generally places garages in the back corner of the site.

The adopted amendment modifies the requirement that the garage be rebuilt on the existing foundation by allowing the garage to rebuilt on the footprint of the existing foundation. This amendment recognizes that it is not always practical or possible to rebuild one of these nonconforming garages on an existing foundation that may be unsuitable to support new construction, and that does not meet current Building Code requirements.

3. Side and rear setbacks. In recognition that garages often have gable roofs, and to encourage garages with roof forms that are consistent with the architecture of the dwelling on the lot and in the surrounding neighborhood, this amendment clarifies how the maximum height of garage walls built in side and rear setbacks is calculated.

### **33.120.280 Accessory Structures**

#### **E. Special standards for garages.**

2. Existing detached garages. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on ~~its~~ the footprint of the existing foundation, if ~~it~~ the garage was originally constructed legally. An addition may be made to these types of garages if the addition meets the standards of this section, or if the combined size of the existing foundation and any additions is no larger than 12 feet wide by 18 feet deep.
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 which do not exceed 24 feet by 24 feet; and
  - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable.

## **Commentary**

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### **33.120.280 Accessory Structures**

#### **E. Special standards for garages.**

##### **4. Length of street-facing garage wall.**

c. Exception. On buildings less than 24 feet in width, existing regulations allow a garage wall to be more than 50 percent of the length of the street-facing building wall if living area is above the garage. The living area may be up to four feet behind the face of the garage wall. This is illustrated in Figure 120-5 (Length of Street-Facing Garage Wall Exception). However, Figure 120-5 is incorrect as drawn, in that the living area above the garage is the longest street-facing façade, and placed four feet back from the face of the garage, which is not allowed. [Per Section 33.120.280.E.5.b, the longest street-facing façade of the dwelling must be set back no further from the street lot line than the garage wall.] The adopted amendment corrects Figure 120-5 so that the street-facing length of the wall above the garage is not the longest street-facing wall of the dwelling.

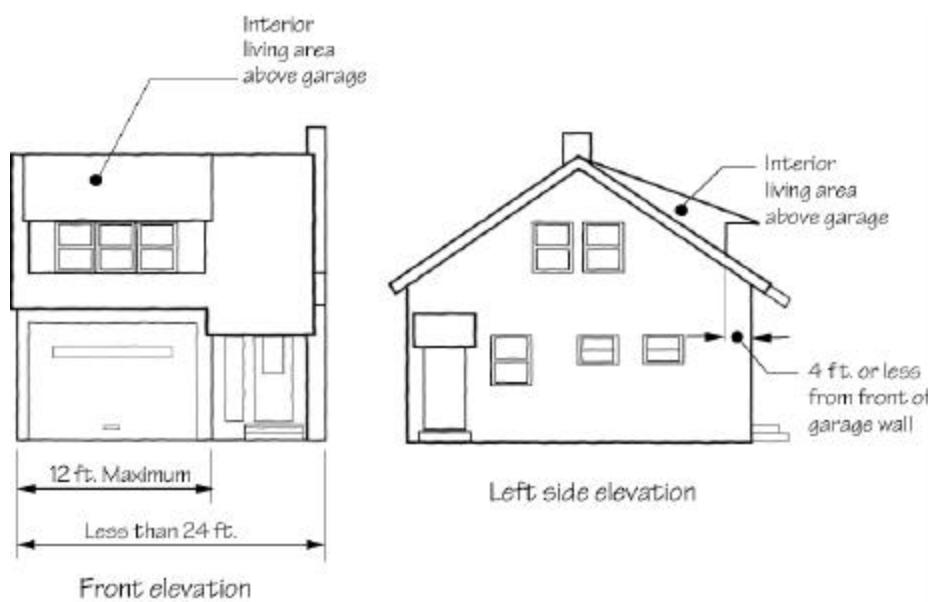
**33.120.280 Accessory Structures**

**E. Special standards for garages.**

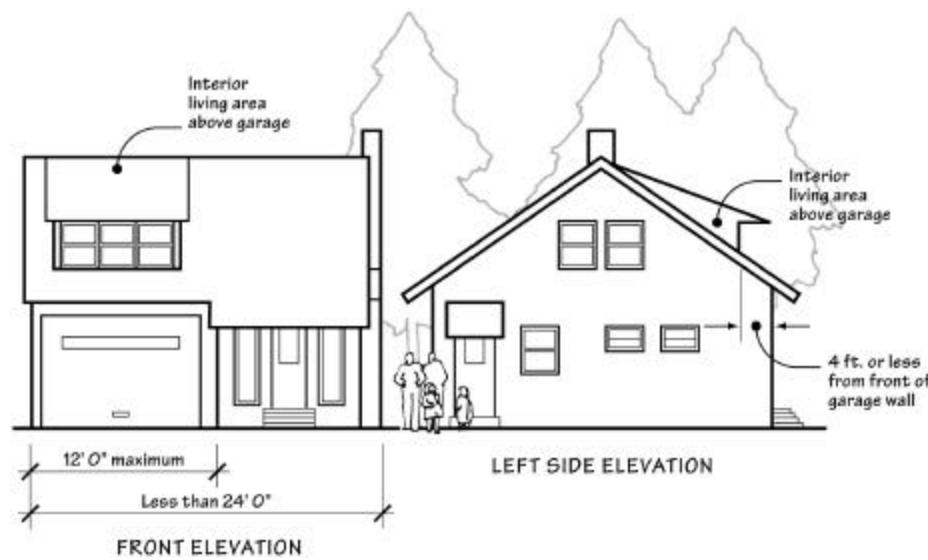
4. Length of street-facing garage wall.

c. Exception.

**Figure 120-5 [existing]  
Length of Street-Facing Garage Wall Exception**



**Figure 120-5 [adopted]  
Length of Street-Facing Garage Wall Exception**



## **Commentary**

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### **33.120.280 Accessory Structures**

#### **E. Special standards for garages.**

##### **5. Street lot line setbacks.**

- b. Generally. The amendment addresses how to apply the garage wall placement standard on through lots and corner lots that are already developed with a dwelling unit. On corner lots, frequently it is not possible to place a garage anywhere on the site and meet this standard because of the location and size of the existing dwelling. Likewise, on through lots, the garage typically must be placed between the existing dwelling unit and one of the two streets. There are no alternative development standards available that would address such difficulties on corner or through lots.

Under the adopted amendment, on corner and through lots that are already developed with a dwelling unit, the standard must be met on only one of the street frontages. This amendment is still consistent with the intent of the base zone design guidelines, which is generally to ensure that the residence is more prominent than the garage, and to prevent garages from obscuring the main entrance. With the adopted amendment, the residence's main entrance must still be located within eight feet of the longest street-facing wall of the dwelling unit. Furthermore, the standards dealing with the length of garage wall and the placement of the garage wall in relation to the longest wall of the dwelling unit continue to apply to at least one street-facing facade.

### **33.120.280 Accessory Structures**

#### **E. Special standards for garages.**

5. Street lot line setbacks.

b. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 120-6. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, this standard must be met only on the street-facing façade on which the main entrance is located.

## **Commentary**

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### **CHAPTER 33.130 COMMERCIAL ZONES**

#### **33.130.215 Setbacks**

##### **B. Building setback standard.**

3. Exceptions to the required minimum building setbacks.
  - a. Setback averaging. Existing regulations allow, as an exception, the minimum front building setback to be reduced to the average of the building setbacks on the abutting lots. The adopted amendment clarifies that this exception does not apply to sites along a transit street or a street in a pedestrian district .

As indicated in the commentary for regulations that implement the Transportation Planning Rule, "the minimum distance from the curb to the front building line will define convenient pedestrian access. This will help assure safe, nonthreatening walkways near travel lanes." The adopted amendment ensures that this intent is retained.

## **Adopted Code Amendment**

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### **CHAPTER 33.130 COMMERCIAL ZONES**

#### **33.130.215 Setbacks**

**B. Building setback standard.** The required minimum and maximum building setbacks, if any, are stated in Table 130-3. However, the minimum and maximum setbacks along transit streets or in pedestrian districts are stated in Table 130-5. 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.

3. Exceptions to the building setbacks.
  - a. Setback averaging. Outside of pedestrian districts and along non-transit streets, the street setback from a street lot line for buildings may be reduced, but not increased, to the average of the existing respective distances of building setbacks on abutting lots. See Chapter 33.930, Measurements, for more information.

## **Commentary**

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### **33.130.230 Ground Floor Windows**

**B. Required amounts of window area.** As indicated in Section 33.130.230.B.1, for lots that have more than one street frontage, the full ground-floor window standard must be met on the street having the highest street classification according to the Arterial Streets Classifications and Policies (ASCP). However, in the ASCP, there are two categories of street classifications: traffic streets and transit streets. On a corner lot, if one street is designated as the highest traffic street, and the other street as the highest transit street, it is unclear how to apply the ground floor window standard.

As the intent of the ground floor window requirement is to create a more pedestrian-friendly environment, as stated in the commentary for the 1991 Zoning Code rewrite project, and as transit streets are typically also designated as pedestrianways, the full ground floor window requirement should apply to the highest *transit* street classification.

The adopted amendment also clarifies the ground floor window requirement when applied to residential walls. It is not clear from existing language in the Code (33.130.230.B.3) whether the walls of residences are exempted from the ground floor window standard only if they are set back five feet and landscaped to the L2 standard. As indicated in commentary included in the 1991 Zoning Code rewrite project, the current ground floor window requirements represent relaxed standards over those required in the pre-1991 Zoning Code. The pre-1991 Zoning Code regulations specifically stated that the ground floor window requirement "does not apply to the sides of buildings having residential units located adjacent to the exterior ground floor wall," with no requirement for a landscaped setback. Consistent with this original standard, the adopted amendment clarifies that the landscaped setback area is not required in order for the walls of residential units to be exempt from the ground floor window standard.

### **33.130.230 Ground Floor Windows**

#### **B. Required amounts of window area.**

1. In CN1 & 2, CO1 & 2, CM, CS, and CG zones, exterior walls 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 street that has the highest transit street classification according to the Arterial Streets Classifications and Policies. 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 the other streets, the requirement is 1/2 of the general standard.
2. In CX zones, all exterior walls on the ground level which face a street lot line, sidewalk, plaza, or other public open space or right-of-way must meet the general window standard in Paragraph 3. below.
3. General standard. The windows must be at least 50 percent of the length and 25 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 9 feet above the finished grade. The requirement does not apply to the walls of residential units ~~or, and does not apply to the walls of~~ parking structures when set back at least 5 feet and landscaped to at least the L2 standard.

## **Commentary**

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### **33.130.250 General Requirements for Residential and Mixed-use Developments**

#### **E. Garages.**

##### **3. Length of street-facing garage wall.**

b. Exception. For buildings less than 24 feet in width, existing regulations allow a garage wall to be more than 50 percent of the length of the street-facing building wall if there is living area is above the garage. The living area may be up to four feet behind the face of the garage wall. This is illustrated in Figure 130-6 (Length of Street-Facing Garage Wall Exception). However, Figure 130-6 is incorrect as drawn, in that the living area above the garage is the longest street-facing façade, and placed four feet back from the face of the garage, which is not allowed. [Per 33.130.250.E.4.a, the longest street-facing façade of the dwelling must be set back no further from the street lot line than the garage wall.] The adopted amendment corrects Figure 130-6 so that the street-facing length of the wall above the garage is not the longest wall of the dwelling.

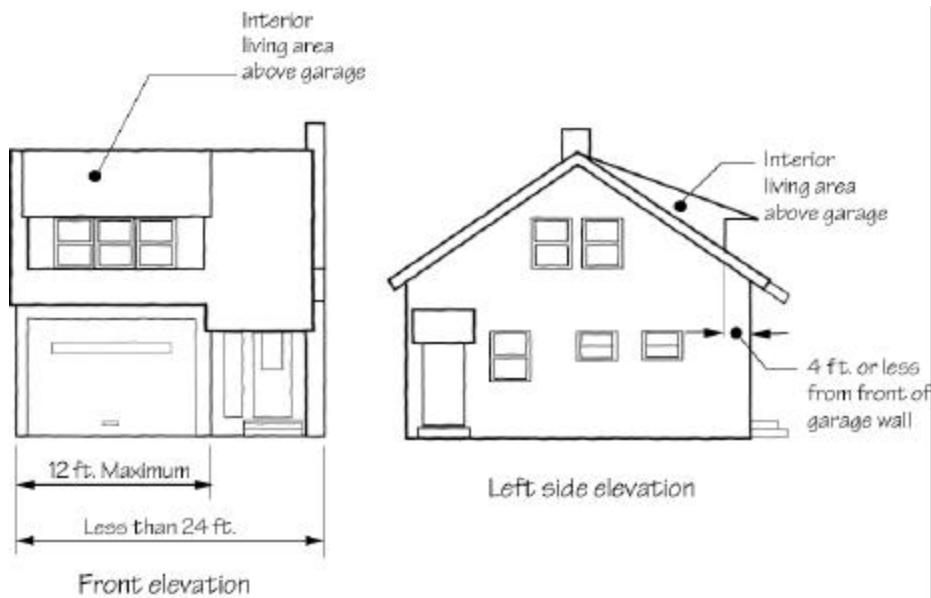
## Adopted Code Amendment

### **33.130.250 General Requirements for Residential and Mixed-use Developments**

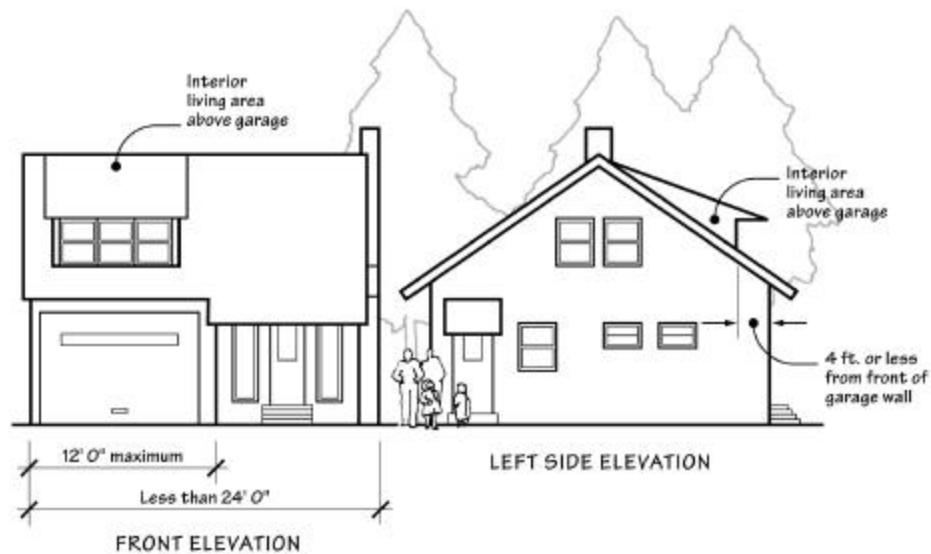
#### **E. Garages.**

3. Length of street-facing garage wall.

**Figure 130-6 [existing]**  
**Length of Street-Facing Garage Wall Exception**



**Figure 130-6 [adopted]**  
**Length of Street-Facing Garage Wall Exception**



## **Commentary**

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### **33.130.250 General Requirements for Residential and Mixed-Use Developments**

#### **E. Garages**

##### **4. Street lot line setbacks.**

- a. Generally. The amendment addresses how to apply the garage wall placement standard on through lots and corner lots that are already developed with a dwelling unit. On corner lots, frequently it is not possible to place a garage anywhere on the site and meet this standard because of the location and size of the existing dwelling. Likewise, on through lots, the garage typically must be placed between the existing dwelling unit and one of the two streets. There are no alternative development standards available that would address such difficulties on corner or through lots.

Under the adopted amendment, on corner and through lots that are already developed with a dwelling unit, the standard must be met on only one of the street frontages. This amendment is still consistent with the intent of the base zone design guidelines, which is generally to ensure that the residence is more prominent than the garage, and to prevent garages from obscuring the main entrance. With the adopted amendment, the residence's main entrance must still be located within eight feet of the longest street-facing wall of the dwelling unit. Furthermore, the standards dealing with the length of garage wall and the placement of the garage wall in relation to the longest wall of the dwelling unit continue to apply to at least one street-facing facade.

## **Adopted Code Amendment**

### **33.130.250 General Requirements for Residential and Mixed-Use Developments**

#### **E. Garages.**

##### 4. Street lot line setbacks.

- a. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 130-7. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, this standard must be met only on the street-facing façade on which the main entrance is located.

