

# Accessory Structures Zoning Code Update

## Recommended Draft



*New rules for the size, design and location of garages, ADUs  
and other accessory structures*

October 2015



Bureau of Planning and Sustainability  
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City of Portland, Oregon  
Charlie Hales, Mayor • Susan Anderson, Director



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## Accessory Structures Zoning Code Update

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### City Council Public Hearing

Thursday November 12, 2015 at 9:45 a.m.\*

1221 SW 4<sup>th</sup> Ave., Council Chambers

The Portland City Council will hold a public hearing regarding the proposed code amendments. \*Check the agenda on the day of the hearing to make sure this item is still scheduled. You can also watch the hearings live online:

<http://www.portlandoregon.gov/28258>

*You may testify in person, email, or written testimony to the Council Clerk at*

*[CCTestmony@portlandoregon.gov](mailto:CCTestmony@portlandoregon.gov), or send testimony to  
1221 SW Fourth Avenue, Room 130, Portland, Oregon 97204*

*Written testimony must be received by the time of the hearing and must  
include your name and address.*

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- At the Bureau of Planning and Sustainability, 1900 SW 4<sup>th</sup> Ave., 7<sup>th</sup> floor
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October 12, 2015

Mayor Charles Hales and Members of Portland City Council  
Portland City Hall  
1221 SW Fourth Avenue  
Portland, OR 97204

**Subject: Accessory Structures Zoning Code Update**

Dear Mayor Hales and City Commissioners:

The Planning and Sustainability Commission (PSC) is pleased to forward our recommendations on the *Accessory Structures Zoning Code Update*. This project revises the regulations for accessory structures associated with single dwelling residential development. Most of the changes affect covered structures such as garages, accessory dwelling units (ADUs) and storage sheds. There are less significant changes to smaller miscellaneous accessory structures such as flagpoles, trellises, hot tubs and mechanical equipment.

On September 22, 2015, the PSC held a hearing and voted 7-0 to recommend these amendments. We heard testimony from four individuals. There was general support of the amendments, but some testifiers requested additional flexibility for certain situations and taller structures. While there are always situations that can't be addressed through standards, the Commission agreed that the staff proposal strikes a balance between providing objective standards and situational flexibility.

The proposed amendments simplify the current regulations for accessory structures by creating a more uniform set of standards that are based on building form (setbacks, height and bulk) rather than on function (how the structure is used). We think these amendments will create regulations that are easier to understand and implement while limiting the impacts on adjacent neighbors.

### Planning and Sustainability Recommendations

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

1. Adopt the *Accessory Structures Zoning Code Update – Recommended Draft*, dated October 2015; and
2. Amend the Zoning Code (Title 33) as shown in the *Recommended Draft*.

Thank you for the opportunity to participate in the review of this project and for considering our recommendations.

Sincerely,

André Baugh, Chair



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# Table of Contents

<b>Planning &amp; Sustainability Commission Recommendations....</b>	<b>2</b>
<b>I. Introduction.....</b>	<b>3</b>
Project Summary .....	3
Proposed Changes by Structure Type.....	5
Regulatory/Land Use Background .....	7
Public and Stakeholder Involvement .....	8
<b>II. Amendments to the Zoning Code.....</b>	<b>11</b>
Section 33.110 <i>Single-Dwelling Zones</i> .....	12
Section 33.120 <i>Multi-Dwelling Zones</i> .....	42
Section 33.130 <i>Commercial Zones</i> .....	64
Section 33.140 <i>Employment and Industrial Zones</i> .....	70
Section 33.205 <i>Accessory Dwelling Units</i> .....	78
Section 33.910 <i>Definitions</i> .....	86
Section 33.930 <i>Measurements</i> .....	88
<b>Appendix: Regulatory History of Accessory Structures and ADUs .....</b>	<b>91</b>

## Planning and Sustainability Commission Recommendations

(see letter on previous page)

The Planning and Sustainability recommends the City Council:

1. Adopt this *Recommended Draft*; and
2. Amend Title 33, Planning and Zoning, as shown in this *Recommended Draft*;

# I. Introduction

## Project Summary

The Accessory Structures Zoning Code Update is revising the Portland's *Zoning Code* regulations for accessory structures with a focus on detached accessory structures associated with residential development. In the *Zoning Code*, detached accessory structures are divided into four types: detached covered accessory structures (e.g. garages, ADUs, greenhouses); detached vertical uncovered structures (e.g. flag poles, trellises, play structures); detached uncovered horizontal structures (e.g. decks, hot tubs, stairways); and mechanical equipment (e.g. heat pumps, radon filters).

The main purpose of the current regulations is to prevent accessory structures from becoming the predominate element on the site. Other purposes include providing access around structures, helping maintain privacy to abutting properties, and ensuring that accessory dwelling units (ADUs) respect the look and scale of single-dwelling development. They do this by regulating setbacks, height in and out of the setbacks, building size, location, building coverage, and compatibility standards.

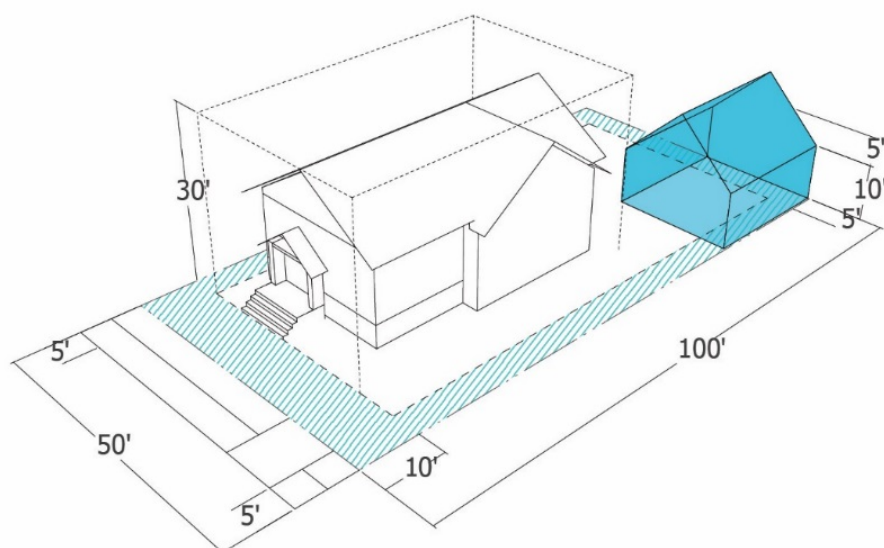
The proposed amendments will:

1. **Continue to support the existing purpose statements of accessory structures and ADUs.** The proposals support the existing purpose statements of the accessory structures and ADU regulations, as described above. Although these proposed changes create more flexibility in the siting of accessory structures, they also include standards to ensure accessory structures do not become the predominant element on site, help to maintain privacy, and limit visual impacts.
2. **Create standards for accessory structures that emphasize form (setbacks, height, and bulk) over function (how the accessory structure is used).** Currently, special regulations for garages and ADUs result in more focus on building use than on building form. Rather than focus on the potential use of the accessory structure, the amendments create a more standardized set of regulations related to setbacks, height and bulk that cover a wider range of accessory structures, regardless of their use.
3. **Treat ADUs and other covered detached accessory structures similarly.** Currently ADUs are limited to a height of 18 feet, while other covered detached accessory structures are allowed to be the maximum base zone height (30 - 35 feet). ADUs are also required to meet compatibility standards, while other detached accessory structures—including those that can be much taller—have no compatibility standards. The changes create a uniform height standard of 20 feet and design standards for taller covered accessory structures.
4. **Reformat regulations to improve clarity.** The proposed amendments distinguish between detached structures, and those that are attached or project out from a building. This helps eliminate the confusion that occurs, especially for horizontal structures such as ramps and stairways that connect to the building. They also amend the Commercial, Employment and Industrial zones to clarify the regulations that apply to accessory structures for both residential and non-residential development.

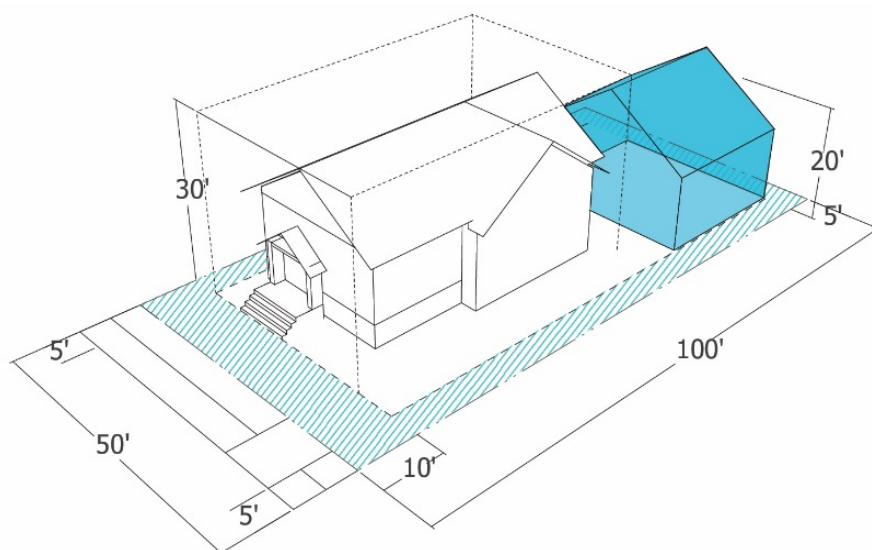


## Introduction / Background

The figures below provide a visual representation of the proposed standards for detached covered accessory structures.



**Figure 1: Allowed in the Side/Rear Setbacks.** This figure indicates the form and bulk of a detached accessory structure that can be in the setback. Under the current code, only a garage could be placed in this location. Under the amended code, the structure can be used for a variety of uses, including as a workshop, storage, living space/ADU or a home office, provided the walls are no more than 10' high.



**Figure 2: Outside of the Setbacks.** This figure shows the form and bulk of all detached covered accessory structures under the new standards which establish a maximum height of 20-ft. Under the amended code, structures greater than 15-feet tall will also need to meet additional compatibility standards. Under the current code, ADUs are limited to 18 ft. high and all other accessory structure can be up to 30 or 35 feet high, depending on the single-dwelling zone.



## Proposed Changes by Structure Type

It should be noted that the following changes are generally specific to structures that are accessory to single-dwelling development. Accessory structures built in conjunction with more intense, or higher density development will generally need to meet existing setback and other standards. See the individual code sections for more detail.

### 1. Detached Covered Accessory Structures

Detached covered accessory structures include garages, carports, accessory dwelling units (ADUs), artist studios, storage buildings, and greenhouses. They also include any vertical or horizontal accessory that is covered (i.e. a patio with a roof, a covered deck)



#### Regulations

- Currently, only garages that meet certain size and location requirements are allowed in the side and rear setbacks. The proposal allows any small (24 feet x 24 feet or less) single story (maximum 15 ft. high) detached covered structure in the side and rear setback.
- Currently, the height of accessory structures are regulated the same as the primary structure (single dwelling height maximums between 30 ft. - 35 ft.); ADUs are limited to a height of 18 ft. The proposal sets a maximum height for all detached covered accessory structures at 20 ft.
- Currently, ADUs must meet compatibility standards while other accessory structures do not. The proposal requires ALL detached covered accessory structures over 15 ft. tall to meet a revised version of the ADU compatibility standards that provides more flexibility.
- The proposal keeps current standards that require a detached accessory structure to be smaller than the primary structure and limit the building coverage of all covered detached accessory structures on a site to 15 percent.



#### Additional Regulations for Detached Accessory Dwelling Units (ADUs)

- The proposal allows detached ADUs to be closer to the street. Currently the regulation requires the ADU to be either at least 60 ft. from the front lot line or 6 ft. behind the house. The amendment reduces this standard to 40 ft. from the front lot line or behind the rear of the house.
- The proposal does not change the requirement that an ADU be limited to 75 percent of the living area of the house or 800 sq. ft., whichever is less.

## Introduction / Background

### 2. Detached Uncovered Vertical Structures

Vertical structures include such outdoor elements as flag poles, trellises, arbors, play structures, antennas, satellite receiving dishes, and lamp posts.

#### Regulations

- Currently, most vertical structures must meet height and setback standards of the base zone; small structures (3 ft. x 3 ft. and up to 8 ft. high) are allowed in all setbacks. The proposal allows larger vertical structures in the side and rear setback if they meet similar requirements as those for covered detached structures. This allows common vertical structures such as trellises and arbors in side and rear setbacks if they are screened to maintain privacy and reduce impacts.
- The proposals do not change the front setback regulations for flagpoles or a single entry arbor structure.

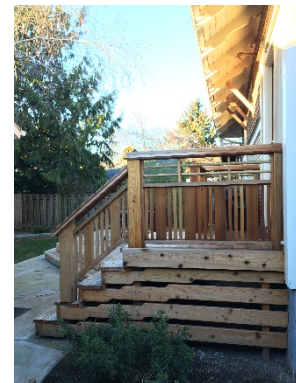


### 3. Detached Uncovered Horizontal Structures

Horizontal structures include such elements as decks, ADA ramps stairways, entry bridges, pools, tennis courts and hot tubs.

#### Regulations

- The proposal differentiates between horizontal structures that are attached to a building (i.e. a deck attached to a house) and those detached from the house.
- The proposal keeps the current regulations that allow horizontal structures 30 inches or less in all setbacks (with exceptions for sloping lots and access to the main entrance) and allows horizontal structures over 30 inches to extend up to 20 percent into setbacks, but they must be at least 3 ft. from the lot line.



## 4. Mechanical Equipment

Mechanical equipment includes heating and air conditioning systems, radon filters and other equipment used in conjunction with the building. They can either be attached to the building or placed on the ground next to the building.



### Regulations

- Currently, detached mechanical equipment is not allowed in the setback. The proposal allows them in side and rear setbacks if they are no more than 5 ft. tall and are screened from neighboring property. City noise regulations continue to apply.
- Currently, wall mounted mechanical equipment is not allowed in the setback. The proposal regulates them the same as other building extensions and allows them to project 20 percent into the side and rear setback.

## Regulatory/Land Use Background

As part of this project, staff reviewed the historical background of the following items to aid in issue identification, discussion and ultimately in proposing code amendments. The items included:

- Zoning code regulations for accessory structures and ADUs (1991-present)
- Building permit history for accessory structures and ADUs (2009-2014)
- Land use reviews to adjust zoning standards for accessory structures (2009-2014)

**Zoning Code Regulations.** Since 1991, the zoning code regulations for garages and ADUs have seen the largest number of changes, while regulations for other accessory structures have remained relatively stable. The amendments for garages have created more flexibility in the siting and size of detached garages, while also imposing some design standards. ADU regulations have changed the most, moving from only allowing ADUs in limited situations as an internal conversion in a house to currently allowing them in all residential zones in conjunction with a house or attached house. Despite the loosening of these regulations, the growth of ADUs remained relatively flat until the waiver of system development charges (SDCs) in 2010 spurred the current growth.

**Building permits.** Overall, permits related to accessory structures increased significantly between 2009-2014, with the majority of permits being for the construction and demolition of garages. However, ADUs showed the highest percentage increase of building permits during that time, illustrating the effect of the SDC waiver, although overall they made up approximately 12% of accessory structure building permits.

**Land use review cases.** Adjustments to setbacks were the most common land use review processed for accessory structures between 2009 and 2014. ADUs, while making up a smaller percentage (12%) of accessory structure permits, were responsible for 29% of the Adjustments related to accessory structures. In addition to setbacks, common ADU Adjustments were for height, size and for the design standards. This information helped inform staff's proposal. *(See Appendix for more information on regulatory/land use background.)*

## Public and Stakeholder Involvement

### Who will be affected by these proposals?

The proposal amends the zoning code for accessory structures in all zones, but the majority of the changes will affect single-dwelling neighborhoods. Anyone who lives in a house could be affected by these changes if they build an accessory structure or their neighbor builds an accessory structure. Architects and builders specializing in accessory structures will also be directly affected. And, to a lesser degree, the outcome of this project may be relevant to stakeholders interested in broader issues such as housing choice and neighborhood character.