## **Commentary**

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### **33.130.290 Parking and Loading**

Table 130-3 indicates that parking is required in the CO1 zone, yet Table 266-1 of Section 33.266.110.B (Minimum number of parking spaces required) indicates that no parking spaces are required in this zone. Commentary included in the *Citywide Parking Ratios Project Report* (2000) states, "Eliminating minimum parking requirements in CO1 allows the market to more closely determine the amount of parking built." The adopted Code amendment corrects Table 130-3 to state that no parking is required in the CO1 zone.

## **Adopted Code Amendment**

### **33.130.290 Parking and Loading**

**Table 130-3  
Development Standards [1]**

Standard	CN1	CN2	CO1	CO2	CM	CS	CG	CX
Maximum FAR [2] (see 33.130.205)								
Maximum Height (see 33.130.210)								
Min. Building Stbks (see 33.130.215) Street Lot Line[8]								
Lot Line Abut- ting an OS, RX, C, E, or I Zone Lot								
Lot Line Abut- ting other R Zoned Lot [9]					[NO CHANGE]			
Max. Building Stbks (see 33.130.215) Street Lot Line[8]								
Building Coverage (see 33.130.220)								
Min. Landscaped Area (see 33.130.225)								
Landscaping Abutting an R Zoned Lot [6] (see 33.130.215.B.)								
Ground Floor Window Stds. Apply (see 33.130.230)								
Pedestrian Requirements (see 33.130.240)								
Required parking [7]	None Required	Yes	Yes None Required	Yes	None Required	None Required	Yes	None Required

## **Commentary**

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### **CHAPTER 33.140 EMPLOYMENT AND INDUSTRIAL ZONES**

#### **33.140.215 Setbacks**

##### **B. The setback standards.**

3. Exceptions to the building setbacks.
  - a. Setback averaging. Existing regulations allow, as an exception, the minimum front building setback to be reduced to the average of the respective building setbacks on the abutting lots. The adopted amendment clarifies that this exception does not apply to sites along a transit street or a street in a pedestrian district .

As indicated in the commentary for regulations that implement the Transportation Planning Rule, "the minimum distance from the curb to the front building line will define convenient pedestrian access. This will help assure safe, nonthreatening walkways near travel lanes." The adopted amendment ensures that this intent is retained.

#### **33.140.230 Ground Floor Windows in the EX Zone**

**B. Required amounts of window area.** The adopted amendment seeks to clarify the ground floor window requirement when applied to residential walls. It is not clear from existing language in the Code (33.140.230.B) whether the walls of residential units are exempted from the ground floor window standard only if they are set back five feet and landscaped to the L2 standard. As indicated in the commentary included in the 1991 Zoning Code rewrite project, the current ground floor window requirements represent relaxed standards over those included in the pre-1991 Zoning Code. The pre-1991 Zoning Code regulations specifically stated that the ground floor window requirement "does not apply to the sides of buildings having residential units located adjacent to the exterior ground floor wall," with no requirement for a landscaped setback. Consistent with this original standard, the adopted amendment clarifies that the landscaped setback area is not required in order for the walls of residential units to be exempt from the ground floor window standard.

### **CHAPTER 33.140 EMPLOYMENT AND INDUSTRIAL ZONES**

#### **33.140.215 Setbacks**

**B. The setback standards.** The required building setbacks are stated in Table 140-4. However, the minimum and maximum setbacks for sites in the EG1 and EX zones that abut a transit street or a street in the pedestrian district are stated in Table 140-6. The setback standards apply to all buildings and structures on the site except as specified in this section. The building setback standards of plan districts supersede the setback standards of this chapter. Setbacks for exterior development are stated in 33.140.245 below, and for parking areas in Chapter 33.266.

3. Exceptions to the building setbacks.

- a. Setback averaging. Outside of pedestrian districts and along non-transit streets, ~~the~~ the street setback from a street lot line for buildings may be reduced to the average of the existing respective distances of building setbacks on abutting lots. See Chapter 33.930, Measurements, for more information.

#### **33.140.230 Ground Floor Windows in the EX Zone**

**B. Required amounts of window area.** In the EX zone, all exterior walls on the ground level which are 20 feet or closer to a street lot line, sidewalk, plaza, or other public open space or right-of-way must have windows. The windows must be at least 50 percent of the length and 25 percent of the ground level wall area. Ground level wall areas include all exterior wall areas up to 9 feet above the finished grade. The requirement does not apply to the walls of residential units, and does not apply to the walls of parking structures when set back at least 5 feet and landscaped to at least the L2 standard.

## **Commentary**

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### **33.140.250 Trucks and Equipment**

**B. Heavy trucks.** In the Employment and Industrial zones, existing regulations allow the parking of heavy trucks and similar equipment in areas that meet the development standards for exterior storage. These development standards are identified in Table 140-7. No development standards are identified in this table for exterior storage in the EX zone, as exterior storage is not allowed in this zone. As such, it is not clear whether the parking of heavy trucks and similar equipment is permitted in the EX zone.

By stating that the parking of heavy trucks and similar equipment must meet the development standards for exterior storage, existing Code language is considering this activity to be exterior storage. The amendment clarifies that because the parking of heavy trucks and similar equipment is considered exterior storage, and because exterior storage is not allowed in the EX zone, the parking of heavy trucks and similar equipment in exterior areas is not allowed in the EX zone.

## **Adopted Code Amendment**

### **33.140.250 Trucks and Equipment**

- B. **Heavy trucks.** The parking of heavy trucks and similar equipment is allowed in ~~areas that meet zones that allow exterior storage.~~ ~~t~~The development standards for exterior storage must be met in the area where the heavy trucks and similar equipment are parked.

## **Commentary**

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### **33.140.265 Residential Development**

#### **F. Garages.**

##### **3. Length of street-facing garage wall.**

b. Exception. For buildings less than 24 feet in width, existing regulations allow a garage wall to be more than 50 percent of the length of the street-facing building wall if there is living area is above the garage. The living area may be up to four feet behind the face of the garage wall. This is illustrated in Figure 140-6 (Length of Street-Facing Garage Wall Exception). However, Figure 140-6 is incorrect as drawn in that the living area above the garage is the longest street-facing façade, yet it is placed four feet back from the face of the garage, which is not allowed. [Per 33.140.265.F.4.a (Street lot line setbacks), the longest street-facing façade of the dwelling must be set back no further from the street lot line than the garage wall.] The adopted amendment corrects Figure 140-6 so that the street-facing length of the wall above the garage is not the longest wall of the dwelling.

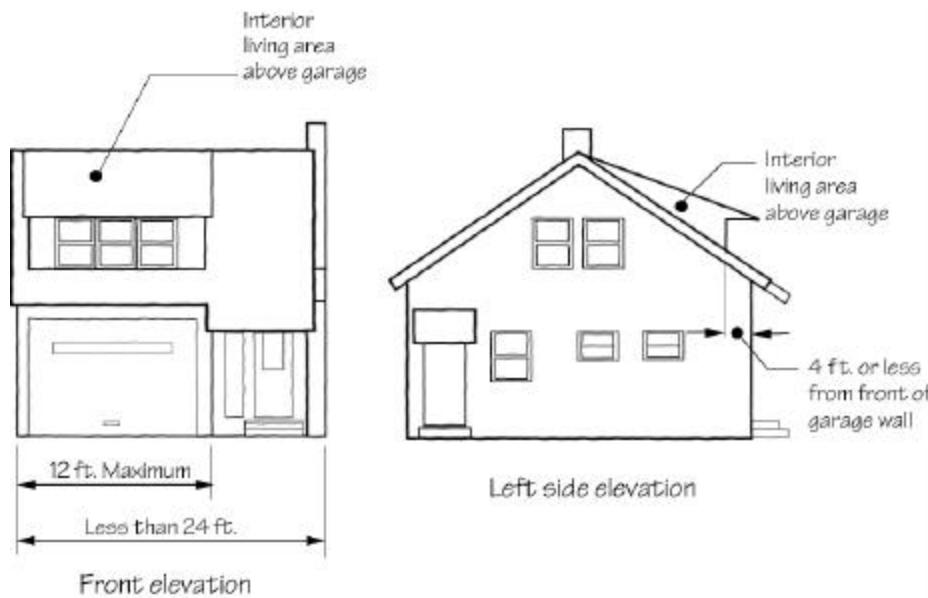
**33.140.265 Residential Developments**

**F. Garages.**

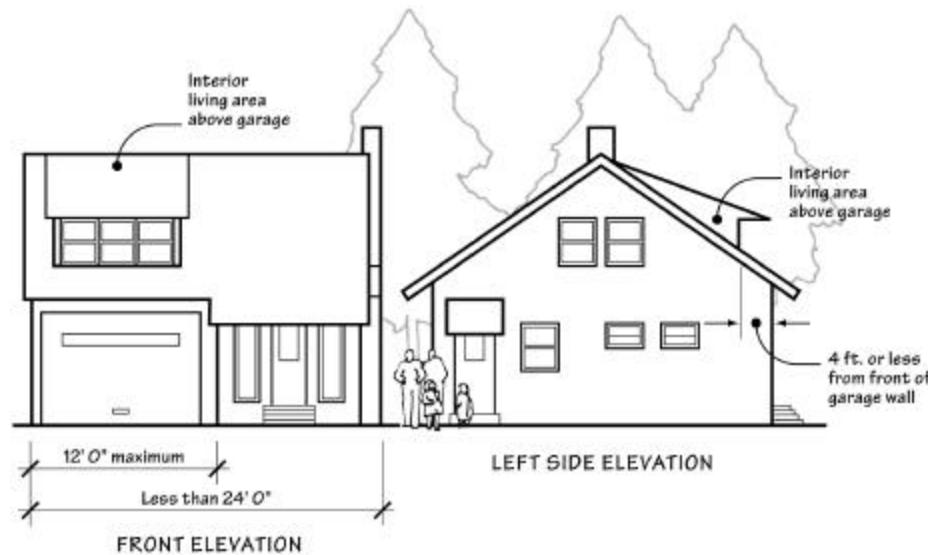
3. Length of street-facing garage wall.

b. Exception

**Figure 140-6 [existing]**  
**Length of Street-Facing Garage Wall Exception**



**Figure 140-6 [adopted]**  
**Length of Street-Facing Garage Wall Exception**



## **Commentary**

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## **Adopted Code Amendment**

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### **33.140.265 Residential Development**

#### **F. Garages**

##### **4. Street lot line setbacks**

- a. Generally. The amendment addresses how to apply the garage wall placement standard on through lots and corner lots that are already developed with a dwelling unit. On corner lots, frequently it is not possible to place a garage anywhere on the site and meet this standard because of the location and size of the existing dwelling on the site. Likewise, on through lots, the garage typically must be placed between the existing dwelling unit and one of the two streets. There are no alternative development standards available that would address such difficulties on corner or through lots.

Under the adopted amendment, on corner and through lots that are already developed with a dwelling unit, the standard must be met on only one of the street frontages. This amendment is still consistent with the intent of the base zone design guidelines, which is generally to ensure that the residence is more prominent than the garage, and to prevent garages from obscuring the main entrance. With the adopted amendment, the residence's main entrance must still be located within eight feet of the longest street-facing wall of the dwelling unit. Furthermore, the standards dealing with the length of garage wall and the placement of the garage wall in relation to the longest wall of the dwelling unit continue to apply to at least one street-facing facade.

## **Commentary**

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### **33.140.265 Residential Development**

When allowed, residential development is subject to the following development standards:

#### **F. Garages.**

4. Street lot line setbacks.
  - a. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 140-7. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, this standard must be met only on the street-facing façade on which the main entrance is located.

# **Adopted Code Amendment**

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## **CHAPTER 33.205 ACCESSORY DWELLING UNITS**

### **33.205.010 Purpose**

### **33.205.030 Design Standards**

#### **C. Requirements for all accessory dwelling units.**

##### **5. Parking.**

###### **a. Purpose.**

The purpose statements in Section 33.205.010 and 33.205.030.C.5.a both reference maintaining the look and character of “single-dwelling neighborhoods.” While accessory dwellings may be added only to a house, attached house or manufactured home, all of which are single-dwelling structures, the accessory dwelling provisions may be used in *all* residential zones, both single-dwelling and multi-dwelling. The adopted amendment seeks to clarify the purpose of the accessory dwelling units regulations by replacing the reference to “single-dwelling neighborhoods” with the term “single-dwelling development.”

This is consistent with the existing intent of the regulations in that accessory dwellings should respect the character of the single-dwelling *development* on the site, while also acknowledging that the accessory dwelling unit provisions apply in *all* the residential zones.

### CHAPTER 33.205 ACCESSORY DWELLING UNITS

#### 33.205.010 Purpose

Accessory dwelling units are allowed in certain situations to:

- Create new housing units while respecting the look and scale of single-dwelling neighborhoods development;
- Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- Allow more efficient use of existing housing stock and infrastructure;
- Provide a mix of housing that responds to changing family needs and smaller households;
- Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- Provide a broader range of accessible and more affordable housing.

#### 33.205.030 Design Standards

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

5. Parking.
  - a. Purpose. The parking requirements balance the need to provide adequate parking while maintaining the character of single-dwelling neighborhoods development and reducing the amount of impervious surface on a site. More parking is required when a vacant lot is being developed because, generally, the site can more easily be designed to accommodate two parking spaces while minimizing impervious surface. In situations where an accessory dwelling unit is being added to a site with an existing dwelling unit, it is appropriate to not require additional impervious surface if adequate on-street parking is available.

## **Adopted Code Amendment**

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### **CHAPTER 33.218 COMMUNITY DESIGN STANDARDS**

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

##### **H. Exterior finish materials.**

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

##### **J. Exterior finish materials.**

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

##### **A. Exterior finish materials.**

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

##### **B. Exterior finish materials.**

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

##### **I. Exterior finish materials.**

#### **33.218.150 Standards for I Zones**

##### **G. Exterior finish materials.**

The adopted amendment clarifies that the exterior finish standards apply to all facades of the building. While existing Community Design Standards identify when specific regulations apply only to the street-facing façade, such as foundation landscaping and dividing large building elevations into smaller planes, building plans are frequently submitted where only the street-facing façade conforms to the exterior finish material standard.

## **Commentary**

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### **CHAPTER 33.218 COMMUNITY DESIGN STANDARDS**

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

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

1-3. [No changes]

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

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

1-3. [No changes]

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

**A. Exterior finish materials.** The standards of this subsection must be met on all building facades. Plain concrete block, plain concrete, corrugated metal, plywood and sheet pressboard may not be used as exterior finish materials. Sheet pressboard is pressboard that is more than 6 inches wide. Foundation material may be plain concrete or plain concrete block when the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.

## **Adopted Code Amendment**

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### **CHAPTER 33.218 COMMUNITY DESIGN STANDARDS (continued)**

See commentary on page 62.

## **Commentary**

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

**B. Exterior finish materials.** The standards of this subsection must be met on all building facades. Plain concrete block, plain concrete, corrugated metal, plywood and sheet pressboard are not allowed as exterior finish material. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than 6 inches wide.

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

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

1-2. [No changes]

### **33.218.150 Standards for I Zones**

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

1-2. [No changes]

## **Adopted Code Amendment**

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

**G. Additional standards for large accessory structures.**

1. The adopted amendment clarifies existing language regarding what constitutes a large accessory structure.

## **Commentary**

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

#### **G. Additional standards for large accessory structures.**

1. ~~A large accessory structure must meet at least one of the following Where these standards apply. The standards of this subsection apply to detached, accessory structures that:~~
  - a. ~~It is~~ Are more than 10 feet in height and at least one foot wide;
  - b. ~~It has~~ Have a street-facing elevation more than 6 feet wide; or
  - c. ~~It has~~ Have a street-facing elevation with more than 100 square feet in total surface area.

# **Adopted Code Amendment**

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## **CHAPTER 33.248 LANDSCAPING AND SCREENING**

### **33.248.030 Plant Materials**

C. **Trees.** To be consistent with the size standards for trees identified elsewhere in the Zoning Code, the terms "deciduous" and "evergreen" are replaced with the terms "broadleaf" and "conifer," respectively. The amendment also clarifies that the minimum trunk diameter size applies only to broadleaf trees. Conifers are subject only to the minimum six foot height requirement.

### **33.248.040 Installation and Maintenance**

A. **Installation.** Existing regulations do not specify whether required landscaping must in-ground, or whether this landscaping may be placed in containers. Because there is no such distinction, applicants may place required landscaping in urns or pots to meet minimum required landscaped area, parking lot interior and perimeter landscaping, screening requirements between uses, and perimeter landscape requirements for exterior storage areas.

Some of the intents of the landscape standards, as stated in Section 33.248.010 (Purpose), are as follows:

- Preserve and enhance Portland's urban forest;
- Promote the reestablishment of vegetation in urban areas for aesthetic, health, and urban wildlife reasons;
- Promote the retention and use of existing vegetation;
- Restore natural communities through re-establishment of native plants; and
- Mitigate for loss of natural resource values.

Based on these intents, it is questionable whether allowing the required landscaping to be in pots or urns equally meets the intended purpose. Clarifying that the required landscaping must be in-ground better achieves the legislative intent. Additionally, requiring the landscaping to be in-ground better ensures its survivability, and makes it more difficult to remove.

However, the adopted amendment will allow some required landscaping to be placed in planters, in limited situations. Presently, the Bureau of Environmental Service's *Stormwater Management Manual* allows the use of raised landscaped planters that meet specified design requirements. The adopted amendment will allow landscaping in such planters if used to meet minimum stormwater management requirements.

## **Commentary**

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### **CHAPTER 33.248 LANDSCAPING AND SCREENING**

#### **33.248.030 Plant Materials**

C. **Trees.** Trees may be deciduous broadleaf or evergreen conifers. Deciduous Broadleaf trees at the time of planting must be fully branched. Broadleaf trees planted in residential zones must be a minimum of 1.5 inches in diameter. Broadleaf trees planted in all other zones must be a minimum of 3 inches in diameter. Evergreen Conifer trees at the time of planting must be fully branched and a minimum of 6 feet in height. These minimum requirements do not apply to trees used for mitigation, remediation, or restoration.

#### **33.248.040 Installation and Maintenance**

A. **Installation.** All required landscaping must be in-ground, except when in raised planters that are used to meet minimum Bureau of Environmental Services stormwater management requirements. Plant materials must be installed to current nursery industry standards. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.

## **Adopted Code Amendment**

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### **CHAPTER 33.258 NONCONFORMING SITUATIONS**

#### **33.258.050 Nonconforming Uses**

C. **Expansions.** The purpose of this amendment is to clarify the expansion of nonconforming uses within an existing building. There are many nonconforming uses in the City that occupy only a single tenant space within an existing, multi-tenant building. The existing regulations do not make it clear that these nonconforming uses may not expand to floor area within an existing building without an approved Nonconforming Situation Review.

The amendment also addresses the issue of limiting the expansion of nonconforming uses within the property lines existing as of 1991. This date was originally selected due, in part, to the number of uses that became nonconforming following the adoption of the 1991 Zoning Code. The purpose for establishing the date was generally to better define site as it relates to nonconforming uses, and to prevent an applicant from moving a lot line in order to expand the nonconforming use beyond the boundaries of the original site.

Ten years later, the 1991 date has little relevance, and is not practical to implement when a property line may have changed after 1991 when the use on the site was still conforming. However, it is still necessary to have limits on the site expansion so as to ensure that a site with a nonconforming use is not expanded in response to knowledge that proposed zone changes may soon make the use nonconforming.

The amendment seeks to limit expansions of nonconforming uses within property lines that existed two years prior to the use becoming nonconforming. The two year standard is one which presently is used throughout the existing nonconforming situation regulations.

### CHAPTER 33.258 NONCONFORMING SITUATIONS

#### 33.258.050 Nonconforming Uses

C. **Expansions.** Nonconforming uses may expand under certain circumstances. Exterior improvements may expand by increasing the amount of land used. Changing the exterior use, for example from parking to storage, is an expansion of exterior storage. Adding parking spaces to an existing lot is also an expansion. However, increasing the amount of goods stored on an existing exterior storage area is a change in operations, not an expansion. Examples of expansion of floor area include expanding a nonconforming use into a newly constructed building or addition on the site, and expanding the amount of floor area occupied by a nonconforming use within an existing building.

Expansion of nonconforming uses and development is generally limited to the area bounded by the ~~1991~~ property lines of the use as they existed two years before the use became nonconforming. ~~The 1991 property lines of the use are the lot and property lines as they existed on January 1, 1991. They property lines~~ are the lines nearest to the land area occupied by the nonconforming use and development and its accessory uses and development, moving in an outward direction. Property lines bound individual lots, parcels, and tax lots; a site or ownership may have property lines within it. See Figures 258-1 and 258-2. The applicant must provide evidence to show the location of property lines on January 1, 1991 as they existed two years before the use became nonconforming.

1. OS and R zones. The standards stated below apply to all nonconforming uses in OS and R zones.
  - a. Expansions of floor area or exterior improvements, when proposed within the ~~1991~~ property lines as they existed two years before the use became nonconforming, may be approved through a nonconforming situation review. The development standards of the base zone, overlay zone, and plan district must be met.
  - b. Expansion of floor area or exterior improvements beyond the ~~1991~~ property lines as they existed two years before the use became nonconforming, is prohibited.

## **Adopted Code Amendment**

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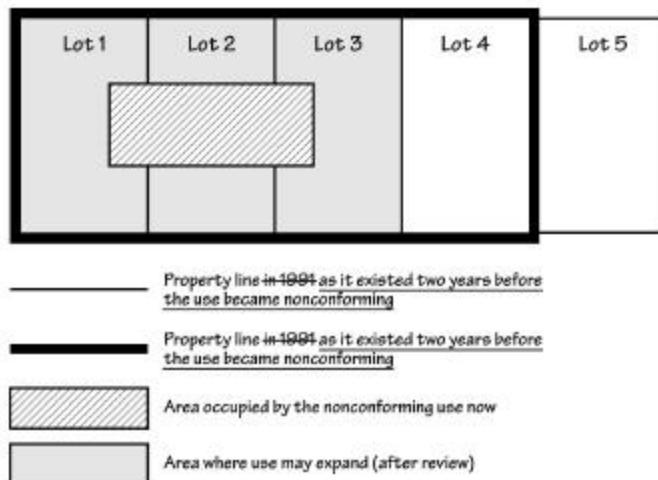
### **33.258.050 Nonconforming Uses (continued)**

## Commentary

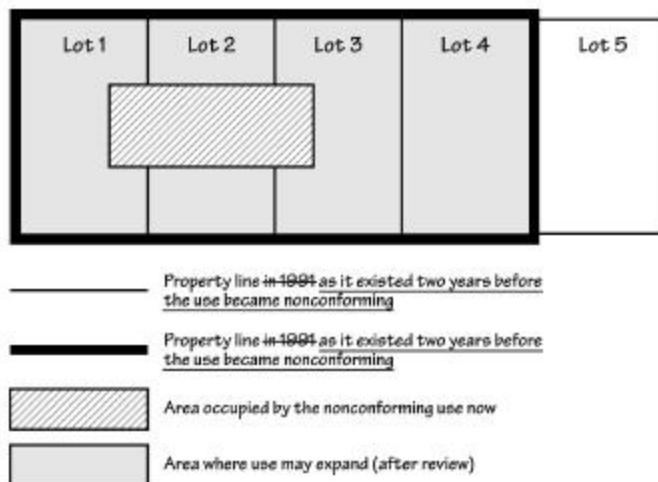
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### 33.258.050 Nonconforming Uses (continued)

**Figure 258-1**  
**Area of Possible Expansion - OS and R Zones**



**Figure 258-2**  
**Area of Possible Expansion - C, E, and I Zones**



2. C, E, and I zones. The standards stated below apply to all nonconforming uses in C, E, and I zones.

## **Adopted Code Amendment**

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- a. Expansions of floor area or exterior improvements, when proposed within the 1991 property lines as they existed two years before the use

## **Commentary**

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### **33.258.050 Nonconforming Uses (continued)**

### **33.258.080 Nonconforming Situation Review**

This amendment reflects the changed reference to the property lines as they existed in 1991.

### **33.258.050 Nonconforming Uses (continued)**

became nonconforming, may be approved through a nonconforming situation review. The development standards of the base zone, overlay zone, and plan district must be met for the expansion.

- b. Expansion of floor area or exterior improvements, when proposed beyond the 1991 property lines as they existed two years before the use became nonconforming, is prohibited, except in the following situation:
  - (1) The property proposed for expansion is abutting at least one of the 1991 property lines of the nonconforming use as they existed two years before the use became nonconforming; and
  - (2) The property proposed for expansion was in the same ownership as the property holding the nonconforming use when it became nonconforming; and
  - (3) The zoning regulations on the property proposed for expansion would have allowed the use at the time the existing situation became nonconforming; and
  - (4) The expansion is approved through a nonconforming situation review.

### **33.258.080 Nonconforming Situation Review**

Nonconforming Situation Review is required for the following changes to nonconforming situations:

- A change to another use in the same use category where the off-site impact standards are not met.
- A change to a use in a different use category which is prohibited by the base zone.
- In R zones, a change from a nonconforming nonresidential use to an allowed residential use that exceeds the allowed density.
- Expansions of floor area or exterior improvements of a nonconforming use, when proposed within the 1991 property lines as they existed two years before the use became nonconforming.
- In C, E, and I zones, expansions of floor area or exterior improvements of a nonconforming use beyond the 1991 property lines as they existed two years before the use became nonconforming. See 33.258.050.C.2.
- As required by other provisions of this Title.

## **Commentary**

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## **Adopted Code Amendment**

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### **33.258.060 Nonconforming Residential Densities**

#### **A. Changes to dwellings.**

1. Generally. Existing Code language dealing with nonconforming residential densities only addresses *maximum* density requirements. It is not clear what changes may be made to residential development that does not meet *minimum* density standards. If, for example, the minimum required residential density on a site is five units, but only two units exist, can the applicant apply for a building permit to add only one additional unit, or are changes allowed only if three additional units are proposed? The adopted Code amendment seeks to clarify that changes that bring the site closer into conformance with the minimum residential density standard are permitted.

### **33.258.037 Documenting Conforming Development**

A new section is added, 33.258.037, that allows applicants to request that sites in compliance with the eight identified development standards be certified as such by OPDR. Once certified, Planning and Zoning staff will not review the site for compliance with nonconforming upgrades as part of each building permit, unless development standards included on the list of nonconforming upgrades is amended at a future date. This streamlines the building permit process for both the applicant and Planning and Zoning staff.

### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance.** For building permit applications involving alterations with a value of more than \$25,000, the applicant must demonstrate that the entire site is in conformance with eight development standards. Development not complying with the eight standards must be brought into conformance, or closer into conformance, as part of the building permit application. Required improvements that cost more than 10 percent of the value of the proposed alteration do not have to be made. Three amendments are adopted that affect the required nonconforming upgrade regulations.

- Value of Alterations: This amendment clarifies that the Office of Planning and Development Review, as part of the permit application process, determines the value of the proposed alterations. This represents no change from current practice.

## **Commentary**

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### **33.258.060 Nonconforming Residential Densities**

#### **A. Changes to dwellings.**

1. Generally. Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to site.
  - a. Sites that exceed maximum residential density standard. On sites that exceed the maximum residential density standards, ~~T~~here may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards, except as allowed in Paragraph A.2, below.
  - b. Sites where the minimum residential density standard is not met. On sites where the minimum residential density standard is not met, changes may be made that bring the site closer into conformance with the minimum residential density standard. There may not be a net decrease in the number of dwelling units, and the building may not move further out of compliance with the base zone development standards.

### **33.258.037 Documenting Conforming Development**

Sites with nonconforming development must come into compliance with certain development standards in some situations, as required by Paragraph 33.258.070.D.2.  
To streamline the permitting process, applicants may request that sites that are in compliance be certified by OPDR as in compliance with the development standards listed in Paragraph 33.258.070.D.2.

### **33.258.070 Nonconforming Development**

#### **D. Development which 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

## **Adopted Code Amendment**

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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 which are over the threshold of Subparagraph D.2.a, below, the site must be brought into compliance with the development standards listed in Subparagraph D.2.b, up to the limits stated in Subparagraph e. The value of the alterations is based on the entire project, not individual building permits.

## **Commentary**

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### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

- Where Upgrades are Required: Current regulations require that the entire site be brought closer into conformance with the eight identified development standards. Because "site" is generally defined in Chapter 33.910 as an ownership, requiring an entire site to be brought into conformance with the development standards is not always practical. The most common example of this occurs on sites, typically large in size, that are in one ownership but which contain several ground leases. The uses on these separate ground leases are typically unrelated to one another, and development required for each use, such as parking, screening and landscaping, is contained within the boundaries of the distinct ground lease. However, because these unrelated ground leases are under common ownership, a building permit application for development on one of the ground leases requires the applicant to bring the entire site (and other ground leases) closer into conformance with the eight development standards.

The amendment allows required nonconforming upgrades to be limited to the area of the ground lease where the alterations are proposed. The applicant will be required to submit at time of building permit application a written, legal description of the boundaries of the ground lease, and a graphic representation of the boundaries on the site plan. The area of the ground lease will be required to include all development (such as parking and loading areas, landscaping, etc.) that is required for, or is used exclusively by, uses within the area of the ground lease.

## **Adopted Code Amendment**

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### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

- a. Thresholds triggering compliance. The standards of Subparagraph D.2.b, below, must be met when the value of the proposed alterations on the site is set out in either 1 or 2, below. Mandatory improvements for fire, life safety and accessibility do not count toward the thresholds. These thresholds are not cumulative.
  - (1) 35 percent or greater than the assessed value of all improvements on the site. On sites with multiple tenants in one or more buildings, the threshold applies to any alteration that is 35 percent or greater of the assessed value of all improvements on the site; or
  - (2) The value of the proposed alterations, as determined by OPDR, is more than \$25,000.
- b. Standards which must be met. Development not complying with the development standards listed below must be brought into compliance or receive an adjustment.
  - (1)-(8) [No change]
- c. ~~Caps on the cost of required improvements. The standards listed in Subparagraph b. must be met for the entire site. However, required improvements costing over 10 percent of the value of the proposed alterations do not have to be made. It is the responsibility of the applicant to document that the value of the required improvements will be greater than 10 percent of the value of the proposed alterations. When all required improvements are not being made, the priority for which improvements to make is the same as the order of improvements listed in Subparagraph b. above.~~
- c. Area of required improvements.
  - (1) Generally. Except as provided in D.2.c(2), below, required improvements must be made for the entire site.
  - (2) Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered

## **Commentary**

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as a separate site for purposes of required improvements. The applicant must meet the following:

- The signed ground lease - or excerpts from the lease document - must be submitted to OPDR. The portions of the lease must include the following:

## **Adopted Code Amendment**

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### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

- Option for Addressing Nonconforming Upgrade Requirements. The amendment provides applicants with a second means of addressing the required nonconforming upgrades. Applicants will still be allowed to use the existing nonconforming upgrade regulations, which require as part of each permit that 10 percent of the project cost be spent towards bringing the site closer into conformance with the development standards identified in Section 33.258.070.D.2 (Option 1). Alternatively, applicants may use the proposed Option 2, which requires that the site be brought *fully* into conformance with the required nonconforming upgrades over a period of time ranging from two to five years. The period in which the upgrades must be completed is dependent on the size of the site.

Providing this new option achieves a number of goals:

1. It expedites the permit process for the applicant by not subjecting each building permit to a compliance review, and by not requiring upgrades as part of each permit. It also allows applicants to plan and budget for the required nonconforming upgrades over a limited timeframe.
2. It results in a more efficient use of Planning and Zoning staff by requiring only two compliance checks, one when the first building permit is submitted, and the second at the end of the compliance period. Currently, a full compliance review of the entire site is completed as part of each building permit that is submitted.
3. It will typically achieve full compliance on the site within a shorter time period than is the case with existing regulations. Existing regulations cap the amount of required nonconforming upgrades that the applicant must provide as part of each building permit at 10 percent. This incremental approach does not typically achieve full compliance within a five year period, particularly for larger sites, and particularly when the value of each permit is low.

## **Commentary**

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### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

- The term of the lease. There must be at least one year remaining on the ground lease; and
  - A legal description of the boundaries of the lease;
  - The boundaries of the ground lease must be shown on the site plan submitted with the building permit application;
  - The area of the lease must include all existing and any proposed development that is required for, or is used exclusively by, uses within the area of the lease; and
  - Screening is not required along the boundaries of ground leases that are interior to the site.
- d. Timing and cost of required improvements. The applicant may choose one of the following options for making the required improvements:
- (1) Option 1. Under Option 1, required improvements must be made as part of the alteration that triggers the required improvements. However, required improvements costing over 10 percent of the value of the proposed alterations do not have to be made. It is the responsibility of the applicant to document the value of the required improvements. When all required improvements are not being made, the priority for which improvements to make is the same as the order of improvements listed in Subparagraph D.2.b, above.
  - (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 this option is chosen, the following must be met:
    - Before a building permit is issued, the applicant must submit the following to OPDR:
      - A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development

## **Adopted Code Amendment**

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that does not meet the standards listed in Subparagraph D.2.b.