### What have we heard leading up to this proposal?

- Complexity of Regulations Based on Structure Type.** Current regulations for accessory structures have been amended over the years, resulting in **complex regulations that treat similar structures differently** depending on the use of the interior of the structure, whether it is attached or detached and where it is located on the site. This variety creates one set of standards for structures that are used to store vehicles, another set of standards if the structure is used for other forms of storage, a third set of standards if the structure is used as an accessory dwelling unit, and a fourth set of standards if the structure provides decorative or aesthetic focus for the yard. These various standards create confusion amongst property owners, contractors and neighbors.
- Multi-Purpose Buildings/Re-Purposing Garages.** Many residents are interested in using accessory structures for multiple purposes, including parking, storage, an area for hobbies or a workshop, an extension of outdoor living space, an exercise room, additional living areas or a separate accessory dwelling unit. Because the regulations are based on type/use of building, difficulties arise when re-purposing a garage, or building a structure with multiple purposes. Especially problematic is the current standard that allows garages located on the back of the site to be in the side and rear setbacks. This setback exemption creates regulatory issues when garages are altered or expanded to incorporate other activities.
- Special Accessory Dwelling Units Regulations.** Accessory dwelling units (ADUs) are secondary residential units built on a lot with a house or attached house. In addition to the general standards for accessory structures, ADUs have additional regulations. These regulations require that the ADU has design elements (e.g. roof pitch, windows, trim, siding) that are compatible with the existing house, as well as limits on size and location to ensure that the ADU is of secondary importance on the site. Architects, builders, and property owners have been frustrated with the lack of flexibility and clarity of the ADU regulations. There has also been concern that the special regulations create barriers to developing lower-cost standardized plans, as well as restricting the use of innovative materials.

- **More Intensive Use of Accessory Structures May Impact Neighbors.** Portlanders are building and using accessory structures in new and innovative ways. Working at home has resulted in more home offices; producing food at home necessitates the construction of greenhouses, chicken coops, and animal shelters; and the increased popularity of accessory dwelling units (ADUs) has created new backyard living spaces and/or income producing rental units. The potential for additional noise and impacts on privacy and solar access has been a concern for some neighborhood members.

## Opportunities for Involvement

### Focus Group (February-April 2015)

While researching and developing the initial concepts of these code amendments, staff worked with a focus group to review and discuss the issues. The focus group was made up of a collection of neighborhood representatives, small building developers, and technical staff from the development-review bureaus (members are listed at the front of the document). The focus group met six times between January and April of 2015. The group discussed regulatory and neighborhood issues related to covered accessory structures and garages, ADUs, outdoor structures such as trellis' arbors and decks, and mechanical equipment such as heating and air conditioning systems. Their experience and input helped staff to create a set of amendments for public review.

### Discussion Draft Public Review (June/July)

The *Accessory Structures Zoning Code Update Discussion Draft* was released to the public on June 9, 2015. During the 7 week public review period staff presented the project to the land use/transportation subcommittees of the District Neighborhood Coalition offices, as well as the Citywide Land Use Group. Staff also presented the proposal to building groups including the Oregon Remodelers Association, the Development Review Advisory Committee (DRAC) and a class on accessory dwellings units. On July 9<sup>th</sup>, staff held a Project Open House which was attended by approximately 20 members of the public.

#### *What we heard during the Discussion Draft public review*

Information gathered during the public outreach period was considered by staff in creating the *Proposed Draft*. Overall, the comments received supported the proposals- especially the ones that added flexibility to ADU construction. Suggestions made to clarify the language were incorporated into the draft. Discussions included potential impacts from certain structures or equipment in the setback, some of which may be addressed by current noise limits and proposed screening requirements.

Comments that addressed larger issues of residential development such as adding more than one ADU on a single-dwelling zoned site and alternative housing types were outside of the scope of this project and more applicable to the Residential Infill Project that is currently underway. In those cases, staff forwarded these comments to be considered for that project: [www.portlandoregon.gov/bps/infill](http://www.portlandoregon.gov/bps/infill).



**Introduction / Background****Planning and Sustainability Commission Review (September 22)**

The Planning and Sustainability Commission (PSC) held a public hearing on September 22th on the staff proposal. The public notice for the hearing was posted on the project website and was sent to members of the public who expressed interest in the project during the outreach period as well as to all those interested in legislative projects. The notice was mailed to over 600 individuals. At the hearing, four people provided testimony about the project. There was general support for the project, although some testifiers requested that additional flexibility be added to the code to address specific situations they had encountered. After the hearing, the PSC discussed the staff proposal and the testimony. The PSC determined that the proposal struck the right balance between code clarity and flexibility. The PSC voted unanimously to recommend that the City Council adopt the amendments as they were presented by staff.

**City Council Public Hearing (November 12)**

On November 12 the Portland City Council will hold a public hearing on the Planning and Sustainability Commission's recommendations, before making a final decision on the amendments. The notice of this hearing was mailed to those who testified at the PSC hearing and those who asked to be on the project mailing list. Information about the hearing is provided on the inside cover of this report and is posted on the Bureau of Planning and Sustainability's website at [www.portlandoregon.gov/bps/ricap](http://www.portlandoregon.gov/bps/ricap).



## II. Amendments to the Zoning Code

### How to read this section

The Amendments are arranged in the order they appear in the Zoning Code. As an example, the amendments for the base zones (33.100s) appear prior to the amendments for accessory dwelling units (33.205). The majority of the amendments are concentrated in the residential base zones, Chapter 33.110, Single-Dwelling Zones and Chapter 33.120, Multi-Dwelling Zones. Amendments in other base zones have been made when they relate to single dwelling development. Amendments to Chapter 33.205, Accessory Dwelling Units are made to both simplify the code and because many of the special development standards will apply in the base zones. See the table below for the zones affected.

The amended code language is located on the odd-numbered pages. The facing (even-numbered) pages contain the commentary for the code amendments. The commentary includes descriptions of the issue and the legislative intent of the solution.

Commentary is in *Comic Sans Serif*

Code appears on the right page in Calibri or Bookman font depending on current chapter usage.

Added language is underlined

Deleted language is ~~struckthrough~~

Location of Change by Zoning Code Chapter	Page
33.110 Single-Dwelling Zones	12
33.120 Multi-Dwelling Zones	42
33.130 Commercial Zones	64
33.140 Employment and Industrial Zones	70
33.205 Accessory Dwelling Units	78
33.910 Definitions	86
33.930 Measurements	88

## COMMENTARY

## Chapter 33.110 Single-Dwelling Zones

### Background

Current regulations for accessory structures have been amended over the years, resulting in complex regulations that treat similar structures differently depending on the use of the interior of the structure, whether it is attached or detached, and where it is located on the site. The proposed amendments:

- Create a single set of setback and height standards that apply to all detached covered accessory structures both within and outside of setbacks. These standards apply to detached accessory structures including garages, artist studios and workshops, storage buildings, and accessory dwelling units.
- Create a similar set of standards to apply to vertical structures, which may share some of the features and impacts as covered accessory structures, but don't have a solid roof. Vertical structures include arbors, trellises, uncovered gazebos, statues, etc.
- Create a consistent set of standards across the zones that distinguish between detached structures and structures that are attached to, or project from, a building. This will help eliminate the confusion that occurs when reviewing horizontal structures such as ramps and stairways that connect to the building.
- Expand the mechanical equipment regulations to allow stand-alone equipment to be placed in the side and rear setbacks if the equipment is screened from the neighboring property through landscaping or solid fencing. In all cases, the city's noise standards (Title 18) must be met. The amendment also allows attached mechanical equipment to project from the building similar to other building extensions.

### **33.110.213 Additional Development Standards for Lots and Lots of Record Created before July 26, 1979**

#### **C. Standards.**

1. **Maximum Height.** The amendment clarifies that the height standard applies to the construction of the primary structure (e.g. a house) on a lot. Additional standards have been created to regulate the height of detached accessory structures (33.110.250). Maximum height for a detached accessory structure will be 20-feet.

### **33.110.215 Height**

#### **B. Maximum Height**

1. **Generally.** This amendment adds a clarifying sentence so that readers know that additional height regulations for detached accessory structures are found in Section 33.110.250.
2. **Exceptions.** Similar to the amendment under 33.110.213, this amendment clarifies that the height calculation applies to the primary house, while detached accessory structures are subject to the new height standards within 33.110.250.

## 33.110 Single-Dwelling Zones

# 110

### 33.110.213 Additional Development Standards for Lots and Lots of Record Created Before July 26, 1979

A-B. [No change.]

C. **Standards.** Modifications to the standards of this subsection may be requested through Design Review. Adjustments are prohibited. The standards are:

1. Maximum height. The maximum height allowed for all primary structures is 1.5 times the width of the structure, up to the maximum height limit listed in Table 110-3;
- 2-10. [No change.]

### 33.110.215 Height

A. **Purpose.** The height standards serve several purposes:

- They promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale and placement of houses in the city's neighborhoods.

B. **Maximum height.**

1. **Generally.** The maximum height allowed for all structures is stated in Table 110-3. The maximum height standard for institutional uses is stated in 33.110.245, Institutional Development Standards. The maximum height standards for detached accessory structures are stated in 33.110.250, Detached Accessory Structures.

2. **Exceptions.**

- a. R10-R5 zones. The maximum height for all primary structures on new narrow lots in the R10 to R5 zones is 1.2 times the width of the structure, up to the maximum height limit listed in Table 110-3; and
- b. R2.5 zone. The maximum height for all primary structures on new narrow lots in the R2.5 zone is 1.5 times the width of the new structure, up to the maximum height limit listed in Table 110-3.

For the purposes of this Paragraph, width is the length of the street-facing façade of the dwelling unit. See Figure 110-1. Modifications are allowed through Planned Development Review, see Chapter 33.638, Planned Development. Adjustments to this paragraph are prohibited.

**COMMENTARY****33.110.215 Height****C. Exceptions to the maximum height**

1. This amendment clarifies that exception C.1 applies only to projections attached to a primary building. The height regulations stated in 33.110.250 would apply to a free-standing structure such as a satellite dish in the yard or for a projection attached to an accessory structure.
2. Farm buildings such as barns and silos may be required for an agricultural use, but aren't a necessary part of a household living use. If a larger accessory structure is built in conjunction with a house, the standards for accessory structures should apply. This amendment clarifies that the exemption from the height limit only applies when the building is built in conjunction with an agricultural use. Agricultural uses are allowed in some single dwelling zones.

**Figure 110-1**  
**[No change]**

**C. Exceptions to the maximum height.**

1. Chimneys, flag poles, satellite receiving dishes and other similar items attached to a building with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.
2. Farm buildings associated with an agricultural use, such as silos and barns, are exempt from the height limit as long as they are set back from all lot lines, at least one foot for every foot in height.
3. Antennas, utility power poles, and public safety facilities are exempt from the height limit.
4. Small wind turbines are subject to the standards of Chapter 33.299.
5. Roof mounted solar panels are not included in height calculations, and may exceed the maximum height limit if the following are met;
  - a. For flat roofs or the horizontal portion of mansard roofs, they may extend up to 5 feet above the top of the highest point of the roof.
  - b. For pitched, hipped or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches is measured from the upper side of the solar panel.

**D. Alternative height limits for steeply sloping lots. [No change.]**

**COMMENTARY****33.110.220 Setbacks****A. Setbacks.**

This section is not changing. It is included here for context.

**B. Required Setbacks.**

The current standard provides a disclaimer that there are other setback requirements that "apply to specific development sites or situations". The disclaimer is followed by three examples of these situations (e.g. parking setbacks, Laurelhurst and Eastmoreland, and special street setbacks). The list of examples has created confusion because it is incomplete. There are many other situations, such as overlay zones and plan districts that include special setbacks. Highlighting only a few examples has caused people to miss the other situations not listed. The proposed amendment deletes the examples and leaves the general statement that other setbacks may apply.



### 33.110.220 Setbacks

- A. Purpose.** The setback regulations for buildings and garage entrances serve several purposes:
- They maintain light, air, separation for fire protection, and access for fire fighting;
  - They reflect the general building scale and placement of houses in the city's neighborhoods;
  - They promote a reasonable physical relationship between residences;
  - They promote options for privacy for neighboring properties;
  - They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
  - They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
  - They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.
- B. Required setbacks.** The required setbacks for buildings and garage entrances are stated in Table 110-3. The walls of the garage structure are subject to the front, side, and rear building setbacks stated in Table 110-3. The minimum setbacks for institutional uses are stated in 33.110.245. Other setbacks may apply to specific types of development or situations. ~~For example, setbacks for parking areas are stated in Chapter 33.266, Parking and Loading, special setbacks in the Laurelhurst and Eastmoreland subdivisions are stated in Chapter 33.540, and special street setbacks are stated in Chapter 33.288.~~

## COMMENTARY

### 33.110.220 Setbacks

#### C. Extensions into required building setbacks.

These amendments re-establish the distinction between the regulations that apply to structures or features that are attached to a building versus structures that are detached. The distinction that used to exist in the code has been lost over the past 15 years due to multiple revisions to the standards. Today, some structures that are attached to a house are subject to the accessory structures section, while other structures that are attached to a house are subject to this section. This has led to confusion during plan review.

These amendments move the current regulations that apply to attached decks, stairways and wheelchair ramps from 33.110.250.C.3, Uncovered horizontal structures, to this extensions subsection. Structures that project out from a primary structure, and extend into a setback, are more clearly understood as building extensions than as separate accessory structures.

By adding mechanical equipment to the list of building features that may partially extend into a setback (33.110.220.C.1.a), the amendments treat mechanical equipment the same as other minor extensions such as eaves, chimneys, and decks. With this amendment residential mechanical equipment that is mounted to the wall of a house, including radon mitigation components, smaller heating/air conditioning (HVAC) units, and tankless water heaters, may project 20% into the setback. All mechanical equipment is, and will continue to be, subject to the City's noise regulations in Title 18.

These amendments also provide additional clarity on how to regulate utility facilities that provide utility service to the structure and stormwater facilities that store or infiltrate rain water. Currently, setbacks do not apply to structures such as gutters and downspouts. The proposals would also allow stormwater planters to project further into the setback if they meet the same height limit as decks. The impacts of a lower height planter would be similar to a low height deck or retaining wall. The amendments for water collection cisterns continues the existing policy of allowing cisterns under 6-feet in height in the setback regardless of whether they are attached to the building or a detached structure. Taller attached cisterns will be allowed to project 20% into the setback, which is similar to other attached features of a building.

**C. Extensions into required building setbacks.**

1. The following ~~Minor~~ features of a building ~~such as eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies,~~ may extend into a required building setback up to 20 percent of the depth of the setback. However, ~~they~~ the feature must be at least three feet from a lot line, ~~except as allowed in Section 33.110.250, Accessory Structures.~~
  - a. Eaves, chimneys, fireplace inserts and vents, mechanical equipment, and fire escapes;
  - b. Water collection cisterns and stormwater planters that do not meet the standard of Paragraph C.2 below;
  - c. Decks, stairways, wheelchair ramps and uncovered balconies that do not meet the standard of Paragraph C.2; and
  - d. Bays and bay windows ~~that extending into the setback also must~~ meet the following requirements:
    - (1)~~a-~~ Each bay and bay window may be up to 12 feet long, but the total area of all bays and bay windows on a building façade cannot be more than 30 percent of the area of the façade;
    - (2)~~b-~~ At least 30 percent of the area of ~~each~~ the bay which faces the property line requiring the setback must be glazing or glass block;
    - (3)~~c-~~ Bays and bay windows must cantilever beyond the foundation of the building; and
    - (4)~~d-~~ The bay may not include any doors.
2. The following minor features of a building may extend into the entire required building setbacks:
  - a. Utility connections attached to the building that are required to provide services such as water, electricity, and other similar utility services;
  - b. Gutters and downspouts that drain stormwater off a roof of the structure;
  - c. Stormwater planters that are no more than 2-1/2 feet above the ground;
  - d. Water collection cisterns that are 6 feet or less in height;
  - e. Attached decks, stairs and ramps that are no more than 2-1/2 feet above the ground. However, stairways and wheelchair ramps that lead to one entrance on the street-facing façade of a building are allowed to extend into the required setback from a street lot line regardless of height above ground; and
  - f. On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation.