— 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

## **Commentary**

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### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

## **Adopted Code Amendment**

### **33.258.070 Nonconforming Development**

#### **D. Development which must be brought into conformance. (continued)**

require 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 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 \$25,000. The compliance periods are based on the size of the site. The compliance periods are identified in Table 258-1.

<b><u>Table 258-1</u></b> <b><u>Compliance Periods for Option 2</u></b>	
<b><u>Square footage of site</u></b>	<b><u>Compliance period</u></b>
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

- By the end of the compliance period, the applicant or owner must request that the site be certified by OPDR as in compliance as specified Section 33.258.037, Documenting Conforming Development. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.
- 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 OPDR, 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.

## **Commentary**

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## **Adopted Code Amendment**

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### **33.258.070 Nonconforming Development**

#### **E. Loss of nonconforming development status.**

2. Destruction. It is not clear from existing language whether all nonconforming garages, or only detached nonconforming garages, are subject to the regulations of the referenced Sections 33.110.250 and 33.120.280. The purpose for referencing these two sections is that they contain language that allows detached garages to be demolished and rebuilt, and allows small expansions to nonconforming detached garages beyond the original footprint. As such, the cited reference in Section 33.258.070.E.2 should apply solely to detached garages. Also, prior to 2000, the two cited sections contained regulations that applied only to detached accessory structures.

## **Commentary**

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### **33.258.070 Nonconforming Development**

#### **E. Loss of nonconforming development status.**

2. Destruction. When a structure which has nonconforming elements is removed or intentionally destroyed, replacement structures and other nonconforming development must comply with the development standards of the base zone. When a structure which has nonconforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the structure may be rebuilt using the same structure footprint. An adjustment is required to allow the replacement structure to be more out of compliance with the development standards than the previous structure. However, detached garages in residential zones are subject to the provisions for ~~detached~~ accessory structures of 33.110.250 and 33.120.280 (Single-Dwelling and Multi-Dwelling chapters, respectively).

# **Adopted Code Amendment**

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## **CHAPTER 33.266 PARKING AND LOADING**

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

#### **C. On-site locations of vehicle areas.**

1. Location of vehicle areas. In a majority of the multi-dwelling, commercial and employment zones, existing regulations do not allow, and in some zones prohibit, the location of vehicle areas when placed between a building and the street. Vehicle areas are defined in Section 33.910 as, "All the area on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas." Because the vehicle area definition includes driveways, and given the limitations on the location of vehicle areas, it is not possible to provide a driveway between the street and a garage or a parking structure unless approved through an Adjustment Review. In the CM and CS zone, one cannot even apply for an Adjustment to place a driveway between a garage and the street. (Driveways are defined in Section 33.910 as, "The area that provides vehicular access to a site. A driveway is the same width as the curb cut excluding any aprons or extensions of the curb cut...Driveway does not include parking, maneuvering, or circulation areas in parking areas.")

The adopted amendment excludes from the limitations on vehicle areas driveways that provide access to parking within a building. However, it is also necessary to avoid allowing excess paved driveway areas from being placed in front of a building, such as a circular driveway. This would be inconsistent with the intent of the regulation. To prevent this situation, the amendment requires that the driveway provide a straight line connection between the internal parking area and the street.

This amendment is consistent with the intent of the regulation by minimizing the area between a street and the building that is used for vehicles, while also recognizing the practicality of needed vehicle access to parking within a building.

## Commentary

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### CHAPTER 33.266 PARKING AND LOADING

#### 33.266.130 Development Standards for All Other Uses

##### C. On-site locations of vehicle areas.

###### 1. Location of vehicle areas.

- a. Generally. The allowed on-site location of all vehicle areas is stated in Table 266-3.
- b. Exception. Driveways that provide a straight-line connection between the street and a parking area inside a building are not subject to the regulations identified in Table 266-3.

Table 266-3 Locations of Vehicle Areas [1]	
Zone	Allowed Locations
OS, RF - R2, EG2, I	No restrictions.
R1, RH, IR, CN, CO, CG, EG1	Not allowed between the portion of the building that complies with the maximum transit street setback and the transit street. [4,2,3]
CM, CS	Prohibited between a building and any street. [34]
RX, CX, EX	Not allowed between a building and any street. [42]

Notes:

[1] Driveways are allowed in limited situations; see 33.266.130.C.1.b.

[4,2] Developments on through lots or sites with three street frontages may have vehicle areas between the building and one local service street. Development on full blocks may have vehicle areas between the building and two local service streets. However, vehicle areas are not allowed between the building and an arterial or transit street.

[2,3] This restriction also applies to streets in Pedestrian Districts.

[3,4] Developments on through lots or sites with three street frontages may have vehicle areas between the building and one local service street. Development on full blocks may have vehicle areas between the building and two local service streets. However, vehicle areas between the building and an arterial or transit street are prohibited.

## **Adopted Code Amendment**

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## **Commentary**

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

- G. Parking area setbacks and landscaping.** This amendment clarifies the location of perimeter landscaping for surface parking lots. As the regulation is presently written, it is not clear where the required perimeter landscaping must be located if the surface parking area is a substantial distance from a lot line.

The adopted amendment clarifies that the perimeter landscaping must be placed adjacent to the surface parking area, regardless of the distance between the parking area and the lot line. This is consistent with the current purpose of parking lot landscaping by improving the appearance of the parking area, reducing its visual impacts as viewed from sidewalks and streets, and providing shading. It is also consistent with the purpose of the recently adopted stormwater management requirements for parking lots by providing additional pervious surface adjacent to the parking area.

### **33.266.140 Stacked Parking Areas**

- C. Interior landscaping for surface parking areas.** This amendment corrects a typographical error contained in the interior landscape standards for stacked parking areas. The standard is intended to require one tree per 5,000 square feet of *parking* area, not *site* area.

### **33.266.150 Vehicles in Residential Zones**

- E. Utility trailers and accessory recreational vehicles.** Recreational vehicles in residential zones are not allowed to be parked between the building and the front lot line. Recent amendments to the definition of exterior storage identify the parking of recreational vehicles as storage. The unintended consequence of this previous amendment is that recreational vehicles may now be *stored* between the building and the front lot line. The adopted amendment ensures that the original intent of the regulation is restored.

### **33.266.310 Loading Standards**

Section 33.266.130 contains specific development standards for vehicle areas. (Vehicle areas are defined as portions of a site where vehicles may circulate or park, including parking areas, driveways, drive-through lanes *and* loading areas.) These standards apply to all uses except houses, attached houses and duplexes. One of these standards requires that all vehicle areas be paved (Section 33.266.130.D, Improvements).

Section 33.266.310 contains additional development standards that are specific to loading areas. These standards do not include regulations about paving. For clarity, the amendment proposes to also include the pavement requirement in the loading area standards.

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

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

2. Setbacks and perimeter landscaping.
  - c. Perimeter landscaping.
    - (1) Surface parking abutting streets, and C, E, and I zones. Where a surface parking area abuts a street lot line, or a C, E, or I zone lot line, the required setbacks must be landscaped. The landscaping must meet the low-screen landscaping standards of Subparagraph 33.266.130.H.3.c, below, and must be adjacent to the parking area and driveway.
    - (2) Surface parking abutting OS and R zones. Where a surface parking area abuts an OS or R zone lot line, the required setbacks must be landscaped. The landscaping must meet the high screen landscape standards of Subparagraph 33.266.130.H.3.d, below, and must be adjacent to the parking area and driveway.

### **33.266.140 Stacked Parking Areas**

Stacked parking areas must comply with all of the development standards of Section 33.266.130 above, except for those standards superseded by this section.

**C. Interior landscaping for surface parking areas.** The minimum interior landscaping requirement for surface parking areas is one tree per 5,000 square feet of site parking area. If surrounded by cement, the tree planting area must have a minimum dimension of 4 ft. If surrounded by asphalt, the tree planting area must have a minimum dimension of 3 ft. Trees must be protected from potential damage by vehicles through the use of bollards, curbs, wheel stops, or other physical barriers.

### **33.266.150 Vehicles in Residential Zones**

**E. Utility trailers and accessory recreational vehicles.** Utility trailers and accessory recreational vehicles may not be parked or stored in required parking spaces. Utility trailers and accessory recreational vehicles may be parked in other allowed parking areas, except they may not be parked or stored between the front lot line and the building line.

### **33.266.310 Loading Standards**

## **Commentary**

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**E. Paving.** In order to control dust and mud, all loading areas must be paved.

# **Adopted Code Amendment**

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## **CHAPTER 33.285 SHORT TERM HOUSING AND MASS SHELTERS**

### **33.285.050 Standards**

#### **B. Mass shelters.**

1. Certification. Existing regulations require that mass shelters be certified by Multnomah County Housing and Community Services Division to determine conformance with City and County operational standards. The purpose for the certification is to ensure that the shelter provides a safe and positive environment, that the shelter meets all applicable codes, and that a Good Neighbor Plan is developed and documented.

These regulations were adopted by City Council in 1993 to ensure the City's compliance with the federal Fair Housing Act. At that time, Multnomah County Housing and Community Services Division (now known as the Department of Community and Family Services) was given the authority to certify mass shelters. Since the original adoption of the regulation, three mass shelters have been processed through the certification process, with the Portland Bureau of Housing and Community Development providing the technical assistance needed to complete the process.

In December 1999, the City of Portland and Multnomah County established the Community Residential Siting Program (CRSP), a program offered through the Office of Neighborhood Involvement (ONI). CRSP serves as a central point of contact to address issues, questions and concerns of citizens, neighborhood associations, service providers, and service recipients related to the siting and operation of residential facilities and group homes. CRSP also provides mediation and facilitation services for the proposed siting and operations of residential facilities and group homes.

Given the role of ONI and the CRSP program in siting these facilities, it is appropriate that they be responsible for completing the certification of mass shelters. The amendment proposes transferring this certification from the Multnomah County Department of Community and Family Services to the Office of Neighborhood Involvement. The Director of the Multnomah County Department of Community and Family Services has submitted a letter supporting this change.

## **Commentary**

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### **CHAPTER 33.285 SHORT TERM HOUSING AND MASS SHELTERS**

#### **33.285.050 Standards**

##### **B. Mass shelters.**

1. Certification. The shelter must be certified by ~~Multnomah County Housing and Community Services Division the Portland Office of Neighborhood Involvement~~ as meeting operational standards established by the City of Portland and Multnomah County for mass shelter programs. Certification must be obtained before an application is submitted. Adjustments to this standard are prohibited.

# **Adopted Code Amendment**

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## **CHAPTER 33.296 TEMPORARY ACTIVITIES**

### **33.296.030 Zone and Duration**

**A. IR and RF through RH zones.** The temporary activity regulations are intended to allow short-term, minor deviations from the requirements of the Zoning Code for uses that are temporary in nature, and that will not adversely impact the surrounding area and land uses. The adopted amendment would allow the use of an existing house on a site to be used as a residence while a new house is being constructed on the same site, which is consistent with stated objective of the chapter. The amendment is an extension of existing regulations, which allow a mobile home to be used as a residence while a permanent house is being constructed on the site.

The amendment also corrects the term "certificate of occupancy" that is referenced in the existing regulation. The Office of Planning and Development Review does not issue certificates of occupancy for single-dwelling structures. The Office of Planning and Development Review's occupancy specialist has indicated "approval of final occupancy" is a more appropriate, inclusive term.

This amendment also includes increasing the duration of public utility staging areas. These staging areas are presently limited to a one year period, and adjustments to this standard are prohibited. However, it is not possible for larger utility projects to limit staging areas to one year. This impacts such projects as Tri-Met's Interstate MAX and the Bureau of Environmental Services' combined sewer overflow project, which will provide substantial benefits to the general public.

The amendment will increase the duration of public utility staging areas from one year to three years, with a requirement that a community relations representative be assigned by the public agency to staging areas that are in place for more than one year. The community relations representative would be the point of contact for any complaints or questions raised about the staging area, and the representative would be required to be available to meet with the affected neighborhood and business association on a regular basis over the duration of the project. This requirement, in combination with existing standards directed at minimizing noise, dust, mud and erosion, ensure that these temporary activities will not adversely impact the surrounding neighborhood.

## **Commentary**

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### **CHAPTER 33.296 TEMPORARY ACTIVITIES**

#### **33.296.030 Zone and Duration**

**A. IR and RF through RH zones.** The regulations for temporary uses in the IR and RF through RH zones are as follows:

1. Use of existing house or Mmobile home use during construction. An existing house or a Mmobile homes may be used temporarily for a residence while a permanent residence is being constructed. The existing house or Mmobile homes may remain on the site until the completion of the construction, or for not more than 2 years, whichever time period is less. The existing house or mobile home must be removed within 1 month of issuance of certificate of after approval of final occupancy for the new residence. A performance bond or other surety must be posted in conformance with 33.700.050, Performance Guarantees, to ensure removal of the existing house or mobile home.

2-6. [No change]

7. Staging areas for public utility installation. Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road transportation improvements, are subject to the regulations below.

- a. Length of project. Except as provided in subparagraph b. below, only projects that last one three years or less are allowed as temporary activities. Projects that last over one three years are subject to the regulations for permanent uses. Adjustments to the one three year time period are prohibited.

b-d. [No change]

- e. Community relations. For project staging areas that last more than one year, the public agency must designate a community relations representative for the project. The community relations representative must be available to respond to neighbors related to the operation of the staging area. The community relations representative must also be available to meet on at least a quarterly basis with the affected neighborhood association and business association until the staging area is removed.

## **Adopted Code Amendment**

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- ef. Final site condition. At the end of the project, the site must be prepared and seeded with a mixture of 100 percent perennial rye grass to create a low maintenance vegetative ground cover. An exception to this requirement is sites that have paving prior to the start of the project. In these cases, the portion of the site that has paving may remain in paving. All other portions of the site must be seeded as provided above. The ground cover or paving must be installed to the applicable standards in Standard Construction Specifications published by the City of Portland, Department of Public Works.

## **Commentary**

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### **33.296.030 Zone and Duration**

#### **A. IR and RF through RH zones (continued)**

## **Adopted Code Amendment**

### **33.296.030 Zone and Duration**

#### **A. IR and RF through RH zones (continued)**

- fg. Building permit. Prior to the start of the project, a building permit must be obtained from the City. Applications for the building must contain evidence that the project will comply with the requirements above. If the project will be implemented through a contract with the City, then the evidence of compliance may be shown as specifications in the contract. If the project does not involve a contract with the City, then at a minimum, evidence of compliance must include performance guarantees to guarantee compliance with the requirements in Subparagraphs c. Dust, mud, and erosion control, and ef. Final site condition, above. Performance guarantees must comply with the provisions of Section 33.700.050, Performance Guarantees.

## **Commentary**

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### **CHAPTER 33.420 DESIGN OVERLAY ZONE**

### **CHAPTER 33.445 HISTORIC RESOURCE PROTECTION OVERLAY ZONE**

### **CHAPTER 33.505 ALBINA COMMUNITY PLAN DISTRICT**

#### **Chapter 33.420 Design Overlay Zone**

**33.420.055 When Community Design Standards May Be Used**

**33.420.060 When Community Design Standards May Not Be Used**

#### **Chapter 33.445 Historic Resource Protection Overlay Zone**

**33.445.244 When Community Design Standards May Be Used**

**33.445.246 When Community Design Standards May Not Be Used**

#### **Chapter 33.505 Albina Community Plan District**

**33.505.245 When Community Design Standards May Be Used**

**33.505.248 When Community Design Standards May Not Be Used**

In 1997, House Bill 2774 was passed, which required local governments to use clear and objective design standards that regulate residential development. The bill included three exceptions to this requirement, including residential development in the Central City; the Gateway Regional Center, and regional centers designated by Metro; and in designated historic areas.

The Zoning Code presently contains clear and objective standards (i.e., the Community Design Standards) that may be used in lieu of a discretionary design review. However, the Community Design Standards may not be used for development over an identified number of dwelling units or floor area. Additionally, the Community Design Standards may not be used for mixed-use developments. These restrictions, as applied to residential development, are in violation of HB 2774.

The adopted amendment removes the density restrictions on the use of the Community Design Standards for residential developments, and for mixed-use developments. Existing regulations do not allow the use of the Community Design Standards in the Central City Plan District, and this remains unchanged. Additionally, because historic resources are exempt from HB 2774, there are no changes to the existing density restrictions included in Chapter 33.445 (Historic Resource Protection Overlay Zone). The changes to the historic resource regulations are limited to referencing conditional use master plans in Table 445-1.

Because institutions in the IR zone are regulated by either an Impact Mitigation Plan or a Conditional Use Master Plan, the term "Conditional Use Master Plan" is inserted in each of the tables when referencing the IR zone.

The revision also clarifies in Chapter 33.420 that if a site is located in both an "a" and a "d" overlay, and the project is not taking advantage of the density bonuses of the "a"

# **Adopted Code Amendment**

## **CHAPTER 33.420 DESIGN OVERLAY ZONE**

### **33.420.055 When Community Design Standards May Be Used**

Unless excluded by 33.420.060, When Community Design Standards May Not Be Used, below, proposals that meet all of the requirements of this section may use the Community Design Standards as an alternative to design review.

**A. Location.** The proposal is in:

1. ~~the A & Design Overlay Zone not shown on Maps 420-1 through 420-3;~~
2. ~~The Albina Community plan district shown on Map 505-1; or~~
3. ~~The An a, Alternative Design Density Overlay Zone; or and a Design Overlay Zone, and the proposal is not taking advantage of the provisions of Chapter 33.405, Alternative Design Density Overlay Zone. Proposals taking advantage of the provisions of Chapter 33.405 are regulated by Section 33.405.090.~~

**B. Maximum limits.** The proposal is within the maximum limits of Table 420-1.

<b>Table 420-1 Maximum Limits for Use of the Community Design Standards [1]</b>	
<b>Zones</b>	<b>Maximum Limit—New Dwelling Units or Floor Area</b>
Single Dwelling Zones	5 dwelling units
R2 & R3 Zones	10 dwelling units
R1, RH, RX, C, & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.
<b>Zones</b>	<b>Maximum Limit—Exterior Alterations</b>
All except IR	<ul style="list-style-type: none"><li>• Alterations to the street-facing facade that affect less than 50 percent of the area of the facade, regardless of the square footage of the area affected; and</li><li>• Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected. [42]</li></ul>
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.

Notes:

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

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

### **33.420.060 When Community Design Standards May Not Be Used**

The Community Design Standards may not be used as an alternative to design review as follows:

**A. In the Central City plan district. See Map 420-1;**

## **Commentary**

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**B.** For proposals that do not include any residential uses in the following Design Overlay Zones:

1. The portion of the South Auditorium plan district outside the Central City plan district. See Map 420-1;

## **Adopted Code Amendment**

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### **33.420.055 When Community Design Standards May Be Used**

overlay, there are no density limits placed on the use of the community design designs. If on such sites the provisions of the "a" overlay are being used, the regulations of Chapter 33.405 (Alternative Design Density Overlay Zone) apply, and density limits are placed on the use of the community design standards.

## **CHAPTER 33.445 HISTORIC RESOURCE PROTECTION OVERLAY ZONE**

### **33.445.244 When Community Design Standards May Be Used**

See commentary on page 96.

## **Commentary**

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### **33.420.060 When Community Design Standards May Not Be Used**

#### **B. (continued)**

2. The Macadam design district. See Map 420-2; and
  3. The Terwilliger design district. See Map 420-3;
- AC.** For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan;
- BD.** For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use;
- CE.** For ~~mixed-use~~ or non-residential development in the RF through R1 zones; and
- DF.** If the proposal uses Section 33.405.050, Bonus Density for Design Review.

## **CHAPTER 33.445 HISTORIC RESOURCE PROTECTION OVERLAY ZONE**

### **33.445.244 When Community Design Standards May Be Used**

**B. Maximum limits.** The proposal is within the maximum limits of Table 445-1.

<b>Table 445-1</b> <b>Maximum Limits for Use of the Community Design Standards</b>	
<b>Zones</b>	<b>Maximum Limit—New Dwelling Units or Floor Area</b>
Single Dwelling Zones	5 dwelling units
R2 & R3 Zones	10 dwelling units
R1, RH, RX, C, & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.
<b>Zones</b>	<b>Maximum Limit—Exterior Alterations</b>
All except IR	<ul style="list-style-type: none"><li>• Alterations to the street-facing facade that affect less than 50 percent of the area of the facade, regardless of the square footage of the area affected; and</li><li>• Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected. [1]</li></ul>
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.

Notes:

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

## **Adopted Code Amendment**

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### **CHAPTER 33.505 ALBINA COMMUNITY PLAN DISTRICT**

#### **33.505.245 When Community Design Standards May Be Used**

See commentary on page 96.

#### **33.505.248 When Community Design Standards May Not Be Used**

See commentary on page 96.

## Commentary

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### CHAPTER 33.505 ALBINA COMMUNITY PLAN DISTRICT

#### 33.505.245 When Community Design Standards May Be Used

Unless excluded by 33.505.248, When Community Design Standards May Not Be Used, below, proposals that are within the limits of Table 505-1 may use the Community Design Standards as an alternative to design review.

<b>Table 505-1 Maximum Limits for Use of the Community Design Standards [1]</b>	
<b>Zones</b>	<b>Maximum Limit—New Dwelling Units or Floor Area</b>
Single Dwelling Zones	5 dwelling units
R2 & R3 Zones	10 dwelling units
R1, RH, RX, C, & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.
<b>Zones</b>	<b>Maximum Limit—Exterior Alterations</b>
All except IR	<ul style="list-style-type: none"><li>• Alterations to the street-facing facade that affect less than 50 percent of the area of the facade, regardless of the square footage of the area affected; and</li><li>• Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected. [42]</li></ul>
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan.

Notes:

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

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

#### 33.505.248 When Community Design Standards May Not Be Used

The Community Design Standards may not be used as an alternative to design review as follows:

- A. For institutional uses in residential zones, unless specifically allowed by an approved Impact Mitigation Plan or Conditional Use Master Plan;
- B. For alterations to sites where there is a nonconforming use, unless the nonconforming use is a residential use; and
- C. For ~~mixed-use or~~ non-residential development in the RF through R1 zones.
- D. For historic resources, unless allowed by Chapter 33.445, Historic Resource Protection Overlay Zone.

## **Adopted Code Amendment**

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### **CHAPTER 33.515 COLUMBIA SOUTH SHORE PLAN DISTRICT**

The Columbia South Shore plan district contains regulations for a subarea identified in Section 33.515.110 as the "Industrial Business Opportunity Subdistrict." A further text reference is made to this subarea in Section 33.515.120. Additionally, the commentary included in the 1991 rewrite of the Zoning Code identifies the area as the "Industrial Business Opportunity Subdistrict." However, on Map 515-1, parts one and two, the area is identified as the "Business Opportunity Subdistrict." To avoid confusion, the adopted amendment identifies the area as the "Industrial Business Opportunity Subdistrict" on Map 515-1 (Maps 1 and 2).

## **Commentary**

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### **CHAPTER 33.515 COLUMBIA SOUTH SHORE PLAN DISTRICT**

On Map 515-1 (Maps 1 and 2), replace in the legend the phrase "Business Opportunity Subdistrict" with the phrase "Industrial Business Opportunity Subdistrict".

## **Adopted Code Amendment**

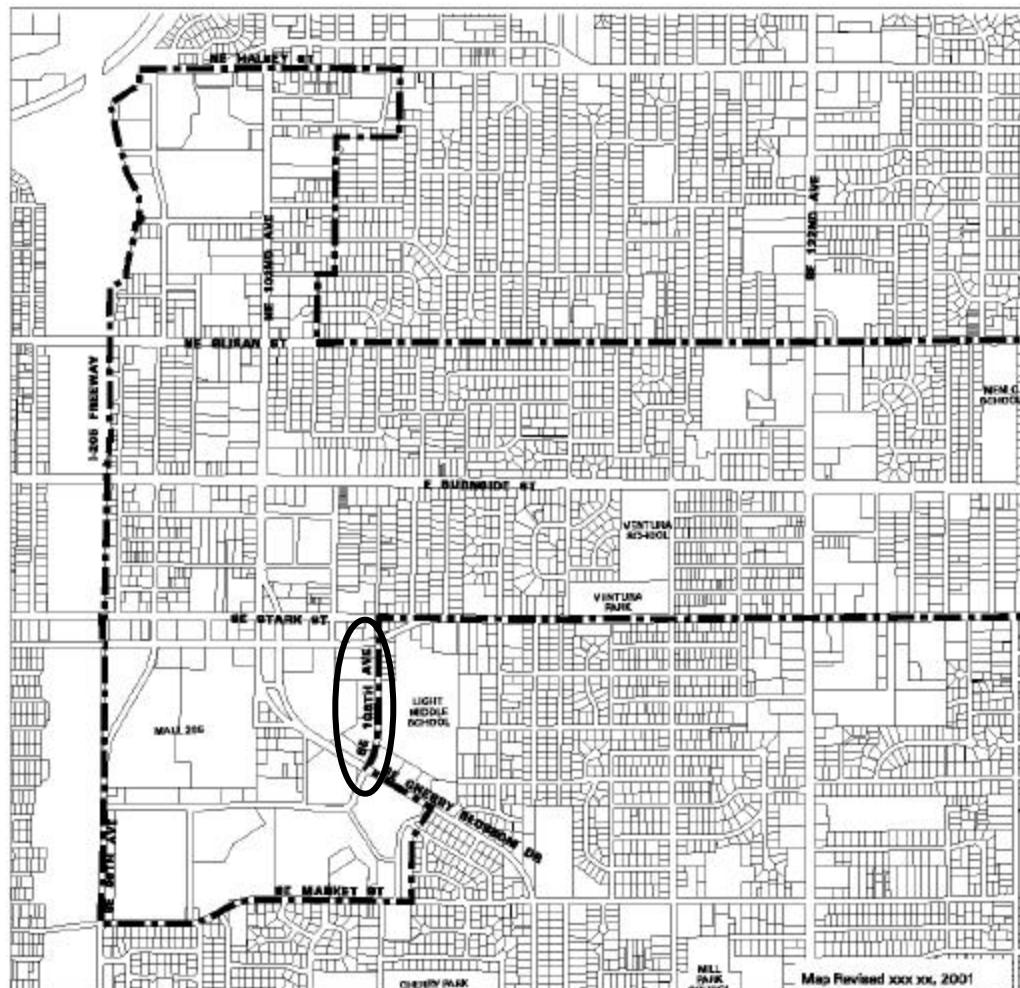
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### **CHAPTER 33.526 GATEWAY PLAN DISTRICT**

Map 526-1 (1 of 2) identifies in text a portion of the southeastern boundary of the plan district being SE 107<sup>th</sup> Avenue. However, there is no SE 107<sup>th</sup> Avenue in this location, and graphically, the boundary line is mapped along SE 106<sup>th</sup> Avenue. The amendment corrects this typographical error by identifying this boundary as SE 106<sup>th</sup> Avenue.

## Commentary

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**Map 526-1**

### **Gateway Plan District**

**Map 1 of 2**

0' 975' 1950'

Scale in Feet

Plan District Boundary

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## **Adopted Code Amendment**

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### **33.526.130 Housing Regulations**

**D. Attached houses.** There has been confusion in applying this standard whether both subparagraphs one *and* two, or solely subparagraph three must be met. It is clear when referencing Section 33.700.070 (General Rules for Application of the Code Language) that both subparagraphs one and two would only apply if subparagraph one ended with the word "and." However, to clarify implementation of this standard, the amendment proposes language that makes it clear that only one of the three conditions identified in subparagraphs one through three must be met.

### **33.526.270 Site Design**

**B. Applicability.** The intent for the site design standards of this section, as stated in Section 33.526.270.A (Purpose) is, in part, to foster the development of an increasingly urban environment within the Gateway plan district. The cited standards are appropriate when applied to development that generates a larger number of pedestrians, bicycle users or automobiles. However, a significant portion of the Gateway plan district is in Single-Dwelling zones, or developed with houses, attached houses or duplexes.

It is not practical to require sites developed with houses, attached houses or duplexes to provide, for example, a six foot wide, direct pedestrian connection from the street to the main entrance. This connection must be raised and separated from vehicle areas by a three foot wide landscaped area. The site design standards related to bicycle parking areas are not applicable to this density of development as bicycle parking is only required in residential development having three or more dwelling units. Furthermore, standards of this section dealing with the orientation of the main entrance to the street are already required by the base zone standards.

Under the adopted amendment, the site development standards of this section would not apply to houses, attached houses or duplexes.

## **Commentary**

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### **33.526.130 Housing Regulations**

- D. Attached houses.** Attached housing at R2.5 densities is allowed on lots in the R5 or R7 zone if the development standards of the R2.5 zone are met, and the lot meets one of the following:
1. Is on a corner;
  2. Is adjacent to a light rail alignment; or
  3. Has a side or rear lot line that abuts a multi-dwelling, C, E, or I zone.

### **33.526.270 Site Design**

- A. Purpose.** These provisions ensure that the location of buildings, parking, and circulation areas provide a convenient and attractive environment for pedestrians and foster the development of an increasingly urban environment within the plan district.
- B. Applicability.**
1. Where these requirements apply. Unless exempted by Paragraph B.2, below, ~~T~~he requirements of this Section apply to all new buildings and to all building remodeling projects adding 2,500 square feet of floor area or more.
  2. Exemptions. The requirements of this section do not apply to houses, attached houses and duplexes.

## **Adopted Code Amendment**

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### **CHAPTER 33.530 GLENDOVEER PLAN DISTRICT**

**33.530.040 Building Setbacks.** The Glendoveer plan district was adopted in 1987 to retain and continue the development pattern established by the former Multnomah County zoning designation of LR7.5 (Urban Low Density Residential). Since the adoption of the Glendoveer plan district, the Portland Zoning Code has been amended to allow detached garages within side and rear setbacks if particular conditions related to the size and location of the garage are met. It has not been clear how these standards for detached garages apply in the Glendoveer plan district given the increased side and rear building setback requirements in this plan district.

A review of the LR7.5 regulations that existed in 1987 when the plan district was established indicates special setback standards did exist for detached garages. Specifically, these standards allowed a one-story detached garage to be built to side and rear lot lines, not abutting a street. The garage was required to be located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater. For corner lots, the LR7.5 regulations did not specify an increased setback between the detached garage and a side street lot line. These setback exceptions for detached garages remain unchanged in the County's current LR7.5 regulations.

The adopted amendment generally reflects the regulations of the LR7.5 zone, while also including additional restrictions from the Portland Zoning Code that apply to detached garages in side and rear setbacks.

## **Commentary**

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### **CHAPTER 33.530 GLENDOVEER PLAN DISTRICT**

#### **33.530.040 Building Setbacks**

**A. Building setback standards.** The minimum building setbacks are:

<u>Setback</u>	<u>Distance</u>
Front setback	30 feet
Side setback	10 feet
Rear setback	15 feet

**B. Setback standards for detached garages.** Detached garages are allowed in side and rear building setbacks that do not abut a street if all of the following are met:

1. The garage entrance is at least 50 feet from a front lot line, and if on a corner lot, 25 feet from a side street lot line;
2. The garage has dimensions that do not exceed 24 feet by 24 feet; and
3. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable.

## **Adopted Code Amendment**

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### **CHAPTER 33.730 QUASI-JUDICIAL PROCEDURES**

#### **33.730.110 Ex Parte Contact**

**A. Private contacts.** Existing language in the Zoning Code regarding ex parte contacts states that “a member of a review body may not communicate, directly or indirectly, with any person interested in the outcome of the decision.” This wording prohibits *any* contact between the decision maker and persons interested in the outcome, even if such communication is unrelated to the issue before the review body. As the language is now written, any contact between the review body member and persons interested in the outcome of the decision must be disclosed as an ex parte contact.

References to ex parte contact in the Oregon Revised Statutes (Section 227.180(3)(a)) state that it is necessary that members of the review body “place on the record the substance of any written or oral ex parte communications *concerning the decision or action*” (emphasis added). This indicates the important issue is limited to communications that specifically relate to the “decision or action.”

Confusion over what is deemed an ex parte contact became apparent in a recent Land Use Board of Appeals (LUBA) case involving the City of Portland (Opp v. City of Portland). In that case, the appellant raised an issue over undisclosed ex parte contact between a City commissioner and a person interested in the outcome of the decision. The City Attorney’s office argued before LUBA that the motion should be denied as there was no evidence that the two parties discussed the merits of the case. LUBA correctly pointed out that existing language in the Zoning Code flatly prohibits *any* contact between the decision maker and persons interested in the outcome, regardless of the content. As such, a decision maker and person interested in the outcome may not talk to one another about anything while the issue is pending before the decision maker.

The adopted amendment, consistent with applicable language in the Oregon Revised Statutes, clarifies that only communication relating to the issue before the review body must be declared as an ex parte contact.