**COMMENTARY****33.110.220 Setbacks****C. Extensions into required building setbacks**

3. Detached accessory structures. This amendment clarifies the reference to detached accessory structures versus features attached to the primary structure.

**D. Exceptions to the required setbacks**

5. Established building lines. This amendment clarifies that the established building lines exception should only apply to the established building line of the primary structure, not to the line of an accessory structure. It was not the intent of the standard to allow a setback of 0-ft if a detached garage was built to the property line. The line is established by the location of the primary structure or house.

**33.110.240 Alternative Development Options****F. Flag lot development standards**

5. Detached accessory structures. This amendment updates the reference to detached accessory structures.

3. ~~Detached~~ Accessory structures. The setback standards for detached accessory structures including detached mechanical equipment are stated in 33.110.250, ~~below~~. Fences are addressed in 33.110.255, ~~below~~. Detached accessory dwelling units are addressed in Chapter 33.205.

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

- 1-4. [No change.]
5. Established building lines. The front, side, or rear building setback for the primary structure may be reduced for sites with existing nonconforming development in a required setback. The reduction is allowed if the width of the portion of the existing wall of the primary structure within the required setback is at least 60 percent of the width of the respective facade of the existing primary structure. The building line created by the nonconforming wall serves as the reduced setback line. Eaves associated with the nonconforming wall may extend the same distance into the reduced setback as the existing eave. However, side or rear setbacks may not be reduced to less than 3 feet in depth and eaves may not project closer than 2 feet to the side or rear property line. See Figure 110-4. This reduced setback applies to new development that is no higher than the existing nonconforming wall. For example, a second story could not be placed up to the reduced setback line if the existing nonconforming wall is only one story high.

**33.110.240 Alternative Development Options**

- F. Flag lot development standards.** The development standards for flag lots include specific screening and setback requirements to protect the privacy of abutting residences. The following standards apply to development on flag lots:
- 1-4. [No change.]
  5. ~~Detached garages and~~ accessory structures. ~~Detached garages and~~ accessory structures may project into the flag lot setbacks as allowed in 33.110.250 ~~and 33.110.253~~. However, these structures may not extend into the landscaped buffer area required by F.2.

## COMMENTARY

### 33.110.250 Detached Accessory Structures

#### Background

The intent of these amendments is to create one set of regulations for detached accessory structures regardless of how that structure may be ultimately used. This is similar to how primary structures are regulated. For example, there isn't one set of standards for the portion of the house that includes the kitchen, another set for the living room and a third set for the storage closet.

To achieve this, many of the standards that currently apply to garages, covered accessory structures and accessory dwelling units are being combined and/or revised to:

- Allow smaller covered detached accessory structures (as well as other uncovered garden structures) in the side and rear setbacks if they meet an expanded set of standards that ensure a smaller footprint, shorter height, and screening.
- Limit the height of a detached structure built outside of a setback to 20-feet. This will eliminate the current dichotomy between the 30-35 ft. limit for garages/accessory structures and the 18-ft limit for accessory dwelling units.
- Require all covered accessory structures taller than 15-ft in height to meet a set of development standards similar to the current ADU standards, while adding flexibility to these standards for additional choice of materials for taller ADUs and covered accessory structures.
- Reorganize the code language so that the regulations are organized by structure type rather than by use.

### 33.110.250 Detached Accessory Structures

- A. Purpose.** The purpose statement is amended to address the new standards that regulate the height of the detached structures, and require certain design standards for larger structures. The intent is to ensure better integration into the site and into the neighborhood.
- B. General Standards.**
1. This amendment, similar to a standard in 33.110.210, Height, clarifies regulations for farm structures. Farm buildings built for an Agricultural use (allowed by right in RF and R20 zones and in limited cases in other zones) may be an accessory or primary structure. The intent of the regulation is to not place overly prescriptive development standards on buildings necessary for an Agricultural use, provided they are set back from the property line a significant amount.
  3. This amendment allows an applicant to preserve an accessory structure on a site when the primary structure is demolished. The owner must execute a covenant stipulating that a new primary structure will be built within two years.
  4. This provision is removed, because it is now repetitive with other standards within the section.

Other amendments are made to clarify that the regulations are specific to detached accessory structures.



**33.110.250 Detached Accessory Structures**

- A. Purpose.** This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures, promote compatibility of design for larger structures, provide for necessary access around larger structures, help maintain privacy to abutting lots, and maintain open front setbacks.
- B. General standards.**
1. The regulations of this section apply to all detached accessory structures. Farm structures associated with an agricultural use such as barns and silos are exempt from these standards as long as they are set back from all lot lines at least one foot for every foot in height. Additional regulations for accessory dwelling units are stated in Chapter 33.205.
  2. Detached accessory structures are allowed on a lot only in conjunction with a primary building, and may not exist on a lot prior to the construction of the primary structure, except as allowed by Paragraph B.3, below.
  3. A detached accessory structure that becomes the only structure on a lot as the result of a land division, a property line adjustment, ~~or~~ a separation of ownership, or a demolition of the primary structure may remain on the lot if the owner has executed a covenant with the City that meets the requirements of Section 33.700.060.
    - a. For a land division, the covenant must require the owner to remove the accessory structure if, within two years of final plat approval, a primary structure has not been built and received final inspection. The covenant must be executed with the City prior to final plat approval.
    - b. For a property line adjustment or a separation of ownership, the covenant must require the owner to remove the accessory structure if a primary structure has not been built and received final inspection within two years. The two years begins on the date the letter from BDS confirming the property line adjustment or separation of ownership is mailed. The covenant must be executed with the City before the final letter from BDS is issued.
    - c. For a demolition of a primary structure, the covenant must require the owner to remove the accessory structure if a new primary structure has not been built and received final inspection within two years. The two years begins on the date of the final inspection of the demolition. The covenant must be executed with the City prior to the issuance of the demolition permit.
  - ~~4. Unless stated otherwise in this section, the height and building coverage standards of the base zone apply to accessory structures.~~

## COMMENTARY

**33.110.250 Detached Accessory Structures****C. Detached Covered Accessory Structures**

This is a new subsection that re-organizes the regulations that apply to covered accessory structures. Instead of organizing the regulations by development standard (setback, building coverage, etc), the amended code organizes the regulations by the type of structure. This allows the reader to access all of the standards that apply to a certain type of structure in one place. As a result, this subsection covers the regulations for detached covered accessory structures, including detached garages, workshops, greenhouses, accessory dwelling units and other structures that have a roof.

Although many of the same regulations that applied previously remain in this new organization, there are several changes that have been made to make the regulations more consistent across the types of detached accessory structures.

The introductory paragraph provides examples of detached covered accessory structures. It has been moved from the section that addressed setbacks for covered accessory structures. Some updates have been made for clarification. Language has been added to clarify where these regulations apply and how they relate to standards in other sections.

1. **Height.** This is a new standard that limits all detached covered accessory structures in the single dwelling zones to a 20 foot height limit. Current standards allow detached structures to be built up to the base zone height limit (30-35 feet depending on zone) while the accessory dwelling unit (ADU) height regulation limits detached ADUs to 18-feet. These two standards create barriers to converting accessory structures from one use to an ADU, because the existing structure doesn't meet the shorter ADU height limit. Members of the Accessory Structures Focus Group who design and build ADUs suggested that a two foot height increase (from 18 ft. to 20 ft.) would result in better design and more flexibility for two-story structures. Reducing the height of other accessory structures (from 30/35 ft. to 20 ft.) will ensure detached structures in back yards are not out of scale with the house. By creating one standard for all detached covered accessory structures, these conflicts are alleviated, and the overall height of a detached covered accessory structure is less likely to exceed the height of the house.

**C. Detached covered accessory structures.** Detached covered accessory structures are items such as garages, carports, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, and covered decks or patios. The following standards apply to all detached covered accessory structures. Garages are also subject to the standards of 33.110.253.

1. Height. The maximum height allowed for all detached covered accessory structures is 20 feet.

**COMMENTARY****C. Detached Covered Accessory Structures (continued)**

2. **Setbacks.** Generally, detached covered accessory structures must meet the setback standards for the zone. This paragraph contains some exceptions. The amendments delete the exception allowing detached covered accessory structures under 6-ft in height to be within side and rear setbacks. The exception in 33.110.250.C.2.b, previously applicable only to garages, would apply to all small covered accessory structures. Thus, the special exception is not needed.

- a. Water collection cisterns will continue to be allowed in side and rear setbacks as long as the cistern is no more than 6 feet tall.
- b. This is an expansion of the current standard that allows garages (and accessory structures converted from garages) in the R7, R5 and R2.5 zones to be built within required side and rear setbacks, provided they meet certain size and height standards. The amendments allow for a wider range of detached covered accessory structures to be placed within the side and rear setbacks in those zones. The amendments remove the current regulatory distinction that treats garages and converted garages differently than other covered structures of the same size and height. For corner lots, the current garage side street setback of 25-feet is reduced to 20-feet to recognize the variety of existing lot widths. The 20-foot street setback still exceeds the standard 18-foot garage setback for structures that are outside of side and rear setbacks.

Additional standards will apply to these structures to limit potential impacts on adjoining properties. The standards include:

- Limiting the total length of structures within the setback to 24 feet, so that multiple structures cannot be built within the setback, which could have an adverse impact on neighboring properties.
  - Requiring structures that are not enclosed by walls within the setback to provide fencing or landscaping to screen potential visual or noise impacts made by activities or storage within the structure from adjoining neighbors.
  - Not allowing window or door openings to face the adjacent property line if within the setback.
  - Not allowing decks to be placed on top of structures within the setback.
3. **Building Coverage.** These provisions currently exist, but are moved from a different section of the code. They are not changing.

2. Setbacks. Except as follows, detached covered accessory structures are subject to required building setbacks. See the additional regulations for garages in 33.110.253.
  - a. Water collection cisterns that are 6 feet or less in height are allowed in side and rear setbacks.
  - b. In the R7, R5 and R2.5 zones, detached covered accessory structures other than water collection cisterns are allowed in the side and rear building setbacks if all of the following are met:
    - (1) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 20 feet from a side street lot line;
    - (2) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
    - (3) If more than one structure is within the setback, the combined length of all structures in the setback adjacent to each property line is no more than 24 feet;
    - (4) The structure is no more than 15 feet high, and the walls of the structure are no more than 10 feet high, excluding the portion of the wall within a gable;
    - (5) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening;
    - (6) Walls located within the setback do not have doors or windows facing the adjacent lot line;
    - (7) The structure does not have a rooftop deck; and
    - (8) Dormers are set back at least 5 feet from the side and rear lot lines.
3. Building coverage. The following additional building coverage standards apply to detached covered accessory structures:
  - a. The combined building coverage of all detached covered accessory structures may not exceed 15 percent of the total area of the site; and
  - b. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the primary structure.

**COMMENTARY****C. Detached covered accessory structures****4. Additional development standards for detached covered accessory structures.**

These are new standards in the base zone that apply to detached covered accessory structures greater than 15 feet in height. All ADUs are currently required to meet a similar set of design standards in Chapter 33.205, Accessory Dwelling Units. The design standards in 33.205 have been revised and moved to this paragraph to provide more flexibility. The standards accomplish two things:

- They establish one set of design standards applicable to all detached covered accessory structures over 15-feet in height. Smaller structures, including ADUs, will not be subject to these special design standards. This will allow greater flexibility in the design and construction of smaller single-story accessory structures of all types including ADUs and multi-purpose accessory structures.
- They encourage high quality and/or compatible design materials for larger 2-story accessory structures regardless how the structure is used.

The standards include options so that the home owner or applicant can choose to match the existing materials and style of the primary structure, or provide an alternate design that results in a structure with design interest and compatibility. In general, the first option listed is from the standards that applied to all ADUs, while the second option is similar to a design standard from the Community Design Standards.



4. Additional development standards for detached covered accessory structures. The following additional standards apply to detached covered accessory structures that are more than 15 feet high. Additions to existing structures that do not meet a standard are exempt from that standard.
- a. Exterior finish materials. The exterior finish materials on the detached covered accessory structure must meet one of the following:
    - (1) The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the primary structure; or
    - (2) Siding must be made from wood, composite boards, vinyl or aluminum products, and the siding must be composed in a shingle pattern, or in a horizontal clapboard or shiplap pattern. The boards in the pattern must be 6 inches or less in width.
  - b. Roof Pitch. The roof pitch of the detached covered accessory structure must meet one of the following:
    - (1) The predominant roof pitch must be the same as the predominant roof pitch of the primary structure; or
    - (2) The roof pitch must be at least 6/12.
  - c. Trim. The trim on the detached covered accessory structure must meet one of the following:
    - (1) The trim must be the same in type, size, and location as the trim used on the primary structure; or
    - (2) The trim around all windows and doors must be at least 3 ½ inches wide.
  - d. Windows. The windows on all street facing facades of the detached covered accessory structure must meet one of the following:
    - (1) The windows must match those on the street facing façade of the primary structure in orientation (horizontal or vertical); or
    - (2) Each window must be square or vertical – at least as tall as it is wide.
  - e. Eaves. The eaves on the detached covered accessory structure must meet one of the following:
    - (1) The eaves must project from the building walls the same distance as the eaves on the primary structure;
    - (2) The eaves must project from the building walls at least 1 foot on all elevations; or
    - (3) If the primary structure has no eaves, no eaves are required.

## COMMENTARY

### D. Detached uncovered vertical structures

These amendments combine the standards for detached uncovered vertical structures into one subsection. The introductory paragraph provides examples of detached uncovered vertical structures. It has been moved from the section that addressed setbacks for vertical structures.

1. **Height.** The height limit for detached uncovered vertical structures will be 20 feet—the same limit as for detached covered accessory structures. The standard includes several exemptions that are repeated from the base height section (33.110.215) because the standard applies to these structures whether they are attached to a primary structure or are a stand-alone structure.
2. **Setbacks.** This section expands the current setback allowance for uncovered vertical structures in order to align more closely with the setback regulations that apply to detached covered accessory structures in the R7, R5 and R2.5 zones. The intent is to create standards that are more consistent between a detached covered accessory structure such as a carport or covered patio and a similar sized vertical structure that doesn't include a roof, such as an arbor or other garden structure. Currently, only structures with a very small footprint (e.g. flagpoles, light posts) and entry arbors in the front yard are allowed in the setback. The standards here allow other structures in side and rear setbacks as long as they follow similar guidelines to those that apply to detached covered accessory structures, including several intended to limit impacts.

**D. Detached uncovered vertical structures.** Detached uncovered vertical structures are items such as flag poles, trellises, arbors and other garden structures, play structures, antennas, satellite receiving dishes, and lamp posts. The following standards apply to detached uncovered vertical structures. Fences are addressed in 33.110.255:

1. Height. Except as follows, the maximum height allowed for all detached uncovered vertical structures is 20 feet:
  - a. Antennas, utility power poles, and public safety facilities are exempt from the height limit.
  - b. Flagpoles are subject to the height limit of the base zone for primary structures.
  - c. Detached small wind turbines are subject to the standards of 33.299, Wind Turbines.
2. Setbacks. Except as follows, detached uncovered vertical structures are subject to required building setbacks:
  - a. Detached uncovered vertical structures that are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet are allowed in required building setbacks.
  - b. A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in the front setback. The arbor must allow for pedestrian access under its span.
  - c. Flagpoles are allowed in required building setbacks.
  - d. In the R7, R5, and R2.5 zones, detached uncovered vertical structures that exceed the allowances of Subparagraph 2.a are allowed in side and rear setbacks if all of the following are met:
    - (1) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 20 feet from a side street lot line;
    - (2) The structure has dimensions that do not exceed 24 feet by 24 feet;
    - (3) The structure is no more than 10 feet high;
    - (4) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening; and
    - (5) The structure does not have a rooftop deck.