## **Commentary**

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### **CHAPTER 33.730 QUASI-JUDICIAL PROCEDURES**

#### **33.730.110 Ex Parte Contact**

**A. Private contacts.** Prior to rendering a decision, a member of a review body may not communicate, directly or indirectly, with any person interested in the outcome concerning the decision or action pending before the review body. “Person interested in the outcome” means a person who has some concern, interest in, or relationship to the decision or action pending before the review body. Should such communication occur, at the beginning of the first hearing after which the communication occurs, the member of the review body must:

- ~~1. Enter into the record the substance of the written or oral communication; and~~
- ~~21. Publicly announce the content of the communication and provide any person an opportunity to rebut the substance of the contact communication; and~~
- ~~2. If the communication was in written or tangible form, place a copy of the communication into the record.~~

## **Adopted Code Amendment**

### **33.730.120 Recording an Approval**

All land use decisions are required to be recorded with the County Recorder. Although the decision is recorded at the County, and fees for recording decisions are paid to the County, existing zoning regulations direct applicants to submit the documents to be recorded and the recording fee to the City Auditor, who then forwards all documents and fees to the County for recording. Once recorded, the County then forwards the documents back to the City Auditor with certification that the documents are genuine and have been recorded.

The amendment proposes that the applicant pay the fee, with accompanying documents to be recorded, directly to the County Recorder. This amendment does not change the way in which the City ultimately receives the recorded document. The County will still forward recorded documents directly back to the City, with a certification that the documents are genuine and have been recorded.

## **Commentary**

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### **33.730.120 Recording an Approval**

To record a final decision for approval, the applicant pays the recording fee to the ~~City Auditor County Recorder~~. The ~~City Auditor County Recorder, in turn~~, records the final decision in the appropriate county records. The decision must be recorded before the approved use is permitted, any permits are issued, or any changes to the Comprehensive Plan or Zoning Map are made.

## **Adopted Code Amendment**

### **33.730.140 Requests for Changes to Conditions of Approval**

For clarification purposes, this amendment incorporates a reference to Section 33.700.110 (Prior Conditions of Land Use Approvals), which sunsets conditions of approval for some land use reviews approved prior to 1981.

## **Commentary**

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### **33.730.140 Requests for Changes to Conditions of Approval**

Requests for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review. In the case of zone change requests filed before January 1, 1981, the Type II procedure applies. In the case of land use reviews that are no longer required by this Title, the most comparable review and procedure applies. For example, for variance requests, the procedures for adjustments apply. See also Section 33.700.110, Prior Conditions of Land Use Approvals.

## **Adopted Code Amendment**

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### **CHAPTER 33.750 FEES**

#### **33.750.060 Fee Refunds**

Existing regulations specify under what circumstances an applicant for a land use review may receive a refund of paid fees. One of these regulations states that a 50 percent refund of fees paid will be given if a written request for the withdrawal of an application is received after maps related to the case have been made or other Bureaus have been notified, but before required notices have been prepared.

Presently, zoning maps for land use applications are digitally prepared by support staff within the first four days that an application is received, and typically prior to the planner receiving the case. As such, even if the applicant wishes to withdraw an application within 14 days of submittal, when staff review is limited to determining whether the application is complete, only a 50 percent refund would be given. The amendment proposes deleting the reference to preparation of maps.

The amendment also seeks to clarify the references to "notifying other bureaus" and "preparing required notices." While for Type III land use applications, staff notifies other bureaus of the proposal by sending a Request for Response, this request is not a notice that is required by regulations of Title 33. Only notices that are sent to such parties as nearby property-owners or recognized organizations are required through regulations included in Chapter 33.730 (Quasi-Judicial Procedures). Amended language is adopted that clarifies the difference between notifying other bureaus and preparing required notices.

## **Commentary**

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### **CHAPTER 33.750 FEES**

#### **33.750.060 Fee Refunds**

##### **C. Full refunds.**

1. If a written request for the withdrawal of an application for a land use review is received before staff has notified other Bureaus ~~or prepared any maps~~, a full refund will be given.
2. If the administrative decision on a Type II procedure is appealed, and the appellant prevails, the full appeal fee will be refunded.

##### **D. 50 percent refunds.** If the written request for the withdrawal of an application is received after ~~the maps have been made or~~ the other Bureaus have been notified, but before ~~required~~ notices required by Chapter 33.730 have been prepared, a 50 percent refund will be given.

##### **E. No refunds.**

1. Appeal fees are nonrefundable, except as provided for in Subsection B and Paragraph C.2.
2. Preapplication conference fees are nonrefundable, except as provided for in Subsection A or B.
3. No refunds are given once the ~~required~~ notices ~~for a land use review required by Chapter 33.730~~ have been prepared.

## **Adopted Code Amendment**

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### **CHAPTER 33.805 ADJUSTMENTS**

#### **33.805.040 Approval Criteria**

One of the approval criterion for Adjustment reviews requires the applicant to demonstrate that in a residential (R) zone, the proposal will not significantly detract from the livability or appearance of the residential area; or if in a commercial (C), employment (E) or industrial (I) zone, the proposal will be consistent with the desired character of the area. This approval criterion is silent about proposals in Open Space (OS) zones.

For purposes of this criterion, the amendment groups proposals in OS zones with those located in the C, E or I zones. The language of the approval criterion requiring that the applicant demonstrate the proposal is consistent with the desired character of the area, when located in a C, E or I zone, is appropriately applied to proposals in the OS zone. Conversely, the language requiring that the applicant demonstrate that the proposal will not adversely impact the livability of the residential area, as is required for proposals in R zones, is not appropriate for proposals in the OS zone, particularly given that residential uses are prohibited in the OS zone.

## **Commentary**

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### **CHAPTER 33.805 ADJUSTMENTS**

#### **33.805.040 Approval Criteria**

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the desired character of the area; and

## **Adopted Code Amendment**

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### **CHAPTER 33.815 CONDITIONAL USES**

#### **33.815.040 Review Procedures**

**B. Proposals that alter the development of an existing conditional use.** In 1995, the Zoning Code was amended to include additional language regarding alterations to development on sites with existing conditional uses. Regulations in effect prior to 1995 identified alterations that were allowed without a conditional use review, but only if such alterations complied with all conditions of approval, did not increase floor area or exterior improvement area, and met all development standards of the base zone. If a particular alteration met all conditions of approval, did not increase the amount floor area or exterior improvement area, but did not meet all development standards of the base zone, both a conditional use review and an adjustment review were required.

The basis for the 1995 amendment was a recognition that certain alterations that do not meet all base zone development standards may not have a significant effect on the factors that are assessed when reviewing conditional use applications. These factors include impact of the proposal on the environment, on public services, and the desired character of the neighborhood. The commentary that accompanied the 1995 amendment stated, "Fences, handicapped ramps and decks are routinely found to meet conditional use criteria, while being approved or denied on the basis of adjustment criteria. There appears to be no substantive benefit to the public in subjecting this limited set of alterations to conditional use criteria."

Based on this analysis, the City Council in 1995 adopted the proposed amendment, which allowed by right minor alterations to existing conditional uses. If such minor alterations, limited to fences, handicapped ramps and decks, did not meet all applicable development standards of the base zone, only an adjustment review was required. This was reflected in Code language that stated fences, handicapped ramps, and decks were exempt from conditional use review as long as such structures did not violate or change any conditions of approval, or change the number of parking spaces.

The adopted amendment seeks to clarify the language that was adopted in 1995 so that it is consistent with the above-described intent. The adopted amendment clarifies that proposing fences, handicapped ramps and decks on a site of an existing conditional use is allowed without a conditional use review if such structures do not violate or change any conditions of approval, or change the number of parking spaces. These structures are subject only to an adjustment review if applicable development standards of the base zone are not met.

## **Commentary**

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### **CHAPTER 33.815 CONDITIONAL USES**

#### **33.815.040 Review Procedures**

##### **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, or require a conditional use review, as follows:

2. Adjustments Additional structures allowed without conditional use review.  
Adjustments to fences heights, handicapped ramps, and decks 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, handicapped ramps, and decks may be requested without a conditional use review.

# **Adopted Code Amendment**

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## **CHAPTER 33.825 DESIGN REVIEW**

### **33.825.025 Review Procedures**

**A. Procedures for design review.** This amendment clarifies the review procedure for proposals in design zones that do not have adopted design guidelines, and the review procedure for proposals in the Hillsdale plan district and the Sellwood-Moreland design district.

Section 33.825.025.A.1 identifies projects that are processed through a Type III design review. Subparagraph e(9) of this section requires proposals that are over one million dollars and not located in a design district that has its own design guidelines to be processed through a Type III design review. Section 33.825.025.A.2 identifies areas in which proposals are processed through a Type II design review, regardless of project cost. Several of the areas identified in this latter paragraph, such as the Outer Southeast Community Plan area or Albina Community Plan area, are not in design districts. As such, it is unclear whether projects in these areas, which are over one million dollars, are subject to a Type II or Type III design review.

The legislative intent for design zones has been to allow proposals in design overlay zones outside Central City (and nearby areas, including South Auditorium, North Macadam and Terwilliger) to be processed through a Type II review. The amendment clarifies this intent, and reflects existing practice.

The amendment also clarifies the design review procedure for proposals in design overlay zones in the Hillsdale plan district and Sellwood-Moreland design district. As indicated above, the legislative intent was to allow proposals in these two areas to be processed through a Type II design review. Additionally, identifying that proposals in these two areas are processed through a Type II procedure is consistent with existing practice.

## **Commentary**

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### **CHAPTER 33.825 DESIGN REVIEW**

#### **33.825.025 Review Procedures**

**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 Subsection B, below. 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:
  - e. Proposals in the following design districts with a value over \$1,000,000 in 1990 dollars:

(1-8) [No change]

(9) Design overlay zones not included in a design district that has its own design guidelines, except for proposals listed in Paragraph A.2, below.
2. Type II. The following proposals are processed through a Type II procedure:
  - a-m. [No change]
  - n. Proposals within the Hillsdale plan district;
  - o. Proposals within the Sellwood-Moreland design district.

## **Adopted Code Amendment**

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### **CHAPTER 33.900 LIST OF TERMS**

#### **33.900.010 List of Terms**

The term "Longest Street-Facing Wall" is added to the list of terms.

## **Commentary**

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### **CHAPTER 33.900 LIST OF TERMS**

#### **33.900.010 List of Terms**

[Add the following term in the appropriate, alphabetical order.]

Longest Street-Facing Wall

# **Adopted Code Amendment**

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## **CHAPTER 33.910 DEFINITIONS**

### **33.910.030 Definitions**

**Building Coverage.** The building coverage standard, in combination with height and setback standards, is intended to control the overall bulk of development on a site. The standard ensures that development on a site does not overwhelm development on adjacent properties, and helps to define the character of the different zones by determining how built-up a neighborhood appears.

The definition of building coverage, included in Chapter 33.910 (Definitions), only references buildings or *other roofed structures* more than six feet in height that are covered by impervious roofs. It is not clear how the building coverage standard applies to uncovered horizontal structures, like decks, that essentially provide an impervious roof over the ground beneath the structure. (If a 1/8 inch gap is provided between boards, the deck is not impervious, and is not subject to the building coverage requirements, yet a deck of the same dimensions that has a solid floor is impervious and is included as building coverage.) Whether such structures are partly pervious or not, they can substantially add to the bulk of development on a site, particularly when they are constructed above grade, such as when extending from the second or third floor of a building, or when they cantilever over a lot that slopes away from the building.

The adopted amendment seeks to establish a consistent standard that treats decks and other uncovered horizontal structures equally, while also ensuring that the intent of limiting building coverage on a site is met. To this end, the amendment proposes to include in the calculation of building coverage uncovered horizontal structures that are more than six feet above grade. (The term "uncovered horizontal structures" is already used and described in both the Single and Multi-Dwelling Zones. (See Sections 33.110.250.C.3.a and 33.120.280.C.3.a.)

### **CHAPTER 33.910 DEFINITIONS**

#### **33.910.030 Definitions**

**Building Coverage.** The area that is covered by buildings or other roofed structures, including eaves. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade.

## **Adopted Code Amendment**

### **33.910.030 Definitions (continued)**

**Garage.** The Code presently defines a garage essentially as a covered structure that provides shelter to passenger vehicles. It is unclear from this definition how to apply existing zoning regulations dealing with the length and placement of the street-facing garage wall when applicants state that the interior of the structure, while appearing as garage from the exterior, will not be used in its entirety for the storage of vehicles. By definition, if the space is not to be used for the storage of passenger vehicles, it is not a garage and, therefore, does not need to meet standards regulating garages.

The adopted revision to the definition of garage ensures that the intent of the base zone design standards, as they relate to the size and placement of garages, will be met.

## **Commentary**

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### **33.910.030 Definitions (continued)**

**Garage.** A covered structure intended designed to provide shelter for passenger vehicles that and which is accessory to a use in these structure types: houses, attached houses, duplexes, mobile homes, or houseboats. Carports are considered garages. 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. It includes carports. A garage may be attached to or detached from another structure. See also Structured Parking.

## **Adopted Code Amendment**

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### **33.910.030 Definitions (continued)**

**Longest Street-Facing Wall:** The base zone design standards require the main entrance of residential structures to be within eight feet of the longest street-facing wall of the dwelling unit (33.110.230.C.1, 33.120.231.C.1, 33.130.250.C.3.a, and 33.140.265.D.3.a) Additional regulations for accessory structures require the garage wall, with exceptions, to be no closer to the street than the longest street-facing wall of the dwelling unit (33.110.250.E.5.b, 33.120.280.E.5.b, 33.130.250.E.4.a, and 33.140.265.F.4.a). It is not clear how to apply these two standards when a dwelling has two or more street-facing walls of equal length, each of which is “the longest” street-facing facade.

The result is that developers have applied the regulations for the main entrance and the garage wall independently to the two longest street-facing facades (e.g., living area is proposed above and at the same plane as the garage wall; the main entrance is located on a separate wall of equal length to that over the garage, yet set more than eight feet back from the garage wall.) While this building configuration technically meets both standards, as the garage wall is not placed in front of one of the longest street-facing walls of the dwelling unit, and the main entrance is on the same plane as the second longest street-facing facade, the result is a development that does not meet the intent of the standards as the main entrance is placed more than eight feet back from the garage wall.

The amendment proposes including in Chapter 33.910 a definition of “longest street-facing wall.” The purpose of the new definition is to clarify how to apply these two standards when there are two or more street-facing walls of equal length, which are all the longest street-facing wall. When there are two or more facades of the dwelling unit that are of equal length and are all the “longest street-facing wall,” the adopted definition indicates that the applicant must select one as the longest street-facing wall when applying standards related to the location of main entrances and garages.

## **Commentary**

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### **33.910 Definitions (continued)**

**Longest Street-Facing Wall.** The longest wall that faces a street. If two or more street-facing walls are of equal length, and are the longest that face the street, then the applicant chooses which is to be the longest street-facing wall for purposes of applying regulations of this Title. See also, Façade, and Chapter 33.930, Measurements.

## **Adopted Code Amendment**

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### **33.910.030 Definitions (continued)**

**Superblock.** The adopted amendment clarifies that a superblock may include multiple ownerships *and* multiple sites. A superblock is presently defined as a contiguous area in single or multiple ownership, which includes a vacated street and which has a gross *site* area of 75,000 square feet.

The unintended consequence of using the term site in this definition is that the pedestrian, landscape and plaza improvements required under Chapter 33.293 (Superblock), which are intended to compensate for the loss of a public right-of-way through the block, are not triggered when the site to be developed on the superblock is less than 75,000 square feet. The result can be that none of the improvements required through Chapter 33.293 are realized if each of the sites within the superblock is less than 75,000 square feet.

In reviewing the regulations of Chapter 33.293, it is clear that the legislative intent recognized that development on a superblock may consist of multiple sites, but that each site within the superblock must put in the required pedestrian, landscape or plaza requirements in an amount proportional to the size of the site. This is most evident in the standards included in Section 33.293.060 (Multiple Ownerships). The standards assume that a superblock may consist of several, unrelated ownerships, and that each ownership must provide a proportional amount of the required pedestrian, landscape and plaza improvements.

(In Chapter 33.910, site is defined by ownership. The use of the term "ownership" in Section 33.293.060 equates to the term "site," and thus, the heading for Section 33.293.060 could also read as "Multiple Sites.")

## **Commentary**

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### **33.910.030 Definitions (continued)**

**Superblock.** A continuous area, either in single or multiple ownerships, which includes a vacated street and which has a total gross site area in private property of at least 75,000 square feet.

# **Adopted Code Amendment**

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## **CHAPTER 33.920 DESCRIPTIONS OF THE USE CATEGORIES**

### **33.920.300 Industrial Service**

**D. Exceptions.** This amendment addresses a typographical error regarding the applicable use category for contractors and others who perform services off-site. The Office use category identifies such establishments as offices only if, in part, equipment and materials are not stored on the site (Section 33.920.240.D.2). The Industrial Service use category identifies contractors and others who perform services off-site as an example of an Industrial Service use (Section 33.920.300.C). However, the Industrial Service use category includes as an exception contractors and others who perform services off-site are considered Office if, in part, *major* equipment and materials are not stored on the site (Section 33.920.300.D.1). If the reference to *major* equipment is retained, equipment could be stored on the site of a contractor, and the use would be considered office, as long as what is stored is not *major* equipment.