**COMMENTARY****E. Detached Uncovered Horizontal Structures**

These regulations address detached horizontal structures. Attached horizontal structures are regulated as extensions to a building and the standards can be found in 33.110.220.C. The standards for detached horizontal structures are not changing significantly with the exception that the new 20-foot height limit will apply to all detached structures, including uncovered horizontal structures. The section has been moved as part of the overall re-organization of regulations by structure type.

**F. Detached Mechanical Equipment**

This section expands on the current mechanical equipment regulations. Currently, no mechanical equipment is allowed within required setbacks, although mechanical equipment can be as tall as the base zone allowance (30-35ft). However, there are many other types of structures that are allowed in the setbacks. Most detached mechanical equipment, such as heating and air-conditioning systems, heat pumps, and emergency generators, are fairly compact, with a height of around 3-4 feet. And, newer systems have reduced noise impacts. It can be difficult to locate these systems since they are most efficient if located immediately adjacent to a building wall, and these walls are often built close to the setback line.

A primary concern with these systems is with the noise and visual impacts. Current city code (Title 18) already limits noise emissions for residential lots, which apply to these systems regardless of their location on the property. The zoning code amendments do not have any effect on the applicability of Title 18 to these installations, so the existing noise level regulations continue to apply. Since the mechanical equipment is usually not very tall, it can be screened by fences or landscaping to limit the visual impact. Under current code, adjustments to setbacks for mechanical equipment will often be granted with mitigation requirements to provide a similar level of screening.

This amendment provides additional flexibility for locating mechanical equipment under 5-feet in height within side and rear setbacks, provided they are screened from the adjoining lot through fencing or landscaping. The existing noise standards for residential zones will continue to apply and would be measured at the neighboring property line. The code also establishes a lower overall height limit of 20-feet consistent with other detached accessory structures.

**E. Detached uncovered horizontal structures.** Uncovered horizontal structures are items such as decks, stairways, swimming pools, hot tubs, tennis courts, and boat docks not covered or enclosed. The following standards apply to detached uncovered horizontal structures.

1. Height. The maximum height allowed for all detached uncovered horizontal structures is 20 feet.
2. Setbacks. Except as follows, detached uncovered horizontal structures are subject to required buildings setbacks:
  - a. Detached uncovered decks, ramps, and stairways that are more than 2-1/2 feet above the ground may extend into a required building setback up to 20 percent of the depth of the setback. However, the deck or stairway must be at least three feet from a lot line.
  - b. Structures that are no more than 2-1/2 feet above the ground are allowed in required building setbacks.

**F. Detached mechanical equipment.** Detached mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, radon mitigation components, and water pumps. Generally, detached mechanical equipment will not be attached to a building but may have components such as ventilation or electrical systems attached to the primary structure. The following standards apply to detached mechanical equipment:

1. Height. The maximum height allowed for all detached mechanical equipment is 20 feet.
2. Setbacks. Except as follows, detached mechanical equipment is subject to required buildings setbacks. Detached mechanical equipment is allowed in side or rear building setbacks if all of the following are met:
  - a. The equipment is no more than 5 feet high; and
  - b. The equipment is screened from adjoining lots by walls, fences or vegetation. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening.

**COMMENTARY****33.110.250 Detached Accessory Structures****C. Setbacks**

The regulations in this section have been re-organized into standards for each accessory structure type, shown above. This old section is removed.

**C. ~~Setbacks.~~**

- ~~1. Mechanical equipment. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear building setbacks.~~
- ~~2. Vertical structures.~~
  - ~~a. Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, antennas, satellite receiving dishes, and lamp posts. Fences are addressed in 33.110.255 below.~~
  - ~~b. Setback standard. Vertical structures are allowed in required building setbacks if they are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet. If they are larger or taller, they are not allowed in required building setbacks, except that flag poles are allowed in any building setback;~~
  - ~~c. Exceptions.~~
    - ~~(1) A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in a front setback. The arbor must allow for pedestrian access under its span.~~
    - ~~(2) Flagpoles are allowed in any building setback.~~
- ~~3. Uncovered horizontal structures.~~
  - ~~a. Description. Uncovered horizontal structures are items such as decks, stairways, entry bridges, wheelchair ramps, swimming pools, hot tubs, tennis courts, and boat docks that are not covered or enclosed.~~
  - ~~b. Setback standard.~~
    - ~~(1) Minor projection allowed. Uncovered decks, stairways, and wheelchair ramps that are more than 2 1/2 feet above the ground, and are attached to a building, may extend into a required building setback up to 20 percent of the depth of the setback. However, they must be at least three feet from a lot line.~~
    - ~~(2) Full projection allowed. The following structures are allowed in required building setbacks, as follows:~~
      - ~~• Structures that are no more than 2 1/2 feet above the ground are allowed in all building setbacks;~~
      - ~~• On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2 1/2 feet above the average sidewalk elevation are allowed in all building setbacks; and~~
      - ~~• Stairways and wheelchair ramps that lead to one entrance on the street facing façade of a building are allowed in street setbacks.~~

**COMMENTARY****33.110.250 Detached Accessory Structures****C. Setbacks****D. Building coverage for detached covered accessory structures**

The regulations in these sections have been re-organized into standards for each accessory structure type, shown above. The old sections are removed.



~~4. Covered accessory structures.~~

- ~~a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, covered decks, covered porches, and covered recreational structures.~~
- ~~b. Setback standard. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c, below, covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Section 33.110.253, below.~~
- ~~c. Side and rear setbacks. In the R7, R5 and R2.5 zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure if all of the following are met:
 
  - ~~(1) The garage was legally constructed before January 1, 2005;~~
  - ~~(2) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line;~~
  - ~~(3) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;~~
  - ~~(4) The structure is no more than 15 feet high, and the structure walls are no more than 10 feet high, excluding the portion of the wall within a gable; and~~
  - ~~(5) Dormers are set back at least 5 feet from the side and rear lot lines.~~~~

~~D. Building coverage for detached covered accessory structures.~~

- ~~1. The combined building coverage of all detached covered accessory structures may not exceed 15 percent of the total area of the site.~~
- ~~2. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the primary structure.~~

**COMMENTARY****33.110.253 Additional Standards for Garages**

The title of this section is expanded for clarification.

**C. Existing detached garages**

This section focuses on garages that are nonconforming within any setback. It is often applied in situations where the garage is in the front setback, but it can also be considered in other nonconforming setback situations. Applicants/owners may be able to use either the standards within this section, or the standards under 33.110.250 for work on an existing garage. These amendments update some standards to make them similar to the standards applied for other garages/covered accessory structures. The changes:

- Clarify the maximum height for a rebuilt or expanded garage in the setback, to match the existing standards for new detached covered accessory structures in side and rear setbacks,
- Expand the allowed depth of a rebuilt/expanded garage from 18-feet to 20-feet which is about the minimum depth to hold a car, and
- Clarify that decks are not allowed on the roof of the rebuilt/expanded garage, this is the same as the standard for new detached structures in side and rear setbacks.

**33.110.253 Additional Standards for Garages****A. Purpose. These standards:**

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

**B. Additional Regulations.** The regulations of this Section apply in addition to those of 33.110.250, Accessory Structures.**C. Existing detached garages.**

1. ~~Change of use. In the R7, R5 and R2.5 zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure as specified in 33.110.250.C.4, above.~~
2. ~~Rebuilding. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. In this case, the rebuilt garage may be no more than 15 feet high, and the garage walls may be no more than up to 10 feet high, excluding the portion of the wall within a gable. Decks are not allowed on the roof of the garage. The rebuilt garage is not required to comply with other standards of this chapter except for building height.~~
23. Additions. An addition may be made to an existing detached garage that is nonconforming due to its location in a setback as follows:
  - a. The expanded garage complies with all other standards of this chapter; or
  - b. The combined size of the existing foundation and the addition is no larger than 12 feet wide by 2018 feet deep. In this case, the garage may be no more than 15 feet high, and the walls of the addition may be no more than up to 10 feet high, excluding the portion of the wall within a gable. Decks are not allowed on the roof of the garage. The expanded garage is not required to comply with other standards of this chapter ~~except for building height.~~

**COMMENTARY****33.110.253 Additional Standards for Garages****D. Side and rear setbacks.**

These standards have been incorporated into the expanded standards for detached covered accessory structures, which include garages. As a result, they are no longer needed in this section.

The other sections are reordered with the elimination of the previous section.

**ZONING CODE LANGUAGE**

**~~D. 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:

- ~~1. The garage is set back at least 40 feet from a front lot line, and if on a corner lot, it is set back at least 25 feet from a side street lot line;~~
- ~~2. The garage has dimensions that do not exceed 24 feet by 24 feet;~~
- ~~3. The garage is no more than 15 feet high, and the garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and~~
- ~~4. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.~~
- ~~5. Dormers are set back at least 5 feet from the side and rear lot lines.~~

**DE.** Length of street-facing garage wall. [No change to language]

**EF.** Street lot line setbacks. [No change to language]

## Chapter 33.120 Multi-Dwelling Zones

### Background

The standards for accessory structures in the multi-dwelling zones are set up in a similar format to the single-dwelling zones. The main difference between the two base zones is that many of the standards within the multi-dwelling zones contain separate provisions for houses, attached houses, duplexes and manufactured homes that do not apply to structures accessory to multi-dwelling development (i.e. a grouping of structures on a site where the total number of units on the site is generally three or more). This distinction creates consistency for single dwelling development regardless of zone. This distinction also recognizes that an accessory building for multi-dwelling development could be a building for processing laundry, or for providing recreation space for the development. These would have a larger impact than a structure associated with single dwelling development.

The amendments change the standards for accessory structures built with single-dwelling development, similar to the amendments in the single-dwelling zones. See the background page for 33.110 for more information.

For multi-dwelling structures and development, the changes are modest, and are intended to provide clarification between regulations that apply to attached building extensions and detached structures.

### 33.120.215 Height

#### **B. Maximum Height**

This amendment adds a clarifying sentence so that readers know that additional height regulations for detached accessory structures are found in 33.120.280.

#### **C. Exceptions to the maximum height**

This amendment clarifies that exception C.1 applies only to extensions attached to a building. The height regulation stated in 33.120.280 would apply to a free-standing structure such as a satellite dish in the yard or for an extension attached to an accessory structure.

## 33.120 Multi-Dwelling Zones

# 120

### 33.120.215 Height

**A. Purpose.** The height standards serve several purposes:

- They promote a reasonable building scale and relationship of one residence to another;
- They promote options for privacy for neighboring properties; and
- They reflect the general building scale of multi-dwelling development in the City's neighborhoods.

**B. Maximum height.** The maximum heights allowed in the multi-dwelling zones are stated in Table 120-3. The maximum height standard for institutional uses is stated in 33.120.275, Development Standards for Institutions, ~~below~~. The maximum height standards for detached accessory structures are stated in 33.120.280, Detached Accessory Structures.

1-3. [No change.]

**C. Exceptions to the maximum height.**

1. Chimneys, flag poles, satellite receiving dishes, and other similar items attached to a building with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 5 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth, or diameter, they are subject to the height limit.

2-5. [No change.]

**COMMENTARY****33.120.220 Setbacks****D. Extensions into required setbacks.**

These amendments parallel the changes made within the single-dwelling zones. They establish the distinction between regulations that apply to structures or features that are attached to a building versus structures that are detached. (See 33.110.220 for additional information)

Also parallel to the single-dwelling zones, the amendments provide clarity on how to regulate utility and stormwater facilities that provide required utility service to the structure or store or infiltrate rain water. (See 33.110.220 for additional information)



**33.120.220 Setbacks****A-C. [No change]****D. Extensions into required building setbacks.**

1. ~~The following Minor features of a building, such as eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, and uncovered balconies may extend into a required building setback up to 20 percent of the depth of the setback. However, the feature must be at least in no case may they be less than 3 feet from a lot line, except as allowed in Section 120.270 Alternative Development Options280, Accessory Structures.:~~
  - a. Eaves, chimneys, fireplace inserts and vents, mechanical equipment, and fire escapes;
  - b. Water collection cisterns and stormwater planters that do not meet the standard of Paragraph D.2.;
  - c. Decks, stairways, wheelchair ramps and uncovered balconies that do not meet the standard of Paragraph D.2. below; and
  - d. Bays and bay windows that extending into the setback also must meet the following requirements:
    - (1)~~a-~~ Each bay and bay window may be up to 12 feet long, but the total area of all bays and bay windows on a building facade cannot be more than 30 percent of the area of the facade;
    - (2)~~b-~~ At least 30 percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block;
    - (3)~~c-~~ Bays and bay windows must cantilever beyond the foundation of the building; and
    - (4)~~d-~~ The bay may not include any doors.
2. The following minor features may extend into entire required building setbacks:
  - a. Utility connections attached to the building that are required to provide services, such as water electricity and other similar utility services;
  - b. Gutters and downspouts that drain stormwater off a roof of the structure;
  - c. Stormwater planters that are no more than 2-1/2 feet above the ground;
  - d. Water collection cisterns that are 6 feet or less in height;
  - e. Attached decks, stairs and ramps that are no more than 2-1/2 feet above the ground. However, stairways and wheelchair ramps that lead to one entrance on the street-facing façade of a building are allowed to extend into the required street setbacks regardless of height above ground; and
  - f. On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation.

**COMMENTARY****33.120.220 Setbacks****D. Extensions into required setbacks.**

3. Detached accessory structures. This amendment clarifies the reference to detached accessory structures versus features attached to the primary structure.

**33.120.280 Detached Accessory Structures**

These amendments parallel the changes made to the single-dwelling zones for detached accessory structures. The changes include creating one set of standards for covered accessory structures, and rearranging the section so that regulations are arranged by structure type, rather than by code standard. The main distinction is that the majority of amendments applying setback exceptions and height restrictions for detached structures apply only to houses, attached houses, manufactured homes, and duplexes, similar to the types of building types found in the single-dwelling zones. Larger scale multi-dwelling development will remain subject to the base zone standards. The commentary for 33.110.250 provides additional background.

- A. Purpose.** The purpose statement is amended to address the new standards that regulate the height of structures and design compatibility, when the structure is proposed accessory to single-dwelling development. This includes houses, attached houses, manufactured homes and duplexes. The intent is to ensure better integration into the site when the site contains a house or duplex.

**B. General Standards.**

3. This amendment allows an applicant to preserve an accessory structure on a site when the primary structure is demolished. The owner must execute a covenant stipulating that a new primary structure will be built within two years.
4. This provision is removed, because it is now repetitive with other standards within the section.

Other amendments are made to clarify that the regulations are specific to detached accessory structures.

- ~~32.~~ Detached ~~a~~ Accessory structures. The setback standards for detached accessory structures including detached mechanical equipment are stated in 33.120.280 below. Fences are addressed in 33.120.285, below. Detached accessory dwelling units are addressed in Chapter 33.205.

### 33.120.280 Detached Accessory Structures

- A. Purpose.** This section regulates detached structures that are incidental to primary buildings to prevent them from becoming the predominant element of the site. The standards limit the height and bulk of the structures and promote compatibility of design for larger structures when they are in conjunction with single-dwelling development. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front yard areas.
- B. General standards.**
1. The regulations of this section apply to all accessory structures. Additional regulations for accessory dwelling units are stated in Chapter 33.205.
  2. Detached ~~a~~ Accessory structures are allowed on a site only in conjunction with a primary building and may not exist on a site prior to the construction of the primary structure, except as allowed by Paragraph B.3, below.
  3. A detached accessory structure that becomes the only structure on a lot as the result of a land division, a property line adjustment, ~~or~~ a separation of ownership, or a demolition of the primary structure may remain on the lot if the owner has executed a covenant with the City that meets the requirements of Section 33.700.060.
    - a. For a land division, the covenant must require the owner to remove the accessory structure if, within two years of final plat approval, a primary structure has not been built and received final inspection. The covenant must be executed with the City prior to final plat approval.
    - b. For a property line adjustment or a separation of ownership, the covenant must require the owner to remove the accessory structure if a primary structure has not been built and received final inspection within two years. The two years begins on the date the letter from BDS confirming the property line adjustment or separation of ownership is mailed. The covenant must be executed with the City before the final letter from BDS is issued.
    - c. For a demolition of a primary structure, the covenant must require the owner to remove the accessory structure if a new primary structure has not been built and received final inspection within two years of the demolition of the old primary structure. The two years begins on the date of the final inspection of the demolition. The covenant must be executed with the City prior to the issuance of the demolition permit.
  - ~~4. Unless stated otherwise in this section, the height and building coverage standards of the base zone apply to accessory structures.~~

## COMMENTARY

**33.120.280 Detached Accessory Structures****C. Detached covered accessory structures.**

This is a new subsection that re-organizes the regulations that apply to covered accessory structures. Instead of organizing the standards by development standard (e.g. setback, building, coverage), the amended code organizes the regulations by type of structure. It is similar to the changes made within the single-dwelling zones. However, there are some distinctions. In multi-dwelling zones, some allowances to build within the setbacks apply only to single dwelling development (houses, attached houses, manufactured homes and duplexes). The intent is for multi-dwelling development to continue to abide by the setback regulations of the base zone. More information regarding the code intent can be found within the commentary for the single-dwelling zones, 33.110.250.

The introductory paragraph provides examples of detached covered accessory structures. It has been moved from the section that addressed setbacks for covered accessory structures. Additional types of structures that are more common with multi-dwelling development (laundry rooms, community rooms) are added to the description. The paragraph also clarifies where these regulations apply and how they relate to standards in other sections.

1. **Height.** This is a new standard. The limit creates one maximum height standard that applies to detached covered structures accessory to single dwelling development (houses, attached houses and duplexes). It does not affect the existing height standard for covered accessory structures built in conjunction with multi-dwelling development. For more information on the intent of this regulation for houses/duplexes, please refer to the commentary for 33.110.250.C.
2. **Setbacks.** Similar to single-dwelling zones, detached covered accessory structures must meet the setback standards for the zone. There are currently some exceptions, especially when accessory to single-dwelling development. The amendments in the multi-dwelling zones parallel the amendments in single-dwelling zones, when the accessory structure is related to single-dwelling development. This allows for a greater variety of single-dwelling detached covered accessory structures to be built within side and rear setbacks. See 33.110.250.C for more information.

**C. Detached covered accessory structures.** Detached covered accessory structures are items such as garages, greenhouse, artist's studios, guest houses, accessory dwelling units, laundry or community buildings, storage buildings, wood sheds, water collection cisterns, and covered decks or patios. The following standards apply to all detached covered accessory buildings. Garages are also subject to the standards of 33.120.283.

1. Height. In general, the height standard of the base zone apply to detached covered accessory structures. The maximum height allowed for detached covered structures that are accessory to a house, attached house, duplex, attached duplex or manufactured home is 20 feet.
2. Setbacks. Except as follows, detached covered accessory structures are subject to required building setbacks. See the additional regulations for garages in 33.120.283.
  - a. Water collection cisterns that are 6 feet or less in height are allowed in side and rear setbacks.
  - b. In the R3 through RX zones, detached covered accessory structures accessory to a house, attached house, duplex, attached duplex or manufactured home are allowed in the side and rear building setbacks, if all of the following are met:
    - (1) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 20 feet from a side street lot line;
    - (2) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;
    - (3) If more than one structure is within the setback, the combined length of all structures in the setback adjacent to each property line is no more than 24 feet;
    - (4) The structure is no more than 15 feet high, and the walls of the structure are no more than 10 feet high, excluding the portion of the wall within a gable;
    - (5) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening;
    - (6) Walls located within the setback may not have doors or windows facing the adjacent lot line;
    - (7) The structure does not have a rooftop deck; and
    - (8) Dormers are set back at least 5 feet from the side and rear lot lines.

## COMMENTARY

### C. Detached Covered Accessory Structures (continued)

3. **Building Coverage.** These provisions are currently located in 33.120.280.D. The amendments relocate them here and delete the old 33.120.280.D (with the reorganization of 33.120.280 the new 33.120.280.D is detached uncovered vertical structures).

4. **Additional development standards for detached covered accessory structures.**

These are new standards in the base zone that apply to detached covered accessory structures greater than 15 feet in height if the structures are accessory to a house, attached house, duplex, or manufactured home. All ADUs are currently required to meet a similar set of design standards in Chapter 33.205. Accessory Dwelling Units. The design standards in 33.205 have been revised and moved to this paragraph to provide more flexibility. The standards accomplish two things:

- They establish one set of design standards applicable to all detached covered accessory structures over 15-feet high if they are built accessory to a house, attached house, duplex or manufactured home.
- They provide options for high quality and/or compatible design materials for taller structures by using a combination of design standards from the ADU regulations and the Community Design Standards.

Please see the Commentary under 33.110.250.C.4 for more explanation.

3. Building coverage. The following additional building coverage standards apply to detached covered accessory structures.
  - a. The combined building coverage of all detached covered accessory structures may not exceed 15 percent of the total area of the site.
  - b. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the primary structure.
4. Additional development standards for detached covered accessory structures. The following additional standards apply to detached covered accessory structures that are more than 15 feet high, and are accessory to houses, attached houses, duplexes, attached duplexes and manufactured homes. Additions to existing structures that do not meet a standard are exempt from that standard.
  - a. Exterior Finish Materials. The exterior finish materials on the detached covered accessory structure must meet one of the following:
    - (1) The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the primary structure; or
    - (2) Siding must be made from wood, composite boards, vinyl or aluminum products, and the siding must be composed in a shingle pattern, or in a horizontal clapboard or shiplap pattern. The boards in the pattern must be 6 inches or less in width.
  - b. Roof Pitch. The roof pitch of the detached covered accessory structure must meet one of the following:
    - (1) The predominant roof pitch must be the same as the predominant roof pitch of the primary structure; or
    - (2) The roof must be at least 6/12.
  - c. Trim. The trim on the detached covered accessory structure must meet one of the following:
    - (1) The trim must be the same in type, size, and location as the trim used on the primary structure; or
    - (2) The trim around all windows and doors must be at least 3 ½ inches wide.
  - d. Windows. The windows on all street facing facades of the detached covered accessory structure must meet one of the following:
    - (1) The windows must match those on the street facing façade of the primary structure in orientation (horizontal or vertical); or
    - (2) Each window must be square or vertical – at least as tall as it is wide.

**COMMENTARY****D. Detached Uncovered Vertical Structures**

These amendments combine all of the standards for detached uncovered vertical structures into one subsection. The introductory paragraph provides examples of detached uncovered vertical structures. It has been moved from the section that addressed setbacks for vertical structures.

1. **Height.** In general the height limit for detached uncovered vertical structures will continue to be the height limit for all structures in the zone. However, the height limit for vertical structures accessory to single dwelling development (houses, attached houses, duplexes, manufactured homes) is being revised to be 20-feet, consistent with the standards affecting this development type in the single-dwelling zones. The standard includes several exemptions that are repeated from the base height section (33.120.215) because the standard applies to these structures whether they are attached to a primary structure or a stand-alone structure.
2. **Setbacks.** This section expands on the current setback allowance for uncovered vertical structures, to align more closely with the setback regulations that have been added for single dwelling development. See 33.110.250.D for more information on this change.



e. Eaves. The eaves on the detached covered accessory structure must meet one of the following:

- (1) The eaves must project from the building walls the same distance as the eaves on the primary structure;
- (2) The eaves must project from the building walls at least 1 foot on all elevations; or
- (3) If the primary structure has no eaves, no eaves are required.

**D. Detached uncovered vertical structures.** Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, antennas, satellite receiving dishes, and lamp posts. The following standards apply to uncovered vertical structures. Fences are addressed in Section 33.120.285 below:

1. Height. Except as follows, the maximum height allowed for all detached uncovered vertical structures is the maximum height of the base zone. The maximum height allowed for detached uncovered vertical structures that are accessory to a house, attached house, duplex, attached duplex or manufactured home is 20 feet:
  - a. Antennas, utility power poles, and public safety facilities are exempt from height limits.
  - b. Flagpoles are subject to the height limit of the base zone for primary structures.
  - c. Detached small wind turbines are subject to the standards of 33.299.
2. Setbacks. Except as follows, detached uncovered vertical structures are subject to the required building setbacks:
  - a. Detached uncovered vertical structures that are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet are allowed in required building setback.
  - b. A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in a front setback. The arbor must allow for pedestrian access under its span.
  - c. Flagpoles are allowed in required building setbacks.
  - d. Detached uncovered vertical structures that are accessory to a house, attached house, duplex, attached duplex, and manufactured home that exceed the allowances of Subparagraph 2.a are allowed in side and rear setbacks if all of the following are met:
    - (1) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 20 feet from a side street lot line;
    - (2) The structure has dimensions that do not exceed 24 feet by 24 feet; and
    - (3) The structure is no more than 10 feet high;

**COMMENTARY****2. Setbacks. (continued)****E. Detached Uncovered Horizontal Structures**

These amendments address detached uncovered horizontal structures. Attached horizontal structures are regulated as extensions and the standards have been moved to 33.120.220.C. The standards for these structures are not significantly changing with the exception that the new height limit of 20-feet will apply if the structure is accessory to a house, attached house, duplex, attached duplex or manufactured home. This maintains consistency among standards for this type of development. The section has been moved as part of the overall re-organization of regulations by structure type.

**F. Detached Mechanical Equipment**

This section provides a similar set of standards to the mechanical equipment regulations for single dwelling zones. Since the equipment associated with houses and duplexes is often smaller, the same setback exceptions will apply to single dwelling development in the multi-dwelling zones. However, detached mechanical equipment that is part of multi-dwelling development will be subject to the current standards for setbacks. See 33.110.250.F for more information.

(4) The portion of the structure within the setback must be screened from adjoining lots by a fence or landscaping, unless it is enclosed within the setback by a wall. Screening is not required for enclosed structures. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening; and

(5) The structure does not have a rooftop deck.

**E. Detached uncovered horizontal structures.** Uncovered horizontal structures are items such as decks, stairways, swimming pools, hot tubs, tennis courts, and boat docks not covered or enclosed. The following standards apply to detached uncovered horizontal structures:

1. Height. In general, the maximum height allowed for detached uncovered vertical structures is the maximum height of the base zone. The maximum height allowed for detached uncovered vertical structures that are accessory to a house, attached house, duplex, attached duplex or manufactured home is 20 feet.
2. Setbacks. Except as follows, detached uncovered horizontal structures are subject to the required building setbacks:
  - a. Detached uncovered decks, ramps, and stairways that are more than 2-1/2 feet above the ground may extend into a required building setback up to 20 percent of the depth of the setback. However, the deck or stairway must be at least three feet from a lot line.
  - b. Structures that are no more than 2-1/2 feet above the ground are allowed in all building setbacks

**F. Detached mechanical equipment.** Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, radon mitigation components, and water pumps. Generally, detached mechanical equipment will not be attached to the building but may have components such as ventilation or electrical systems attached to the primary structure. The following standards apply to detached mechanical equipment:

1. Height. In general, the maximum height allowed for detached mechanical equipment is the maximum height of the base zone. The maximum height allowed for detached mechanical equipment that is accessory to a house, attached house, duplex, attached duplex or manufactured home is 20 feet.
2. Setbacks. Except as follows, detached mechanical equipment is subject to required building setbacks. Detached mechanical equipment accessory to a house, attached house, duplex, attached duplex or manufactured home is allowed in side or rear building setbacks if all of the following are met:
  - a. The equipment is no more than five feet high; and
  - b. The equipment is screened from adjoining lots by walls, fences or vegetation. Screening must comply with the L3 or F2 standards of Chapter 33.248, Landscaping and Screening.

**COMMENTARY****33.120.280 Detached Accessory Structures****C. Setbacks**

The regulations in this section have been re-organized into standards for each accessory structure type, shown above. This old section is removed.

**C. ~~Setbacks.~~**

1. ~~Mechanical equipment. Mechanical equipment includes items such as heat pumps, air conditioners, emergency generators, and water pumps. Mechanical equipment is not allowed in required front, side, or rear setbacks.~~
2. ~~Vertical structures.~~
  - a. ~~Description. Vertical structures are items such as flag poles, trellises, arbors, and other garden structures, play structures, antennas, satellite receiving dishes, and lamp posts. Fences are addressed in Section 33.120.285 below.~~
  - b. ~~Setback standard. Vertical structures are allowed in required building setbacks if they are no larger than 3 feet in width, depth, or diameter and no taller than 8 feet. If they are larger or taller, they are not allowed in required building setbacks, except that flag poles are allowed in any building setback.~~
  - c. ~~Exceptions.~~
    1. (1) ~~A single arbor structure that is up to 6 feet wide, up to 3 feet deep, and up to 8 feet tall is allowed in a front setback. The arbor must allow for pedestrian access under its span.~~
    2. (2) ~~Flag poles are allowed in any building setback.~~
3. ~~Uncovered horizontal structures.~~
  - a. ~~Description. Uncovered horizontal structures are items such as decks, stairways, wheelchair ramps, swimming pools, hot tubs, tennis courts, and boat docks that are not covered or enclosed.~~
  - b. ~~Setback standard.~~
    3. (1) ~~Minor projection allowed. Uncovered decks, stairways and wheelchair ramps that are more than 2 1/2 feet above the ground and are attached to a building, may extend into a required building setback up to 20 percent of the depth of the setback. However, they must be at least three feet from a lot line;~~
    4. (2) ~~Full projection allowed. The following structures are allowed in required building setbacks, as follows:~~
      - ~~Structures that are no more than 2 1/2 feet above the ground are allowed in all building setbacks;~~
      - ~~On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2 1/2 feet above the average sidewalk elevation are allowed in all building setbacks; and~~
      - ~~Stairways and wheelchair ramps that lead to one entrance on the street facing facade of a building are allowed in street setbacks.~~

**COMMENTARY****33.120.280 Detached Accessory Structures****C. Setbacks****D. Building coverage for detached covered accessory structures**

The regulations in this section have been re-organized into standards for each accessory structure type, shown above. This old section is removed.

~~4. Covered accessory structures.~~

- ~~a. Description. Covered accessory structures are items such as garages, greenhouses, artist's studios, guest houses, accessory dwelling units, storage buildings, wood sheds, water collection cisterns, covered decks, covered porches, and covered recreational structures.~~
- ~~b. Setback regulations. Covered accessory structures if 6 feet or less in height are allowed in side and rear setbacks, but are not allowed in a front setback. Except as allowed in Subparagraph C.4.c, below, covered structures over 6 feet in height are not allowed in required building setbacks. See the exceptions and additional regulations for garages in Section 33.120.283, below.~~
- ~~c. Side and rear setbacks. In the R3 through RX zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure if all of the following are met:
 
  - ~~(1) The garage was legally constructed before January 1, 2005;~~
  - ~~(2) The structure is at least 40 feet from a front lot line, and if on a corner lot, at least 25 feet from a side street lot line;~~
  - ~~(3) The structure has dimensions that do not exceed 24 feet by 24 feet, excluding eaves;~~
  - ~~(4) The structure is no more than 15 feet high, and the structure walls are no more than 10 feet high, excluding the portion of the wall within a gable; and~~
  - ~~(5) Dormers are set back at least 5 feet from the side and rear lot lines.~~~~

~~D. Building coverage for detached covered accessory structures.~~

- ~~1. The combined building coverage of all detached covered accessory structures may not exceed 15 percent of the total area of the site.~~
- ~~2. The building coverage of a detached covered accessory structure may not be greater than the building coverage of the primary structure.~~

**COMMENTARY****33.120.283 Additional Standards for Garages**

The title of this section is expanded for clarification.

**C. Existing detached garages**

Aligning with changes in the single-dwelling zones (33.110.253.C), these amendments update some standards to make them similar to standards for other garages/covered accessory structures. The changes:

- Clarify the maximum height for a rebuilt or expanded garage in the setback, to match the existing standards for new detached covered accessory structures in side & rear setbacks.
- Expand the allowed depth of a rebuilt/expanded garage from 18-feet to 20-feet which is about the minimum depth to hold a car.
- Clarify that decks are not allowed on the roof of the rebuilt/expanded garage, This is similar to the standards for new detached structures in side and rear setbacks.

It should be noted that garages, by definition, are only associated with single-dwelling development. Garages that are part of multi-dwelling development are considered structured parking.