For consistency, the adopted amendment deletes the term “major” from the equipment reference in the Industrial Service use category. It is clear from the characteristics and exceptions included in the Office use category that the storage of equipment of any kind, as well as materials, is not an allowed activity.

### **33.920.420 Community Services**

**C. Examples.** This amendment corrects a typographical error that identifies (in Section 33.920.420.C) police and fire stations as examples of a Community Service use. In 1993, City Council passed an ordinance (Ordinance # 167186) that established the term, “public safety facilities.” Public safety facilities, which included police and fire stations, were placed in the Basic Utility category. The same ordinance removed police and fire stations as examples of a Community Service use.

## **Commentary**

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### **CHAPTER 33.920 DESCRIPTIONS OF THE USE CATEGORIES**

#### **33.920.300 Industrial Service**

##### **D. Exceptions.**

1. Contractors and others who perform services off-site are included in the Office category, if ~~major~~ equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site.

#### **33.920.420 Community Services**

- C. Examples.** Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ~~police stations, fire stations,~~ ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, crematoriums, columbariums, mausoleums, soup kitchens, and surplus food distribution centers.

## **Adopted Code Amendment**

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### **CHAPTER 33.930 MEASUREMENTS**

#### **33.930.090 Determining the Garage Wall Area**

While carports are currently defined as garages, it is not clear how recently adopted base zone design standards regulating the dimensions and placement of garages apply to carports. (The existing definition of garages includes carports.) This is because the majority of the base zone design standards use the term "garage wall." The intent of limiting the dimensions and locations of garages, as identified in the commentary for the base zone design standards, (originally proposed in 1999), is to strengthen the connection between the living area of the residence and the street, and to ensure that the garage is not the dominant feature of the front facade as viewed from the street.

The adopted amendment seeks to ensure that the placement and dimensions of carports are consistent with the stated intent of the regulations. By clarifying language related to how garage walls are measured, the base zone design standards will apply equally to all garages, including carports.

(For consistency of graphics, the existing Figure 930-13, identifying the garage wall area, is also modified. These modifications are only graphic, and do not change any regulation.)

## Commentary

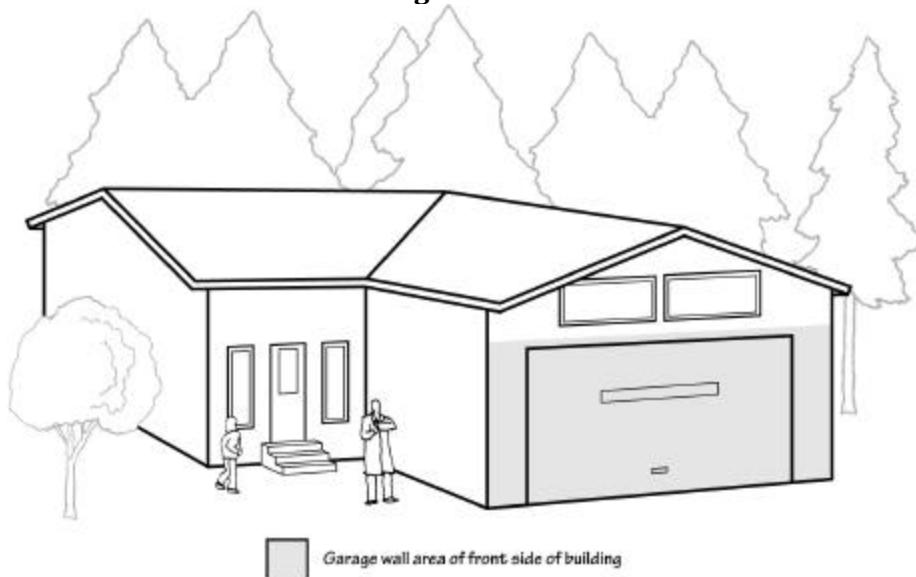
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### CHAPTER 33.930 MEASUREMENTS

#### 33.930.090 Determining the Garage Wall Area

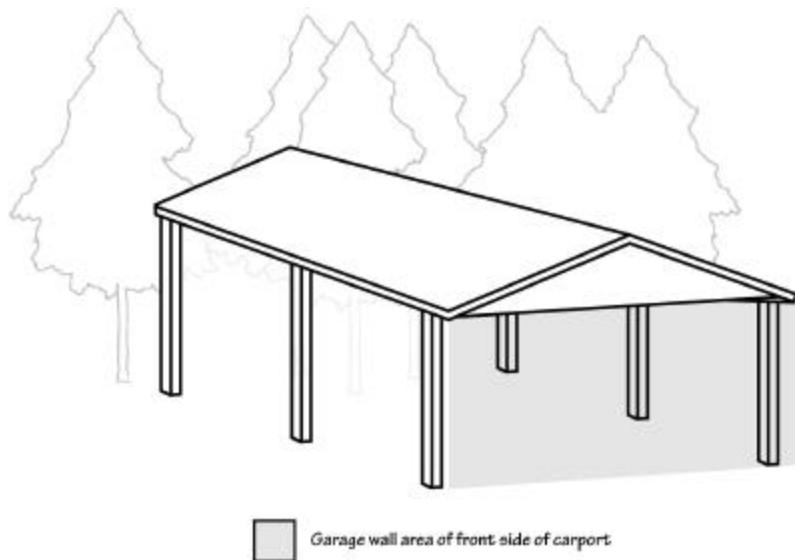
The garage wall area is determined by calculating the area of the specific side of a structure that is backed by garage space. The garage wall area is not limited to the area of the garage door; it includes all the area on the specified side of a structure between the ceiling, floor, and walls of the garage. (See Figure 930-13). For carports, the garage wall area is determined by calculating the area of a vertical plane extending from the outer edges of the roof to the nearest grade. The area within a gable is not included in the calculation. (See Figure 930-14.)

**Figure 930-13  
Garage Wall Area**



**Figure 930-14  
Garage Wall Area (Carport)**

## **Adopted Code Amendment**



## **Commentary**

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### **OTHER**

#### **Corrected References to Office of Planning and Development Review**

In May 1999, responsibility for implementation of the Zoning Code, the review of land use cases, and the staffing of the Development Services Center was transferred from the Bureau of Planning (BOP) to the new Office of Planning and Development Review (OPDR). Long-range planning functions remained with BOP. The Bureau of Buildings (BOB) was also incorporated into OPDR.

Throughout the Zoning Code, reference is made to BOP and BOB. However, certain duties and powers assigned to BOP and BOB were delegated to OPDR at the time the implementation functions were transferred. Additional amendments to the Zoning Code are required to reflect the current assignment of duties and powers.

Also, in Section 33.730.080 (Posting Requirements), if replacing the term "Bureau of Planning" with "OPDR," it is necessary to clarify in the last bullet the remaining reference to "bureau."

These changes clarify the division of responsibility between BOP and OPDR.

## **Adopted Code Amendment**

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### **OTHER**

Replace the terms “Portland Planning Bureau,” “Planning Bureau” or “Bureau of Planning” with the term “OPDR” in the following places:

33.219.030.C  
33.219.030.D  
33.219.060.B  
33.229.050.A  
33.243.050.B  
33.243.050.C.1  
33.243.090.A  
33.281.130.C.1  
33.440.340  
33.700.080.A.2  
33.730.080.B  
33.730.080.C (two references)  
33.825.075  
33.830.030.C

### **33.730.080 Posting Requirements**

- E. Content of the notice.** The posted notice must contain the following information:
- The file number;
  - The date of the hearing;
  - A summary of the key items of the request; ~~and~~
  - A statement that further information is available from ~~the Bureau of Planning OPDR;~~ and
  - ~~t~~The phone number and address of ~~the Bureau~~ OPDR.

Replace the term “Bureau of Buildings” with the term “OPDR” in the following places:

33.130.270.D.1  
33.140.260.B  
33.140.275.D.1  
33.243.060.G  
33.248.090.E  
33.266.120.E  
33.445.050  
33.510.225.C.3  
33.515.262.H.3.b  
33.535.100.B  
33.575.110.A

## **Commentary**

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33.575.300.C.2  
33.700.030.B  
33.700.040.F  
33.700.050.D  
33.830.060  
33.910 (Certificate of Occupancy)

## **Adopted Code Amendment**

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### **OTHER**

An "effective date" is included on the majority of maps in the Zoning Code. This raises confusion about whether the date references when the applicable regulations were first adopted by City Council, or when the map was last revised. As the date references when the map was last revised, the amendment replaces the term "Effective" with the term "Map Revised." (The "Map Revised" date would be changed to the date this amendment becomes effective.)

## **Commentary**

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### **OTHER**

Change the term "Effective" on the following maps to "Map Revised":

Map 405-1 (Maps 1-3)	Map 510-1	Map 570-1
Map 420-1	Map 510-2 (Maps 1-2)	Map 575-1
Map 420-2	Map 510-3 (Maps 1-3)	Map 580-1
Map 420-3	Map 510-4 (Maps 1-2)	Map 580-2
Map 420-4	Map 510-5 (Maps 1-2)	Map 585-1
Map 430-1	Map 510-6 (Maps 1-2)	Map 825-1
Map 430-2 (Maps 1-2)	Map 510-7 (Maps 1-2)	Map 825-2
Map 430-3	Map 510-8 (Maps 1-2)	Map 825-3
Map 430-4	Map 510-9 (Maps 1-2)	Map 825-4
Map 430-5 (Maps 1-2)	Map 510-10 (Maps 1-2)	
Map 430-6	Map 515-1 (Maps 1-2)	
Map 430-7	Map 515-2 (Maps 1-2)	
Map 430-8	Map 515-3 (Maps 1-2)	
Map 430-9	Map 515-4 (Maps 1-2)	
Map 430-10	Map 515-5 (Maps 1-2)	
Map 430-11	Map 515-6 (Maps 1-2)	
Map 430-12	Map 515-7 (Maps 1-2)	
Map 440-1 (Maps 1-5)	Map 526-1 (Maps 1-2)	
Map 445-1	Map 530-1	
Map 445-2	Map 533-1	
Map 445-3	Map 534-1	
Map 445-4	Map 535-1 (1-8)	
Map 445-5	Map 536-1	
Map 445-6	Map 536-2	
Map 445-7	Map 536-3	
Map 445-8	Map 538-1	
Map 445-9	Map 538-2	
Map 445-10	Map 538-3	
Map 445-11	Map 538-4	
Map 445-12	Map 538-5	
Map 445-13	Map 538-6	
Map 445-14	Map 540-1	
Map 445-15	Map 540-2	
Map 445-16	Map 550-1	
Map 505-1	Map 560-1	
Map 508-1	Map 564-1	
Map 508-2	Map 565-1	





## **Appendix A. Issue Identification**

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## **Code Maintenance 2001: Issue Identification**

**Status**

**C = Clarification**

**MP = Minor Policy**

**T = Technical**

<b>Issue #</b>	<b>Status</b>	<b>Chapter Section</b>	<b>Issue</b>	<b>Summary</b>
1	C	33.10.030 B 33.480.030	Scenic Resource Zone: Application of Scenic Resource zone regulations in right-of-ways	Title 33 (the Zoning Code) does not apply in right-of-ways except in some circumstances, as stated in 33.10.030B. The Scenic Resources Zone overlay states that the regulations of this overlay apply to any changes to land or development, including rights-of-ways. However, the Scenic Resource zone is not identified in 33.10.030B as an area where Title 33 applies.
2	C	33.110.220 D	Residential Flag Lots: Eave projection in reduced side setback	The lot in front of a flag lot is allowed to reduce its side setback along the flag pole to three feet. The Code needs to clarify the extent that eave projections may extend into this reduced setback.
3	C	33.110.230 C1 33.110.250 E5 33.120.231 C1 33.120.280 E5 33.130.250 C3 & E4 33.140.265 D3 & F4	Location of Main Entrance and Garage Wall	The main entrance must be within 8 feet of the longest street facing wall, and the garage wall (with exceptions) cannot be closer to the street than the longest street facing wall of the dwelling unit. Clarify how to implement these two standards when there are two longest street-facing facades of equal length.
4	T	33.110.245	Minimum Building Setbacks: Institutions	The reference to "Street Lot Line" should be removed from the minimum building setback standard in Table 110-5. This is a typographical error.
5	MP	33.110.250 C1 33.120.280 C1	Required Setback: Mechanical structures in sheds	In residential zones, mechanical structures, such as heat pumps or air conditioners, are not allowed in specified setbacks. Covered accessory structures, such as sheds, are allowed in some setbacks if six feet in height or less. Clarify whether mechanical equipment in sheds, six feet or less in height, are allowed in specified setbacks.

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**Status**

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6	T	33.110.250 E 33.120.280 E 33.130.250 E 33.140.265 F	Exceptions to Length of Street-Facing Garage Wall	The front elevation illustrated in Figures 110-9, 120-5, 130-6, and 140-6 are incorrect. The side elevation view shows the permitted exception to the maximum length of garage wall (i.e., when "interior living area above the garage set back no more than four feet from the street-facing garage wall"). However, in the front elevation, the longest street-facing wall of the dwelling unit is the second floor wall, which is set back four feet from the garage wall. This means that the garage wall is closer to the street than the longest street-facing wall of dwelling wall, which is not allowed.
7	MP	33.110.250 E2 33.120.280 E2	Rebuilding Garages in Required Setbacks	Current regulations allow existing garages within required setbacks to rebuilt only if done on the existing foundation. However, garages may need new foundations to be sound. Consider allowing such garages to rebuilt on the existing footprint as opposed to on the existing foundation.
8	C	33.110.250 E3	Garage Setback in Single-Dwelling Zones	In Single-Dwelling zones, garages are allowed within side and rear setbacks if, among other things, the "garage walls" are no more than 10 feet high. If the garage wall is 10 feet high, then the gable end will be higher than 10'. Clarify that the gable end of a garage may be taller than 10 feet when using the special standards for garages.
9	C	33.110.250 E4 & E5	Treatment of Carports	It is unclear whether the standards dealing with the "garage wall" apply to carports. If the sides of a carport are not considered garage walls, this allows carports to be placed in front of the dwelling unit, and exceed more than 50 percent of the street-facing facade of the dwelling unit.
10	C	33.110.250 E4 33.120.280 E4 33.130.250 E3 33.140.265 F3	Length of Street-facing Garage Wall	Garage walls, with exceptions, may not be more than 50 percent of the street-facing building facade. Clarify this standard when a portion of the space within the garage is used for purposes other than the parking of vehicles.

11	MP	33.110.250 E5 33.120.280 E5 33.130.250 E4 33.140.265 F4	Garage Wall Setback	Existing regulation states that the garage wall, with exceptions, may not be closer to the street lot line than the longest street-facing facade of the dwelling unit. Clarify how to apply this standard on through lots or corner lots.
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12	C	33.120.220 B1 33.130.215 B3 33.140.215 B3	Transit Streets: Setback Averaging	The Code allows front building and garage entrance setbacks to be reduced to the average of the respective setbacks on abutting lots. Clarify whether this exception is allowed along transit streets. If the intent of transit street setback is to have the streetscape transition over time to a more pedestrian-oriented setback depth, setback averaging may not be appropriate.
13	C	33.120.220 B2 33.130.215 B2 33.140.215 B2	Maximum Transit Street Setback	Existing Code language is not clear what to do if the distance between the transit street curb (or a curb along a street in a pedestrian district) and the property line is greater than the maximum setback allowed. Is an adjustment required in this circumstance? It is recommended in such circumstances to use the property line as the maximum transit street setback, even if this results in not conforming to the minimum building setback, as the transit street setback supersedes the minimum building setback requirement. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
14	MP	33.120.220 B2 33.130.215 B2 33.140.215 B2	Maximum Transit Street Setback: Treatment of porches	Clarify whether a porch may be counted towards meeting the maximum transit street setback. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
15	C	33.120.220 B2 33.130.215 B2 33.140.215 B2	Maximum Transit Street Setback: Additions to existing buildings	Clarify whether an addition to the rear of an existing building that does not meet the maximum transit street setback may be done without an Adjustment Review. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)

16	C	33.120.220 B2 33.130.215 B2 33.140.215 B2	Maximum Transit Street Setback: Multiple Buildings on a site	Clarify how the maximum building setback is calculated when there are several buildings on a site. Does each street-facing building wall individually need to meet the standard, or does the cumulative length of all street-facing building walls have to meet the standard? (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
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17	C	33.120.230 B	Building Length: Calculation	Clarify what portion of the building is subject to the 100 foot building length requirement. If a building's street-facing facade angles away from the street lot line, or is articulated, with only some portions of the building wall within 30 feet of the street lot line, does the building length limitation apply to the entire building or only to those portions within 30 feet of the street lot line?
18	T	33.120.260	Recycling in Multi-Dwelling Zones	This Code section presently requires recycling collection areas for development having three or more dwelling units. To be consistent with BES rules and procedures, central recycling systems should be required for five or more dwelling units.
19	C	33.120.285 C 33.130.270 C 33.140.275 C	Fences: Height restrictions in street setbacks	The height of fences is limited to 3-1/2 feet in "front building setbacks." However, in Table 120-3, there are no front building setbacks identified for the RH, RX and IR zones, and in Tables 130-3 and 140-4, there are no "front building setbacks" identified for any of the zones. Instead, setbacks from a "street lot line" are identified. The result is that fences up to 8 feet high are allowed along any street lot line that is not identified as a "front building setback." (Note: Planning Commission's recommendation on this issue is deferred until a later date.)