**33.120.283 Additional Standards for Garages****A. Purpose.** These standards:

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

**B. Additional regulations.** The regulations of this Section apply in addition to those of 33.120.280, Accessory Structures.**C. Existing detached garages.**

1. ~~Change of use. In the R3 through RX zones, a detached garage that is in the side or rear setback may be converted to another type of detached covered accessory structure as specified in 33.120.280.C.4.~~
2. ~~Rebuilding. A detached garage that is nonconforming due to its location in a setback may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. In this case, the rebuilt garage may be no more than 15 feet high, and the garage walls may be no more than up to 10 feet high, excluding the portion of the wall within a gable. Decks are not allowed on the roof of the garage. The rebuilt garage is not required to comply with other standards of this chapter except for building height.~~
3. Additions. An addition may be made to an existing detached garage that is nonconforming due to its location in a setback as follows:
  - a. The expanded garage meets all other standards of this chapter; or
  - b. The combined size of the existing foundation and the addition is no larger than 12 feet wide by 2018 feet deep. In this case, the garage is no more than 15 feet high, and the walls of the addition may be no more than up to 10 feet high, excluding the portion of the wall within a gable. Decks are not allowed on the roof of the garage. The expanded garage is not required to comply with other standards of this chapter ~~except for building height.~~

**COMMENTARY****33.120.283 Additional Standards for Garages****D. Side and rear setbacks.**

These standards have been incorporated into the expanded standards for detached covered accessory structures, which include garages. As a result, they are no longer needed in this section.

The other sections are reordered with the elimination of the previous section.

**~~D. 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:

- ~~1. The garage is set back at least 40 feet from a front lot line, and if on a corner lot, it is set back at least 25 feet from a side street lot line;~~
- ~~2. The garage has dimensions that do not exceed 24 feet by 24 feet;~~
- ~~3. The garage is no more than 15 feet high, and the garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and~~
- ~~4. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.~~
- ~~5. Dormers are set back at least 5 feet from the side and rear lot lines.~~

**DE.** Length of street-facing garage wall. [No change to code]

**EF.** Street lot line setbacks. [No change to code]

## Chapter 33.130 Commercial Zones

### Background

The Commercial base zones are structured differently than the single and multi-dwelling residential base zones. The commercial zones already distinguish between attached and detached accessory structures. In addition, the commercial zones focus their regulations on detached structures that are accessory to a non-residential use. Existing language directs readers to use the language from the multi-dwelling zones for development that is entirely in residential uses. However the current reference does not incorporate the setback exemption for detached garages accessory to houses, attached houses etc. that apply in the residential zones. These amendments remove that discrepancy.

The code changes in 33.130 are minor compared to those in the residential zones. They include:

- Updating the standards for extensions attached to a building so they are consistent with those standards within the multi-dwelling zones. However, it is not possible to have an exact same set of standards, since the commercial zone setbacks focus on the relationship between the commercial development and adjacent residential zones.
- Amending the provisions that regulate the maximum setbacks from transit streets so that small primary structures (under 500 square feet) are not subject to the transit street setback standards.
- Clarifying the regulations for accessory structures so that detached residential accessory structures in commercial zones follow the same standards as in the multi-dwelling zones. Note that we are not reformatting the accessory structure standards in these zones since that would add unnecessary complexity, and residential-only proposals are directed to meet the standards in 33.120, Multi-dwelling zones.

### 33.130.210 Height

- B. Height standard.** The amendments clarify that additional height regulations for detached accessory structures may apply in 33.130.265, especially if the structure is part of residential development. The second change clarifies that the exception B.1 applies only to extensions attached to a primary building.

### 33.130.215 Setbacks

**B. Minimum building setbacks.**

3. Extensions into required building setbacks and buffering requirements. The amendments update the set of standards for extensions so that they have a similar structure and language as those in the residential base zones. They accomplish this by separating out the types of extensions into a list of subcategories. The standards add mechanical equipment to the list of allowed extensions, similar to amendments in the other zones. It should be noted that a recent code change (RICAP 7) ensures that these extensions cannot infringe on the required landscape setback. Lastly, the amendments clarify the location of regulations addressing detached accessory structures or equipment.

## 33.130 Commercial Zones

# 130

### 33.130.210 Height

- B. Height standard.** The height standards for all structures, except detached accessory structures are stated in Table 130-3. The height standards for detached accessory structures are stated in 33.130.265, Detached Accessory Structures. Exceptions to the maximum height standard are stated below.
1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other similar items similar attached to a building with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
  - 2-5. [No change.]

### 33.130.215 Setbacks

- A. Purpose [No change.]**
- B. Minimum building setbacks.** The minimum building setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.130.245 below, and for parking areas in Chapter 33.266.
- 1-2. [No change.]
  3. Extensions ~~Minor projections of features attached to buildings into required on sites subject to the building setbacks and buffering requirements of Table 130-4.~~
    - a. ~~Minor projections allowed. The following Minor features of a building, such as eaves, chimneys, fire escapes, water collection cisterns and planters, bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies, may extend into a required building setback up to 20 percent of the depth of the setback. However, except for building eaves, these features may not project into the required landscape buffer.~~
      - (1) Eaves, chimneys, fireplace inserts and vents, mechanical equipment, fire escapes, water collection cisterns and stormwater planters;
      - (2) Decks, stairways, wheelchair ramps and uncovered balconies that do not meet the standard of Subparagraph B.3.b. below; and

**COMMENTARY****33.130.215 Setbacks****B. Minimum building setbacks****3. Extensions into required building setbacks and buffering requirements (continued)**

- c. Projections not allowed. This subparagraph is removed because the standards for mechanical equipment attached to a building are included in the minor extensions above in 3.a. This is consistent with the changes made in the residential zones. With the provision recently added as part of RICAP 7 (keeps any building extension out of the landscaped buffer), the equipment will have to be at least 5 feet from a residential zoning line.

- 4. Detached accessory structures. The amendment clarifies the current regulation that directs readers to the multi-dwelling zone standards for detached accessory structures, if the development only contains residential uses.

**C. Maximum building setbacks**

The maximum building setback is intended to encourage the main buildings on a site to locate close to the street when the street has transit access or is in a pedestrian district. Since accessory structures generally are not intended to have public access, they have been exempted from the requirement. There have been several situations where a small building serves a primary use but is not intended to provide public access. These can include small buildings serving basic utilities such as the light rail electrical buildings or phone/communication service buildings, gas station pay kiosks, or small office structures on car lots and construction yards. Since these structures are not intended to provide public pedestrian access, the requirement to place them close to the street does not serve a public purpose. This amendment expands the exception to maximum setbacks to cover small primary buildings under 500 square feet, which are small enough that they are not intended for public access.

(3) Bays and bay windows extending into the setback also must meet the following requirements:

- (1) Each bay and bay window may be up to 12 feet long, but the total area of all bays and bay windows on a building façade cannot be more than 30 percent of the area of the façade;
- (2) At least 30 percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block;
- (3) Bays and bay windows must cantilever beyond the foundation of the building; and
- (4) The bay may not include any doors.

b. ~~Full projection allowed. In addition to Subparagraph a. above, the following~~ minor features of a building are allowed to ~~fully~~ extend into required building setbacks but may not project into the required landscape buffer:

- (1) Uncovered decks, stairways, and wheelchair ramps that are no more than 2-1/2 feet above the ground; and
- (2) On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation.

c. ~~Projections not allowed. Attached mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in a required setback from an abutting residential zone.~~

4. ~~Detached~~ Accessory structures. For sites entirely in residential use, detached accessory structures are subject to the multi-dwelling zone standards of Section 33.120.280. The setback standards for detached accessory structures are stated in 33.130.265 below. Fences are addressed in 33.130.270 below. ~~Sign regulations are in Title 32, Signs and Related Regulations.~~

C. **Maximum building setbacks.** Except as provided in Subsection D. below, the maximum building setbacks, if any, are stated in Table 130-3. The setback standards apply to all buildings and structures on the site except as specified in this section.

1-2. [No change.]

3. Exception. The maximum building setbacks do not apply to primary structures under 500 square feet in floor area, or to detached accessory structures. The street-facing facades of detached accessory structures do not count towards meeting maximum setback standards. See Figure 130-3.

## COMMENTARY

**33.130.250 General Requirements for Residential and Mixed Use Projects**

No changes are proposed to this section. The title is included here to indicate that there are existing standards within the commercial zones that apply to projects that have residential development. This section includes the garage standards for houses and duplexes.

**33.130.265 Detached Accessory Structures**

- A. Purpose.** This amendment clarifies that the current standards are intended to maintain privacy and separation between the accessory structure and lots that have a residential zone applied to them. The requirements would not apply to development adjacent to a commercially zoned lot that had residential development.
- B. General standards.** These amendments update and clarify the applicability of the standards where only residential development is proposed. In that case, the development standards for multi-dwelling zones apply, because they are more specific to residential accessory structures. In addition, the code is amended to point readers to the standards for garages which would be accessory to houses, duplexes and other forms of single dwelling development.
- C. Setbacks.** These standards are not amended but are shown here for context. Although the accessory structure provisions in the residential zones are being reformatted by structure type rather than standard, doing a similar reformatting in the commercial zones would create a lot of repetition since the standards in the commercial zones don't vary by structure type like they do in the residential zones. This is partially due to the lack of any height or setback exceptions related to commercial development.



**33.130.250 General Requirements for Residential and Mixed-Use Developments [No change.]****33.130.265 Detached Accessory Structures**

- A. Purpose.** These standards are intended to maintain separation and privacy to abutting residential zoned lots from nonresidential development.
- B. General standards.**
  - 1. The regulations of this section apply only to detached accessory structures on sites with non-residential uses. For sites where all of the floor area is in residential use, ~~detached garages are subject to the standards of 33.130.250, while other detached accessory structures are subject to the standards of Section 33.120.280. Detached garages are also subject to the standards of 33.130.250, General Requirements for Residential and Mixed Use Developments.~~
  - 2. The height and building coverage standards of the base zone apply to detached accessory structures.
- C. Setbacks.**
  - 1. Uncovered accessory structures. Uncovered accessory structures such as flag poles, lamp posts, signs, antennas and dishes, mechanical equipment, uncovered decks, play structures, and tennis courts are allowed in a street setback, but not in a required setback from an abutting residential zone.
  - 2. Covered structures.
    - a. Covered structures such as storage buildings, greenhouses, work shed, covered decks, and covered recreational structures are subject to the setbacks for buildings.
    - b. Water cisterns that are 6 feet or less in height are allowed in side and rear setbacks, including setbacks for abutting a residential zone.
    - c. See Section 33.130.250, General Requirements for Residential and Mixed-Use Developments, for additional requirements for garages accessory to residential development.

## COMMENTARY

## Chapter 33.140 Employment and Industrial Zones

### Background

The Employment and Industrial zones are structured similarly to the Commercial zones, with the focus on regulating detached structures that are accessory to non-residential development. The development standards do not contain any special provisions for detached accessory structures for residential only development, which can be possible in the EX zones and allowed through a Conditional Use review in EG zones. Therefore the changes proposed here mimic the changes in the Commercial zones.

The code changes in 33.140 include:

- Updating the standards for extensions attached to a building so they are consistent with the standards within the other zones. However, it is not possible to have the exact same set of standards, since the employment and industrial zones focus on the relationship between the employment/industrial zone and the residential zone.
- Amending the provisions that regulate the maximum setbacks from transit streets so that small primary structures (under 500 square feet) are not subject to the transit street setback standards.
- Clarifying the regulations for accessory structures so that residential development in employment zones follow the same standards as in the multi-dwelling zones. Note that we are not reformatting the accessory structure provision in the E & I zones since that would add unnecessary complexity, and residential-only proposals are already directed to the standards in 33.120.

### **33.140.210 Height**

- B. Height standard.** These amendments parallel the amendments in 33.130.210. See the commentary for that section.

## 33.140 Employment and Industrial Zones

# 140

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### 33.140.210 Height

- A. Purpose.** The height standards work with the FAR, building setback, and building coverage standards to control the overall bulk and intensity of an area. The EG1 zone height limit is the same as the General Commercial zone because the EG1 zone often functions as a transition zone between industrial and residential or commercial zones. The EX zone height limit reflects its use in intense urban areas and the range of uses that are allowed. The other zones do not have height limits because tall buildings in these areas have traditionally not been a problem.
- B. The height standard.** The height limits for all structures except detached accessory structures are stated in Table 140-3. The height standards for detached accessory structures are stated in 33.140.265. Exceptions to the maximum height standard are stated below.
1. Projections allowed. Chimneys, flag poles, satellite receiving dishes, and other similar items ~~similar~~ attached to a building, with a width, depth, or diameter of 5 feet or less may rise 10 feet above the height limit, or 5 feet above the highest point of the roof, whichever is greater. If they are greater than 5 feet in width, depth, or diameter, they are subject to the height limit.
  - 2-5. [No changes.]

**COMMENTARY****33.140.215 Setbacks****B. Minimum building setbacks**

4. Extensions into required building setback. These amendments parallel the amendments in 33.130.215 within the Commercial Zones. See the commentary for that section. However, there is some additional language related to projections into street setbacks. These provisions are in these sections because the employment and industrial zones contain street setbacks, while the commercial zones don't have any street setbacks.

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

- B. Minimum building setbacks.** The minimum building setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.140.245 below, and for parking areas in Chapter 33.266.

1-3. [No change.]

4. Extensions~~Minor projections of features attached to buildings~~ into required building setbacks:-

- a. ~~Minor projections allowed. The following Minor features of a building, such as eaves, chimneys, fireplace vents, fire escapes, water collection cisterns and planters, bay windows, uncovered stairways, wheelchair ramps, and uncovered decks or balconies,~~ may extend into a required building setback up to 20 percent of the depth of the setback. However, except for building eaves, they may not project into the landscape buffer required by Paragraph B.2.

(1) Eaves, chimneys, fireplace inserts and vents, mechanical equipment, fire escapes, water collection cisterns and planters;

(2) Decks, stairways, wheelchair ramps and uncovered balconies not meeting the standard of Subparagraph B.4.b below; and

(3) Bays and bay windows extending into the setback also must meet the following requirements:

- ~~(1)~~ Each bay and bay window may be up to 12 feet long, but the total area of all bays and bay windows on a building façade cannot be more than 30 percent of the area of the façade;
- ~~(2)~~ At least 30 percent of the area of the bay which faces the property line requiring the setback must be glazing or glass block;
- ~~(3)~~ Bays and bay windows must cantilever beyond the foundation of the building; and
- ~~(4)~~ The bay may not include any doors.

## COMMENTARY

### 33.140.215 Setbacks

#### 4. Extensions into required building setbacks (continued)

- c. **Projections not allowed.** This is removed. Similar to the commercial zones the regulations for extensions for wall mounted mechanical equipment have been incorporated into the projections subparagraph. See the commentary for 33.130.215.3.c.

- 5. **Detached Accessory Structures.** This amendment directs proposals for detached accessory structures of residential-only development to the detached accessory structures provision in the multi-dwelling zones. Those standards are more specific to the variety of accessory structures that are possible with residential development. The provision is similar to the current language in commercial zones.

#### C. **Maximum building setbacks.**

See commentary for 33.130.215 for information on this amendment.

- b. ~~Full projection allowed. In addition to Subparagraph a. above, the following~~ minor features of a building are allowed to ~~fully~~ extend into required building setbacks but may not project into the landscape buffer required by Paragraph B.2:
- (1) Canopies, marquees, awnings, and similar features may fully extend into a street setback;
  - (2) Uncovered stairways and wheelchair ramps that lead to one entrance on the street-facing façade of a building may fully extend into a street setback;
  - (3) Uncovered decks, stairways, and wheelchair ramps that are no more than 2-1/2 feet above the ground may fully extend into a required building setback; and
  - (4) On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation may fully extend into a required building setback.
- c. ~~Projections not allowed. Attached mechanical structures, such as heat pumps, air conditioners, emergency generators, and water pumps, are allowed in a street setback but not a required setback from an abutting residential zone.~~
5. Detached accessory structures. For sites entirely in residential use, detached accessory structures are subject to the multi-dwelling zone standards of 33.120.280. The setback standards for detached accessory structures are stated in 33.140.270 below. Fences are addressed in 33.140.275 below. ~~Sign regulations are in Title 32, Signs and Related Regulations.~~

**C. Maximum building setbacks.**

1. Building setbacks on a transit street or in a Pedestrian District. [No change]
2. Exemption. The maximum building setbacks do not apply to primary structures under 500 square feet in floor area, or to detached accessory structures. The street-facing facades of detached accessory structures do not count towards meeting maximum setback standards. See Figure 140-3.