20	T	33.130	Table 130-3: Required parking in CO1 zone	Table 130-3 indicates parking is required in the CO1 zone, yet Table 266-1 indicates that there is no minimum parking standard in the CO1 zone. It is clear from the commentary for the Citywide Parking Ratios Project that there are no minimum parking requirements in the CO1 zone.
21	C	33.130.230 B	Ground Floor Windows: Highest street classification	On corner lots, the ground floor window requirement must be met on the facade facing the street having the "highest classification," as identified in the Arterial Streets Classifications and Policies. Clarify whether this means the highest traffic street classification, or the highest transit street classification.
22	C	33.130.230 B 33.140.230 B	Ground Floor Windows: Requirement for residential units	It is not clear from existing language in 33.130.230.B.3 whether the walls of residential units are exempt from the ground floor window requirement only when set back five feet and landscaped to the L2 standard.

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23	C	33.140.250 B	Parking of Heavy Trucks in EX Zone	Existing Code language allows parking of heavy trucks and similar equipment in areas that meet the development standards for exterior storage. Table 140-7 indicates that exterior storage is not allowed in the EX zone. Clarify whether the parking of heavy trucks and similar equipment is allowed in the EX zone.
24	T	33.205.010	Accessory Dwelling Units: Reference to "single-dwelling neighborhoods" in purpose statement	While accessory dwelling units are allowed in any residential zone, the purpose statement references single-dwelling neighborhoods. If the regulations apply to all residential zones, the reference to single-dwelling neighborhood is misleading and creates a problem for adjustments that must reference the purpose statement.
25	C	33.218.100 H 33.218.110 J 33.218.120 A 33.218.130 B 33.218.140 I	Community Design Standards: Exterior finish materials	Clarify that the exterior finish material requirement applies to all facades.

		33.218.150 G		
26	C	33.218.120 G	Community Design Standards: Large accessory structures	This language needs to be rewritten so that it is clear that 33.218.120 G1 is intended to define what constitutes a large accessory structure.
27	C	33.248.030	Landscaping: Size of trees	Clarify that the required 1.5 inch diameter size applies only to deciduous trees. Evergreens trees need only meet the minimum six foot height requirement.
28	C	33.248.040	Landscaping: In-ground	Clarify that all landscaping required under Chapter 33.248 must be in-ground, and may not be in pots, urns or similar containers without an approved Adjustment review.
29	C	33.258.050 C	Nonconforming Uses: Expansion of a nonconforming use within a building	Clarify that nonconforming uses may have rights for only specific square footage within a building, and cannot expand within the building without an approved Nonconforming Situation Review.

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30	MP	33.258.050 C1	Nonconforming Uses: Expansion to property owned before 1991	Nonconforming uses are limited or prohibited from expanding beyond the property lines that existed as of 1991. It makes more sense to allow a nonconforming use to expand to property that was owned prior to the site becoming nonconforming.
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31	C	33.258.060 A2	Nonconforming Residential Densities	Existing language is limited to addressing development that is nonconforming because it exceeds maximum residential density requirements. It says nothing about development that is nonconforming because it does not meet minimum density requirements. The language should clarify that development moving closer to conformance with the minimum density requirements may do so by right without the need for an adjustment.
32	MP	33.258.070	Nonconforming Upgrades: Defining site	For projects in excess of \$25,000, a minimum of 10% of the project cost must be spent on upgrading identified development standards on the site. Requiring these upgrades on a "site" is problematic in that site is essentially defined by ownership. As such, nonconforming upgrades may be triggered on adjacent lots or leaseholds with unrelated uses and development, solely because they are in common ownership.
33	MP	33.258.070 D	Nonconforming Upgrades: Timing of Nonconforming Upgrades	Current regulations require that any nonconforming upgrades be completed as part of each building permit, and any upgrades are capped at 10% of the building permit value. This can result in significant delays at time of building permit application, requires Planning and Zoning staff to commit a substantial numbers of hours completing such reviews, and typically results in only minimal upgrades on the site. The amendment allows applicant the option of completing upgrades within a two to five year period. If selecting this option, the site must be brought fully into conformance with the development standards.
34	C	33.258.070 D2	Nonconforming Situations: Value of proposed alterations	The threshold that triggers completing nonconforming upgrades is "value of proposed alterations on the site." It is unclear who determines this "value."

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35	C	33.258.070 E2 33.110.250 33.120.280	Nonconforming Situations: Rebuilding detached garages	The Code currently reads that destroyed garages in residential zones are subject to the provisions for detached garages in the base zone. Clarify whether <i>all</i> garages, or only <i>detached</i> garages are subject to the standards of 33.110.250 and 33.120.280.
36	C	33.266.120 C3	Parking: Pavement Limits for houses, attached houses, and duplexes	Existing regulations limit the amount of paving used for vehicle areas within the front setback area. Regulating the amount of vehicle area by limiting the amount of paving allows the use of paving strips to get around the intent of the regulation, which is to limit the size and placement of parking areas in order to enhance the appearance of neighborhoods. It may be appropriate to replace the term "area paved for vehicles" with "area used for vehicles." (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
37	MP	33.266.130 C	Parking and Loading: Definition of vehicle area	As identified in Table 266-3, vehicle areas are either not allowed or are prohibited between buildings and the street. Because vehicle areas include driveways, this limitation or prohibition does not allow even driveways leading to a garage or parking structure to be located between the building and the street. The term "vehicle area" in this regulation should be replaced with the term "parking area."
38	C	33.266.130 E	Perimeter Landscape Requirements for Parking Areas: Location of landscaping	Existing regulations do not specify the location of the required perimeter landscaping in instances where the parking area is a substantial distance from the property line. Nor do the regulations address whether perimeter landscaping is required when a building is situated between the parking area and a property line. This needs to be clarified.
39	T	33.266.140 C	Interior Landscape Requirements for Parking Areas: Stacked parking	For stacked parking, the landscape standard requires one tree per 5,000 square feet of <i>site area</i> to be placed in the parking lot. This reference should be corrected to require one tree per 5,000 square feet of <i>parking area</i> .

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40	C	33.266.150 E	Vehicles in Residential Zones: Recreational Vehicles	Existing regulations regarding recreational vehicles in residential zones do not allow such vehicles to be <i>parked</i> between the building and the front lot line. Recent changes to the definition of exterior storage now consider the parking of recreational vehicles to be exterior storage. The unintended consequence has been to allow the <i>storage</i> of recreational vehicles between the building and the front lot line.
41	C	33.266.310	Loading: Paving of loading areas	Regulations of 33.266.130D state that all vehicle areas must be paved. However, for standards dealing specifically with loading areas (33.266.310), there is no mention that the loading area must be paved. For clarity, the requirement that loading areas must be paved should also be included in 33.266.310.
42	MP	33.285.050 B1	Mass Shelters: Certification	Mass shelters are presently required to be certified by Multnomah County Housing and Community Services Division. In 1999, the Office of Neighborhood Involvement Community Residential Siting Program (CRSP) was established. Given the purpose for certification, it may be appropriate to transfer certification from the County to CRSP.
43	MP	33.296.030	Temporary Activities: Duration of public utility staging areas	The period of time staging areas may remain should be increased from one year in recognition of larger scope projects such as mid-county sewer and Interstate MAX.
44	MP	33.296.030 A1	Temporary Activities: Use of existing house for residence during construction of new house	Existing regulations allow only the use of a mobile home as a residence on a site in residential zones while a house is being built on the same lot. This regulation should be expanded to also allow the use of an existing house as a residence while a new house is under construction on the same site, with requirements for posting of a performance bond or other surety to ensure the existing house is removed upon completion of the new house.

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45	T	33.405.090 C 33.420.055 B 33.505.245	Design Review: Eligibility for using Community Design Standards	As a result of HB 2774, <i>all</i> residential projects outside of historic areas, the Central City and Gateway, must be given the option of using clear and objective design standards in lieu of a (design) land use review. The Community Design Standards provide clear and objective standards. However, residential developments exceeding a certain number of units or floor area are not eligible to use the Community Design Standards. This restriction on the use of the Community Design Standards is contrary to HB 2774.
46	T	33.515	Columbia South Shore Plan District: Map 515-1	The legend on Map 515-1 identifies areas in "Business Opportunity Subdistrict." For clarity and consistency, this should be changed to read "Industrial Business Opportunity Subdistrict, as stated in 33.515.110.
47	T	33.526	Map Error: Map 526-1 (Map 1 of 2) of the Gateway Plan District	Near Light Middle School, the north-south boundary of the District is identified as SE 107th Avenue. This should be SE 106th Avenue.
48	T	33.526.130 D	Gateway Plan District: Attached housing	For clarity, the allowance for attached housing in the identified zones should include the word "or" between paragraphs 1 and 2.
49	MP	33.526.270 C	Gateway Plan District: Site design standards	The internal circulation requirements are not appropriate when applied to houses. Houses should be exempted from meeting the internal circulation requirements.

50	C	33.530.040 33.110.250 E3	Glendoveer Plan District: Setback requirement for detached garages	The Plan District requires a 10 foot side and rear setback, yet detached garages in R7, R5 and R2.5 zones may be built to the property line if certain location and building dimension requirements are met. Because the Plan District was intended to replicate the previous Ascot Acres zoning (LR 7.5), and because the LR 7.5 zone allowed detached garages in the side and rear setbacks if certain conditions were met, we should allow garages to be built in side and rear setbacks in the Plan District subject to the standards of 33.110.250.E.3
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51	MP	33.730.110	Ex Parte Contact	Existing Code language does not allow <i>any</i> contact between members of the review body and persons interested in the outcome. Consider limiting this requirement solely to not allowing members of the review body to talk to interested persons about the land use review case.
52	MP	33.730.120	Recording a Land Use Decision	The existing process to record land use decisions requires payment of County recording fees to the City Auditor. The Auditor then has to send the item to be recorded to the County. The process may be expedited by having the applicant go directly to the County, pay the fee and record the decision all as part of a single transaction. The applicant would then be required to show evidence of recording to the City prior to receiving a permit for whatever was allowed by the land use decision.

53	C	33.730.130 B	Expiration of Land Use Review Approval: Multiple development projects on a single site	Clarify that receiving a building permit within three years of the final decision on a land use approval for a portion of a development does not vest other development projects under the same land use approval, if a building permit for the subsequent projects is not issued within three years of the final land use decision. The land use approval is valid only for those developments on the site for which a building permit has been issued within three years of the final decision. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
54	C	33.730.140	Requests for Changes to Conditions of Approval	33.730.140, regarding requests to change conditions of approval, needs to reflect that conditions imposed prior to 1981 no longer apply to a site, with the exception of Planned Unit Developments, subdivisions, or quasi-judicial reviews approved in association with Planned Unit Developments or subdivisions, as stated in 33.700.110 A.

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55	MP	33.750.050 A	Fee Waivers for Appeals	The Director of OPDR may waive appeal fees for recognized organizations if criteria identified in 33.750.050A are met. One of these criteria requires that the organization's decision to appeal be made in an open meeting. Existing Code language pertaining to what qualifies as an open meeting is not clear. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
56	C	33.750.060 C1 & D	Fee Refunds	Clarify circumstances when a full refund of land use review fees is allowed. Currently, a factor in determining whether a full refund or 50% refund is made is based on when maps related to the case are prepared. Zoning maps are typically prepared within the first week an application is submitted, and often before the planner has the opportunity to review the file. Consider allowing a full refund if notices required by the Zoning Code have not been sent to the

				other Bureaus.
57	MP	33.805.040 B	Adjustments: Missing reference to OS zones in approval criteria	Approval Criterion B addresses the impact of the adjustment request on livability and appearance for sites in a residential zone, and on the desired character of the area for sites located in commercial, employment or industrial zones. No reference is made to assessing the impact of the adjustment request for sites located in the Open Space (OS) zone. Clarify what impacts must be addressed under this approval criterion for sites located in the OS zone.
58	C	33.815.040 B	Conditional Use Review: Requirement for fences	Clarify under 33.815.040 B1 or B2 that fences are not subject to a conditional use review, as long as they do not violate or change conditions of approval. As indicated under 33.815.040 B2, fences are only subject to a land use review (an Adjustment) if they are over the permitted height, otherwise, they are permitted without a conditional use review.

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59	C	33.825.025 A	Design Review: Type II or Type III procedure in Outer Southeast Community Plan	33.825.025 A1.e(9) states proposals valued at more than \$1 million that are in a design district that does not have its own guidelines require a Type III review. 33.825.025 A.2.f states proposals in the Outer Southeast Community Plan require a Type II review. Clarify whether proposals valued at more than \$1 million in design zones in the Outer Southeast Community Plan (which does not have its own design guidelines) require a Type II or a Type III design review..
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60	T	33.825.025 A2	Design Review: Type II design review for Hillsdale and Sellwood design districts	Proposals in design districts are subject to a Type I, Type II or Type III Design Review, as identified in 33.825.025 A1, A2 and A3. The applicable design review procedure is not identified for proposals in the Hillsdale and Sellwood design districts.
61	MP	33.848.030 A	Impact Mitigation Plans	Consider amending the code to allow an institution located in the IR zone to choose whether they want to update their existing Conditional Use Master Plan, propose a new Conditional Use Master Plan, propose an Impact Mitigation Plan. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
62	MP	33.910.030	Definitions: Parking, Exterior Storage, and Exterior Display	Presently, the primary characteristic that defines parking is whether the vehicle is operable. As such, a lot containing fleet vehicles, cars for sale or lease at dealerships that are not accessible to the public, or new cars unloaded at ports are all considered parking, and must meet the development standards required for parking, despite the fact that the characteristics and impacts of these "parking" situations are markedly different than a typical parking lot. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
63	C	33.910.030	Definitions: Superblock	The definition of superblock is identified as a continuous area in single or multiple ownership, that includes a vacated street and has a total gross site area in private property of at least 75,000 square feet. Clarify that the term "superblock" is not limited to a single "site," but may include several "sites."

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64	MP	33.910.030	Definitions: Building coverage and decks	The maximum allowed building coverage on a site includes all covered structures. Structure is defined as "any object constructed in or on the ground," and structures include, among other things, decks. The term "covered structure" is not defined in the code. Clarify whether uncovered
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				decks above the first story of a building are considered "covered structures" in that they cover an area below, and therefore are counted toward maximum allowed building coverage.
65	C	33.910.030	Definitions: Drive-through facility	Clarify whether such facilities as video drop-offs are considered drive-through facilities. (Note: Planning Commission's recommendation on this issue is deferred until a later date.)
66	C	33.920.240 33.920.300	Use Categories: Contractors	The exceptions under the Office use category (33.920.240 D2) state, "Contractors and others who perform services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site. The exceptions under the Industrial Service use category (33.920.300 D1) state, "Contractors and others who perform services off-site are included in the Office category, if major equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site. Need to be consistent in use of terms "major equipment" and "equipment".
67	T	33.920.420 33.920.400	Use Categories: Police and fire stations	Police and fire stations are listed as examples of Community Service uses (33.920.420 C), yet under exceptions to the Community Service use categories, public safety facilities are identified as Basic Utilities. The identified characteristics of Basic Utilities (33.920.400 A) state that all public safety facilities are Basic Utilities, and fire and police stations are identified as examples of a Basic Utility. Clarify in which use category police and fire stations belong.
68	T		References to Bureau of Planning/Bureau of Buildings	There are 41 references to the Bureau of Planning and Bureau of Buildings throughout the Zoning Code that need to be changed to the Office of Planning and Development Review (OPDR).

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69	T		Maps: Effective Date	Maps throughout the Zoning Code identify the date on which they were effective. For clarification, change the term "effective" to "map revised."
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