**COMMENTARY****33.140.270 Detached Accessory Structures**

- A. Purpose.** This amendment is similar to the amendment in 33.130.250. See the commentary for that section.
- B. General standards.** This amendment is similar to the amendment in 33.130.250. See the commentary for that section.
- C. Setbacks.** This section is not changing. See the commentary to the amendment in 33.130.250 for more information.



**33.140.265 Residential Development [No change]****33.140.270 Detached Accessory Structures**

- A. Purpose.** These standards are intended to maintain separation and privacy to abutting residential zoned lots from nonresidential development.
- B. General standards.**
1. The regulations of this section apply to detached accessory structures on sites with non-residential uses only. For sites where all of the floor area is in residential use, detached accessory structures are subject to the standards of Section 33.120.280. Detached garages that are accessory to residential development are also subject to the standards of 33.140.265, Residential Development.
  2. Unless stated in this section, the height and building coverage standards of the base zone apply to detached accessory structures.
- C. Setbacks.**
1. Uncovered accessory structures. Uncovered accessory structures, such as flag poles, lamp posts, signs, antennas and dishes, mechanical equipment, uncovered decks, play structures, and tennis courts, are allowed in a street setback, but not in a required setback from an abutting residential zone.
  2. Covered structures.
    - a. Covered structures, such as storage buildings, greenhouses, work shed, covered decks, and covered recreational structures, are subject to the setbacks for buildings.
    - b. Water cisterns that are 6 feet or less in height are allowed in side and rear setbacks, including setbacks abutting a residential zone.
    - c. See Section 33.140.265, Residential Development, for additional requirements for garages that are accessory to residential development.

## Chapter 33.205 Accessory Dwelling Units

### Background

Accessory Dwelling Units (ADUs) are a subset of covered accessory structures. However, they have historically been subject to a range of additional regulations, including special height standards, design standards, setbacks, size limitations, etc. The Accessory Structures project creates a more uniform set of setback, height and design standards that apply to all covered accessory structures associated with residential development. As a result, the ADU chapter is amended to either remove some regulations, or to incorporate them into the base zone chapter for accessory structures. In addition, other amendments enhance the clarity and readability of the chapter.

These changes:

- Align the existing ADU standards with the two sets of Purpose Statements. The more general requirements are aligned with the general purpose statement for the ADU chapter, while the standards more specific to scale, setbacks and site design are aligned with the Purpose statement for the Design Standards.
- Remove height and design requirements, specific to detached ADUs. Height and design requirements may still apply to some ADUs, but a maximum height of 20-feet and design standards for structures above 15-feet will be the same for all detached covered accessory structures within the base zones.
- Create a little more flexibility for detached ADUs to locate on the lot, by reducing the front setback from 60-ft to 40-ft.
- Remove references to converting other types of structures to ADUs, since the same regulations will apply regardless of the type of covered accessory structure

### **33.205.020 Where These Regulations Apply.**

This section is expanded slightly to allow an ADU to be added to a house in the C or EX zones as well as the R-zones, all of which allow household living. It allows an applicant to meet either the ADU requirements, or to have the new unit reviewed as multi-dwelling development, which is currently allowed.

### **33.205.030 General Requirements.**

This section is created to separate out the general threshold standards from those that emphasize the development of the ADU. However, no new language is proposed.

- A. **Number of residents.** This regulation is moved from the Development Standards section to this General Requirements section, because it is a general standard, not related to design. No text changes have been made.
- B. **Other uses.** Similar to B, this is moved from the Development Standards section to this General Requirements section, but no text changes have been made.

## CHAPTER 33.205 ACCESSORY DWELLING UNITS

Sections:

- 33.205.010 Purpose
- 33.205.020 Where These Regulations Apply
- 33.205.030 General Requirements
- 33.205.040 Development Design Standards
- 33.205.050 Density

### 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 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.

### 33.205.020 Where These Regulations Apply

An accessory dwelling unit may be added to a house, attached house, or manufactured home in an R, C or EX zone, except for attached houses in the R20 through R5 zones that were built using the regulations of 33.110.240.E, Duplexes and Attached Houses on Corners.

### 33.205.030 General Requirements

**A. Number of residents.** The total number of individuals that reside in both units may not exceed the number that is allowed for a house hold.

**B. Other uses.**

1. Type B home occupation. An accessory dwelling unit is prohibited on a site with a Type B home occupation.
2. Type A accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type A accessory short-term rental.
3. Type B accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type B accessory short-term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.

## COMMENTARY

**33.205.040 ~~Development~~ Design Standards.** The title is amended to better reflect the type of standards within the section.

- A. Purpose.** The purpose statement contains several individual statements related to the physical development of ADUs. The first statement, which promotes compatibility with the character of Portland's residential zones was mostly implemented through the special design compatibility standards that regulated siding, trim, windows, roof pitch and eaves, as well as the height limit for detached ADUs. These standards have been moved to the single- and multi-dwelling residential base zones to more universally apply to all detached accessory structures that over 15-feet in height. This specific purpose statement has been incorporated into those base zones. However, the maximum size and placement of ADUs also encourage compatibility and so this purpose statement bullet will remain here as well.
- B. Generally.** This change reflects the new title of the standards.
- C. Requirements for all accessory dwelling units.** Several of these standards have been either moved to the detached accessory structure requirements or eliminated.
  - 1. (old) Creation.** These standards had more relevance in the past when ADUs could only be created through a limited number of options (either an internal conversion, or, later, as an expansion to the house). Currently, ADUs can be created in a number of ways; through conversions, floor area expansions, or through new construction, either as part of an existing house or with a new house. So this provision has lost much of its relevancy, since it no longer limits the situations for the creation of the ADU. As a result, this amendment removes this language.
  - 2. (old) Number of Residents.** This standard has been moved to the General Requirements section since it has more relevance as a general threshold than as a Development Standard.
  - 3. (old) Other Uses.** Similar to #2, this standard has also been moved to the General Requirements section.

### 33.205.0430 Development~~Design~~ Standards

- A. Purpose.** Standards for creating accessory dwelling units address the following purposes:
- Ensure that accessory dwelling units are compatible with the desired character and livability of Portland's residential zones;
  - Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
  - Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
  - Provide adequate flexibility to site buildings so that they fit the topography of sites.
- B. Generally.** The ~~development~~design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zone development standards apply.
- C. Requirements for all accessory dwelling units.** All accessory dwelling units must meet the following:
- ~~1. Creation. An accessory dwelling unit may only be created through the following methods:~~
    - ~~a. Converting existing living area, attic, basement or garage;~~
    - ~~b. Adding floor area;~~
    - ~~c. Constructing a detached accessory dwelling unit on a site with an existing house, attached house, or manufactured home; or~~
    - ~~d. Constructing a new house, attached house, or manufactured home with an internal or detached accessory dwelling unit.~~
  - ~~2. Number of residents. The total number of individuals that reside in both units may not exceed the number that is allowed for a household.~~
  - ~~3. Other uses.~~
    - ~~a. Type B home occupation. An accessory dwelling unit is prohibited on a site with a Type B home occupation.~~
    - ~~b. Type A accessory short term rental. An accessory dwelling unit is allowed on a site with a Type A accessory short term rental.~~
    - ~~c. Type B accessory short term rental. An accessory dwelling unit is allowed on a site with a Type B accessory short term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.~~

## COMMENTARY

## 33.205.040 Development Standards (continued)

**C. Requirements for all accessory dwelling units (continued).** The items remaining in this section are being renumbered.

1. **Location of entrances.** This amendment clarifies that the entrance limitation is not applicable to proposals involving a detached accessory dwelling unit. Proposals for detached ADUs do not have an effect on the current entrance layout of the main house.
2. **Parking.** No change is proposed.
3. **Maximum size.** This amendment clarifies how the square footage is to be measured when determining maximum size. The clarification aligns with current code provisions located within the definitions chapter (33.910) for living area. That definition was intended to apply to this particular calculation but the current code did not consistently refer to living area.

Discussions with BDS staff and the focus group included a consideration to remove the 800 square foot maximum for internal basement conversions, while keeping a 75% threshold. The main goal of this project is to create a more standardized set of regulations for detached accessory structures, not necessarily basement remodels. There is a concern that ADUs larger than 800 square feet, in conjunction with a house could result in a development with the characteristics of a duplex, including the potential from impacts of a second family-sized unit and parking requirements. Any proposal to consider alternative development options in single dwelling zones, including larger second units, would be a topic to discuss during the upcoming single-dwelling residential infill project. No amendment to ADU size is considered with this project.

- 7-11. These design standards have been revised and amended so that they apply to all residential accessory structures above 15-feet in height. This provides a more consistent set of design standards applicable to taller accessory structures, regardless of the type of use that is occurring within the structures. Taller accessory structures can have a larger effect on neighborhood livability and character, since they are often more visible from adjoining backyards.

The removal of the standards from this section, and their inclusion in the base zones create a more consistent set of standards that consider size and bulk of the building. Indirectly, this amendment may allow for standard ADU house plans to be created, reducing the overall construction and planning costs for the units, which could lead to greater affordability.

14. Location of entrances. Only one entrance may be located on the facade of the house, attached house, or manufactured home facing the street, unless the house, attached house, or manufactured home contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks. Detached accessory dwelling units are exempt from this standard.
25. Parking. No additional parking is required for the accessory dwelling unit. Existing required parking for the house, attached house, or manufactured home must be maintained or replaced on-site.
36. Maximum size. The size of the accessory dwelling unit may be no more than 75 percent of the living area of the primary dwelling unit or 800 square feet of living area, whichever is less. The measurements are based on what the square footage of the primary dwelling unit and accessory dwelling unit will be after the accessory dwelling unit is created.
- ~~7. Exterior finish materials. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the house, attached house, or manufactured home.~~
- ~~8. Roof pitch. The roof pitch must be the same as the predominant roof pitch of the house, attached house, or manufactured home.~~
- ~~9. Trim. Trim must be the same in type, size, and location as the trim used on the house, attached house, or manufactured home.~~
- ~~10. Windows. Windows must match those in the house, attached house, or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical). This standard does not apply when it conflicts with building code regulations.~~
- ~~11. Eaves. Eaves must meet one of the following:~~
  - ~~a. The eaves must project from the building walls the same distance as the eaves on the house, attached house, or manufactured home;~~
  - ~~b. The eaves must project from the building walls at least 1 foot on all elevations; or~~
  - ~~c. If the house, attached house, or manufactured home has no eaves, no eaves are required on the accessory dwelling unit.~~

## COMMENTARY

## 33.205.040 Development Standards (continued)

- C. **Requirements for all accessory dwelling units** (continued). The remaining two items affecting detached ADUs are incorporated into the previous section and clarified to only apply to detached structures
4. **Setbacks.** The intent of these regulations is to ensure that the second unit is not the main building to be seen from the street. The amendments provide additional flexibility in the siting of a detached ADU, while staying true to the purpose that the detached ADU is secondary to the house in prominence. The setback reduction to 40-feet is also consistent with the base zones which allow smaller detached accessory structures to be within the side and rear setbacks if they are at least 40-feet from the front lot line.
  5. Previously this standard restricted the height of detached ADUs to 18-feet. This limits ADUs and can make it harder to develop a structure with a garage on the bottom floor and living space above. At the same time, covered accessory structures that do not contain ADUs are allowed to be built up to the base zone height limits (30-35-feet in single-dwelling zones). As part of this project, a more holistic set of standards have been developed for all covered accessory structures within the base zone. This single standard is established at 20-feet for detached covered structures accessory to residential development. The 20-foot height limit allows for a modest 2-story structure, but removes the potential for oversized accessory structures. With this change in the base zones, the special detached ADU standard is no longer needed. The paragraph has been repurposed to direct readers to the base zone standards.
  - ~~3-~~ **Bulk limitation.** This is a reiteration of the standards in the base zones. With the reference made in the previous paragraph to the base zone standards, this is no longer needed.
  - ~~4-~~ **Conversion of existing detached accessory structures.** These standards were originally placed in the code as part of a project to allow garages and other accessory structures to convert into ADUs if they met certain standards. They also provided clarity on how the additional development/design standards would apply to existing structures. Since the Accessory Structures Zoning Code Update is creating a uniform set of setback, bulk, height and development standards, this section is no longer needed, because all types of accessory structures will be treated the same.



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

- ~~41.~~ Setbacks. ~~Detached~~The accessory dwelling units ~~must be at least:~~
  - a. ~~Set back 40~~60 feet from the front lot line; or
  - b. ~~Located 6 feet~~ behind the rear wall of the house, attached house, or manufactured home. For the purpose of this regulation, the rear wall of the house is the wall furthest from the wall with the main entrance to the street.
- ~~52.~~ Detached accessory dwelling units must meet the development standards for detached covered accessory structures in the base zone. ~~Height. The maximum height allowed for a detached accessory dwelling unit is 18 feet.~~
- ~~3.~~ Bulk limitation. ~~The building coverage for the detached accessory dwelling unit may not be larger than the building coverage of the house, attached house, or manufactured home. The combined building coverage of all detached accessory structures may not exceed 15 percent of the total area of the site.~~
- ~~4.~~ Conversion of existing detached accessory structures
  - a. ~~In RF through R2.5 zones, conversion of an existing detached accessory structure that is in a front building setback required by Table 110-3 is not allowed. Conversion of an existing detached accessory structure that is in a rear or side building setback is allowed as provided by Subsection 33.110.250.C, Setbacks.~~
  - b. ~~In R3 through IR zones, conversion of an existing detached accessory structure that is in a front building setback required by Table 120-3 is not allowed. Conversion of an existing detached accessory structure that is in a rear or side building setback is allowed as provided by Subsection 33.120.280.C, Setbacks~~
  - c. ~~If the accessory dwelling unit is proposed for an existing detached accessory structure that meets any of the standards of Paragraphs C.7 through C.11 and Paragraphs D.2 and D.3, alterations that will move the structure out of conformance with the standards that are met are not allowed;~~
  - d. ~~If the accessory dwelling unit is proposed for an existing detached accessory structure that does not meet one or more of the standards of Paragraphs C.7 through C.11, the structure is exempt from the standard it does not meet. If any floor area is added to the detached accessory structure, the entire structure must meet the standards of Paragraphs C.7 through C.11.~~

**33.205.040 Density [No change.]**

## Chapter 33.910 Definitions

### 33.910.030 Definitions

**Accessory Structure.** This definition is not changing but is included here to provide context for the Accessory Structures Code Project.

**Attached Structure.** The amendment clarifies how one structure is attached to another. The use of the term "breezeway" has created confusion in interpretation, resulting in proposals to attach structures through uncovered connections such as with a trellis or arbor structure. The intent has always been that the connection is more substantial such as through sharing a wall or a covered roof structure.

**Garage.** Garages are defined specifically as a place to park or store a motor vehicle under a covered structure. As such, it is necessary to provide standards to ensure a vehicle can access, and drive into, the garage. This amendment clarifies that vehicle access is provided to a garage through a driveway, and that the structure opening is wide enough for a motor vehicle to enter, in conformance with the code requirements for residential parking.

## 33.910 Definitions

# 910

### Sections:

- 33.910.010 Defining Words
- 33.910.020 Use of Terms
- 33.910.030 Definitions

### 33.910.030 Definitions

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

**Accessory Structure.** A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures may be attached or detached from the primary structure. Examples of accessory structures include: garages, decks, fences, trellises, flag poles, stairways, heat pumps, awnings, and other structures. See also Primary Structure.

**Attached Structure.** Any structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. For example, decks or stairways are attached structures when they are connected to another structure. A garage may be attached to another structure by sharing a wall or by a roofed structure such as a breezeway. Structures connected by an "I" beam or similar connections are not considered attached.

**Garage.** A covered structure ~~designed to provide shelter for vehicles, and which that~~ is accessory to a use in ~~a these structure types:~~ houses, attached houses, duplexes, manufactured dwellings, or houseboats, and that:

- Is designed to provide shelter for vehicles;
- Is connected to a right-of-way by a driveway; and
- Has an opening that is at least 8-feet wide.

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. A garage may be attached to or detached from another structure. See also Structured Parking.

## Chapter 33.930 Measurements

### 33.930.030 Measuring Distances

- E. **Measurements involving a structure.** This amendment clarifies the intent for measuring setbacks to a structure. The measurement is intended to be applied to the exterior wall, and minor architectural details and extensions such as building and window trim are not considered in measuring building setback. Generally, the definition of trim as it applies to buildings, includes exterior ornamentation such as moldings or framework. So as provided in the measurements, it includes items such as window sills and frames, cornices, bead boards and other decorative features.

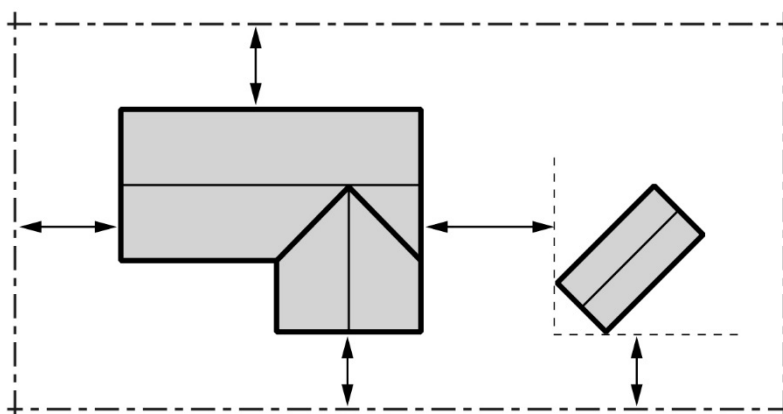
## 33.930 Measurements

# 930

### 33.930.030 Measuring Distances

A-D. [No changes.]

**Figure 930-2**  
**Closest Distance**



Measurement is taken from the shortest distance between the points.

- E. Measurements involving a structure.** Measurements involving a structure are made to the closest wall of the structure. Chimneys, eaves, building and window trim, and bay windows up to 12 feet in length, are not included in the measurement. Other items, such as covered porches and entrances, are included in the measurement. See Figure 930-2 above, and the base zone chapters.

**COMMENTARY**

## Regulatory and Permit/Land Use History Accessory Structures and Accessory Dwelling Units

This appendix summarizes staff research into the history of regulations, permits and land use review adjustment for accessory structures. Staff considered legislative code projects that impacted accessory structures and Accessory Dwelling Units (ADUs). The focus was on code changes that have occurred since the Zoning Code rewrite effective in 1991. The research reviewed both the regulations for accessory structures in general and for the subset of ADUs. The table starting on the next page provides a summary of code projects that have amended the zoning code for these types of structures.

Staff also reviewed recent permit and land use history to determine the types of accessory structures that are being built, the trends and growth of some structures such as ADUs and the common land use reviews that are requested to adjust our zoning code standards related to accessory structures. This information was used to help inform decisions on code amendments and in working with our stakeholder focus group. A summary of the permit and land use research is located below after the tables.

### History of Accessory Structure Zoning Code Regulations

#### Accessory Structures

The regulations for accessory structures have undergone many minor changes, but the main layout of the section and the description of the four different types of accessory structures (mechanical equipment, vertical structures, uncovered horizontal structures and covered accessory structures) has remained the same since the zoning code was rewritten in 1991. Provisions for garages have been amended over the years to address design, and the standards have been liberalized for detached garages within the setback and to allow the conversion of garages into other types of accessory structures. However, many of the basic setback, height and coverage limits have remained unchanged, especially for horizontal and vertical structures. However, the way people use their yards over the past 25 years have changed considerably with the increase in home occupations, food production and keeping of animals, and additional storage needs. This has resulted in the desire of many residents to build new, or convert existing, accessory structures to accommodate various uses.

It should be noted that single-dwelling zones have historically required building and structure setbacks, primarily to ensure adequate light, air, privacy, separation for fire protection and access for fire fighting and maintenance. However, Portland has also historically allowed certain types of accessory structures to be built within side and rear setbacks. Although our analysis begins with the zoning code rewrite of 1991, the code prior to 1991 also allowed garages, carports, pergolas, and greenhouses in the side and rear setback in nearly all single-dwelling zones.

#### Accessory Dwelling Units

Accessory Dwelling Units (ADUs) and their regulations have changed more significantly in the past 25 years. With the zoning code rewrite in 1991, regulations for accessory rental units (the precursor to ADUs) were consolidated into a single code chapter. At that time, an accessory rental unit could only be created through an internal conversion within the house, not as a detached structure, nor as a house expansion. During the 1990's, the

## APPENDIX – REGULATORY HISTORY ACCESSORY STRUCTURES

implementation of the ‘a’ overlay in 1993 and the ADU code expansion project in 1997/98 expanded the situations where ADUs are allowed. The latter project also added the development standards for height, size and design to ADUs. More recently, in 2010, the regulations were changed so that an ADU could make up a larger percentage of the house. These changes have created a regulatory situation where ADUs can generally be built in residential zones by right, as long as the ADU is accessory to a house, attached house or manufactured home on a lot.

The following tables provide a background history of the regulations for both accessory structures and for accessory dwelling units (ADUs). The focus of this table is on accessory structures related to residential development, chiefly single-family dwelling development.

### General Accessory Structure Regulatory Changes since 1991

Code Change Date	Type of Accessory Structure amendment
1991 Zoning Code Rewrite	<ul style="list-style-type: none"> <li>Revised detached accessory structure descriptions into four types: Mechanical Structures, Vertical Structures (arbors, trellises, flag poles, antennas), Uncovered Horizontal Structures (decks, ramps, pools) and Covered Accessory Structures.</li> <li>New provisions allowed small vertical structures and decks 30 inches or less above grade in setbacks, allowed covered accessory structures under 6-ft in height in side and rear setbacks,</li> <li>Garages could be built in side and rear setbacks in R5 and R2.5 zones if under 240 square feet with 10-ft walls.</li> </ul>
Code Amendments 1995	<p>This was a package of 13 amendments affecting a variety of issues including:</p> <ul style="list-style-type: none"> <li>The garage setback exception was expanded to the R7 zone, and amended to allow larger, two-car garages in the side and rear setbacks at the back of the lot. The 240 square foot maximum was changed to the current 24-ft by 24-ft dimensional maximum.</li> </ul>
Base Zone Design Standards 1999	<p>This package of amendments created new standards for single dwelling development that affected the front façade of the house and the location/appearance of garages. Changes related to accessory structures included:</p> <ul style="list-style-type: none"> <li>Revised section on accessory structures to apply to both attached and detached structures.</li> <li>Moved standards for attached horizontal structures such as decks into the accessory structures section.</li> <li>Created new standards for garage frontage limits, but did not amend the setback exception for garages in side and rear setbacks.</li> </ul>
Code Maintenance 2002	<p>Yearly package of code amendments, including the following:</p> <ul style="list-style-type: none"> <li>Added clarification to garage exception (in setback) that the structure is not allowed to include living space.</li> <li>Added clarification for rebuilding of existing garages that are in any setback.</li> </ul>



# APPENDIX – REGULATORY HISTORY ACCESSORY STRUCTURES

Code Change Date	Type of Accessory Structure amendment
Code Maintenance 2003	<p>Yearly package of amendments. Accessory Structures amendments included:</p> <ul style="list-style-type: none"> <li>• Allowing an accessory structure to temporarily become a primary structure through a recorded covenant (such as after a land division)</li> </ul>
Code Maintenance 2004	<p>Yearly package of amendments. Several amendments were made addressing accessory structures (other ADU changes listed below) including the following:</p> <ul style="list-style-type: none"> <li>• Allowed an existing garage located in the side and rear setbacks to be converted into another type of covered accessory structure, including ADUs (note that the regulations require the garage to have been constructed prior to 1/2005).</li> <li>• This allowance did not allow any expansion of the structure.</li> <li>• An expanded description of covered accessory structures to reflect buildings that could include living space.</li> <li>• Added provision to allow a dormer away from property line.</li> </ul>
RICAP 3 2007	<p>RICAPs stand for “Regulatory Improvement Code Amendment Packages”, and is an ongoing program to continuously improve the code. RICAP 3 included the following amendments affecting accessory structures:</p> <ul style="list-style-type: none"> <li>• Added a provision to limit overall structure height for detached garages (and garage conversions) located in the side and rear setbacks.</li> <li>• Extended dormer provision from Code Maintenance 2004 to detached garages.</li> </ul>
RICAP 5 2010	<p>RICAP 5 included the following amendments affecting accessory structures:</p> <ul style="list-style-type: none"> <li>• Allowed entry arbors up to 6-ft wide to be in front setbacks.</li> <li>• Included water collection sisterns to description for covered accessory structures, allowing them to be in side and rear setbacks if a maximum of 6-ft high.</li> </ul>

## APPENDIX – REGULATORY HISTORY ACCESSORY STRUCTURES

### Accessory Dwelling Unit (ADU) Regulatory Changes since 1991

Code Change Date	Type of ADU amendment
1991 Zoning Code Rewrite	<ul style="list-style-type: none"> <li>Consolidated existing regulations – ADUs (called ARUs at the time for Accessory Rental Units) only allowed through internal conversion within a house (living area, basement or attic). Could not be a garage conversion.</li> <li>New provisions included requiring owner occupancy during conversion and after, and prohibition on having both an ARU and a Type B Home Occupation.</li> </ul>
1993 Albina Plan & ‘a’ overlay	<p>Albina Plan created a new Alternative Design Density Overlay Zone (or ‘a’ overlay for short).</p> <ul style="list-style-type: none"> <li>The ‘a’ overlay included new standards for ARUs that expanded how they can be created. Features included allowing an ARU created through internal conversion, or an addition. ARU unit had no size limitation and no parking was required, but the dwelling had to be owner occupied when created, and one of the units owner occupied after (covenant required). Exterior work was subject to design review or design standards.</li> <li>The ‘a’ overlay originally applied to many R5 areas under the Albina Plan, which covered a wide swath of N &amp; NE Portland.</li> </ul>
1996 Outer SE Community Plan & ‘a’ overlay	<ul style="list-style-type: none"> <li>The ‘a’ overlay was expanded into areas of outer SE with the Outer SE plan. This expansion included allowing detached units in selected mapped areas of the ‘a’ overlay.</li> </ul>
1997/98 ADU Code Expansion	<p>This project expanded the situations where ADUs were allowed and was effective Feb ‘98. <i>(Note that document research stated only 50 ARUs legally created between 1981 and 1996.)</i></p> <p>Specific changes included:</p> <ul style="list-style-type: none"> <li>An ADU can be created through expanding floor area, including a detached structure.</li> <li>Size limits created (33% of primary dwelling up to 800 sq ft)</li> <li>Owner occupancy provisions dropped.</li> <li>Height of detached ADU limited to 18’ (considered a 1 ½ story structure).</li> <li>Five objective design standards added if floor area, or detached structure added (similar to Community DZ stds)</li> <li>Conversion of a garage within setback required adjustment.</li> </ul>
Regulatory Improvement Policy Package #2 2004	<p>This package standardized the ADU regulations city-wide, removing the distinction between the base zone and ‘a’ overlay. Amendments included the following:</p> <ul style="list-style-type: none"> <li>Removed ADU standards from the ‘a’ overlay.</li> <li>Removed any owner-occupancy requirements as these were not effective.</li> </ul> <p>Expanded/merged ADU regulations to apply to all ADUs citywide. This standardized the design, parking and size requirements as well as the owner/occupancy mentioned above.</p>

## APPENDIX – REGULATORY HISTORY ACCESSORY STRUCTURES

Code Change Date	Type of ADU amendment
2004 Code Maintenance project	<p>Code Maintenance Projects 2004 included amendments to accessory structures (shown above) but also included amendments specific to ADUs including:</p> <ul style="list-style-type: none"> <li>• Allowed a garage built legally within setback as of date of regulations to be converted to an ADU.</li> <li>• Exempted structure conversions from having to meet ADU design standards if they didn't already meet those standards.</li> <li>• Expanded the options for meeting eave requirements.</li> </ul>
System Development Charge (SDC) Waiver (April 2010)	<ul style="list-style-type: none"> <li>• Waived the SDC charges applied to ADUs effective immediately, through June, 30 2013.</li> <li>• Later resolutions extended this waiver through July 31, 2016.</li> </ul>
RICAP 5 (April 2010)	<p>RICAP 5 is part of the regulatory code improvement program. During this process there was testimony about ADU size limitations, and PSC recommended this get addressed. (<i>Note that research at the time indicated that ADU's were averaging about 24 per year</i>). Amendment included:</p> <ul style="list-style-type: none"> <li>• Expanding the maximum size of an ADU to 75% of house while keeping 800 sq. ft. limit.</li> </ul>

### Building Permit Review 2009-2014

Many accessory structures, such as arbors, statues, lamp posts, and decks close to the ground do not require building permits to construct. Mechanical equipment including air conditioning units and radon mitigation components often only require a mechanical permit. So, it can be difficult to determine how many accessory structures are built throughout the city each day. Staff limited their review to building permits for accessory structures, since these provide a more easily accessible set of projects that can be analyzed. Building permits for accessory structures fall into various categories including garages and carports, accessory dwelling units, accessory structures, and decks/fences/retaining walls.

Over the past 5 years, the city has received an average of 4 permits for accessory structures per workday. This volume has steadily increased since the recession year of 2009, and 2014 figures illustrated a 53% increase over 2009 figures. Of the total number, over 50% of all permits for accessory structures involved either building or demolishing a garage.

While all types of accessory structure permits exhibited growth over the past five years, the largest percentage increase in growth has occurred with Accessory Dwelling Units (ADUs) with yearly totals for 2014 increasing more than 300% over the 2009 totals. Although increasing interest and financing opportunities for ADUs have partially led to this upsurge, the biggest reason for the increase may be due to the waiver of System Development Charges (SDC) for ADUs that went into effect in April of 2010. SDCs are fees applied upon the construction of new dwelling units and cover increases in demand to the sewer, water, parks and transportation systems. The ADU waiver for these fees resulted in an immediate increase of permits in 2010 over 2009, and that number has been steadily increasing since. Even with this increase, ADUs make up a relatively small amount of accessory structure building permits, accounting for 12% of the total since 2009. The SDC

## APPENDIX – REGULATORY HISTORY ACCESSORY STRUCTURES

waiver is planned to expire in June 2016, unless it is expanded or permanently accepted. The elimination of the SDC waiver, provided all bureaus remove the waiver, is expected to significantly increase the overall fees for ADU construction.

### Land Use Review—Adjustments 2009-2014

Accessory structures are subject to the requirements of the zoning code whether they need a permit or not. Requests to waive or alter a zoning code standard such as a setback or height limit are reviewed through a discretionary land use review process, called an adjustment.

We reviewed the record of adjustments that appeared to involve accessory structures applied for between 2009 and October of 2014. Although the review was not able to completely separate out detached accessory structures from other accessory structures, we were able to get a sense of the types of adjustments that were requested for the nearly 400 adjustments related to accessory structures that were requested during that time period.

By far, the most common adjustment request was for setbacks. Approximately 70% of all adjustments reviewed included a request to adjust the setback. These could be the result of an expansion to an accessory structure, for a new accessory structure or for legalizing work done previously that didn't meet setbacks. Overall, about 40% of all adjustments were associated with new construction, while significant percentages were also requested for additions (23%) and conversions of existing structures (17%).

ADUs made up a larger share of adjustment requests (29%) than they did of overall permits (12% above) indicating that the more strict set of regulatory standards for ADUs triggered greater requests for regulatory relief. These standards include the lower height limit for ADUs and the specific design standards for ADU, both of which had several instances where adjustments were requested.



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