

# LAND DIVISION CODE REWRITE PROJECT FINAL REPORT

ADOPTED BY ORDINANCE #175965, SEPTEMBER 26, 2001  
AMENDED BY ORDINANCE, #176333, MARCH 20, 2002  
EFFECTIVE JULY 1, 2002



CITY OF PORTLAND, OREGON  
BUREAU OF PLANNING



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# **LAND DIVISION CODE REWRITE PROJECT**

## **Final Report**

**Adopted by Ordinance #175965,  
September 26, 2001**

**(Amended by Ordinance #176333,  
March 20, 2002)**

**Effective July 1, 2002**

**Bureau of Planning  
Portland, Oregon**



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**Part I:**

**Summary**

## Summary

The recommendation contained in this report includes new rules that will govern how land is divided into lots and tracts in the City of Portland in the future. The recommendation governs not only the dimensions and configuration of lots and tracts, but also the creation of streets, the provision of other services such as water, sanitary sewer and stormwater management, and the protection of environmental resources during the land division process.

This report builds on an extensive planning effort that has involved property owners, land developers, builders, neighbors, interested citizen groups, and staff from many City Bureaus. At the core of today's recommendation is the Recommended Draft of the Land Division Code Rewrite Project that was approved by the Portland Planning Commission in November 1999 and reviewed by the City Council in February 2000.

In February 2000, the City Council asked the Director of the Bureau of Planning to convene a discussion group that included the participation of citizen experts, interest groups, and neighborhood organizations. This group discussed additional standards that could be added to the recommendation to ensure the protection of Portland's livability. The recommendation reflects the work done by that discussion group, and includes additional or modified standards related to the quality of design on narrow lots, street design, protection of environmental resources, relationship of the recommendation to technical decisions, and review processes.

In general, the recommendation would:

- **implement the Region 2040 growth concept** by incorporating minimum densities into the medium density residential zones and by providing more flexibility in the division of land. This flexibility makes it easier to protect environmental resources while also allowing for anticipated development. The emphasis on street connectivity also promotes Region 2040 growth concepts by reducing vehicle miles traveled and encouraging non-auto travel;
- **foster orderly and efficient provision of services** by clarifying the relationship between the land division code and technical requirements for services such as streets, sewers, and stormwater management, and by directing service bureaus to publish their guidelines for technical decisions;
- **reorganize and reformat the land division regulations** to be easier to understand. The organization of the regulations is logical, and fits into the existing organization of the Zoning Code. Wherever possible, existing regulations and procedures in the Zoning Code were used, rather than creating variations specific to land divisions;
- **provide for creative land development and promote good urban form.** The regulations allow flexible lot sizes within existing density regulations, focus on key design regulations such as the lot's relation to the street, and allow effective solutions for infill lots, especially those with constraints such as severe slopes;
- **provide for appropriate citizen participation.** By "front-loading" the process in terms of information, decision-making and citizen involvement, issues and problems can be identified early and all participants in the process have a chance to resolve conflicts while the developer is still refining the proposal;
- **clarify and coordinate the roles of the City bureaus that are responsible for reviewing land division proposals.** In addition, this recommendation was coordinated



with the Blueprint 2000 process and will foster better communication between City agencies and bureaus; and

- **require narrow lots to meet design standards** at the land division stage. These standards will mitigate the impacts of design on narrow lots to encourage development that integrates into the surrounding neighborhood.

### **Recommendation**

The Bureau of Planning and the Portland Planning Commission recommend that the City Council:

- Repeal the existing Title 34, Land Divisions; and
- Amend Title 33, Planning and Zoning to put in place new regulations for the subdivision of land as shown in Part III of this report.

In order to implement the regulations contained in Part III of this report, it is also recommended that the City Council take the implementation actions described in Part V of this report, including:

- Direct service bureaus to document administrative practices and technical requirements *prior to the effective date* of this code;
- Direct the Portland Office of Transportation to continue work toward adoption of a Conceptual Master Street Plan Map;
- Direct the Office of Planning and Development Review to consider improvements to administrative practices related to turnaround time, process management, and staffing;
- Direct the City Attorney to head up an inter-bureau effort toward consolidation of improvement guarantee activities and regulations by project, and to complete this work *prior to the effective date* of this code;
- Direct appropriate service bureaus to update their titles for consistency with the land division code;
- Direct the Bureau of Planning and the Office of Planning and Development Review to work jointly to produce a Land Division Handbook, if feasible within the constraints of existing budget priorities; and
- Allocate a budget for and direct the Bureau of Planning to work with the Office of Planning and Development Review to undertake a two-year work-program to monitor implementation of the Land Division regulations.

### **Housekeeping Amendments to the Recommendation**

This report reflects housekeeping amendments to the original recommendation that were adopted by the City Council on March 20, 2002.



## **Part II:**

# **Background**

**Project Purpose and Overview**  
**Project History**

## PROJECT PURPOSE

### Importance of Land Division regulations

The first major step in the development process is to divide a parcel of land into lots and streets. How land is divided defines the pattern of a community, which in turn may shape its character.

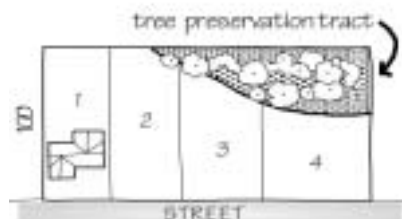
Dividing land can also define traffic circulation patterns and access, dedicate rights-of-way, and reserve tracts of land to protect environmental resources, such as floodplain and landslide areas. Land division regulations help to guide development of land consistent with the goals of Portland's Comprehensive Plan. Done well, land division regulations coordinate the City's interests and responsibilities in a clear and efficient manner.

A good set of regulations for land divisions can help avoid destruction caused by floods and landslides. A good code ensures that all lots can be served by services and utilities, and that public and private costs of development are not overly burdensome. A good code ensures that stormwater generated by a development can be managed as close as possible to the site, and land uses can be carefully matched with transportation elements for all modes, including pedestrian and bicycle travel. A good code preserves natural resources. A clear and flexible set of regulations can achieve all this, and also foster a variety of housing, commercial, and industrial development.

The figures below illustrate the outcome of a simple land division, using the rules recommended in this report. In this case, the house is on a site that is zoned to allow four lots. There is enough street frontage so that no new streets are needed for the new lots. As part of the recommended land division process, a tree preservation tract is created to protect a cluster of trees. Parts III and IV of this report include new rules to guide land division proposals, such as this example.



Before the land division



After the land division (applying the code recommended in this report)

### Why do we need to update the regulations?

The current Land Division Code was adopted in 1978, and has been amended many times since its adoption. At the same time, amendments to other titles of the City Code, particularly those administered by the service bureaus, have not always been well coordinated with the Land Division Code. State law has changed extensively, which means that some of the provisions of the code are not in compliance with state law. Metro's Urban Growth Management Functional Plan also requires some code changes.

The recommended land division regulations are intended to help guide growth while maintaining the livability of neighborhoods. Such guidance also supports the City's efforts to make efficient use of existing public facilities and services.

In 1994, Portland City Council decided to rewrite the Land Division Code to respond to changing conditions and values in Portland. As time goes by and development occurs, the number of sites that can be easily developed diminishes, leaving sites with constraints,

such as steep slopes or environmental resources. It has become increasingly clear during the past few years that Portland residents want to preserve environmental resources, retain large stands of trees, and avoid development that will be at risk from—or worsen—landslides and floods. These factors call for a regulatory approach to land divisions that is flexible, simple, and provides certainty. Not only is it timely to reconsider the existing land division regulations, it is critical if the City is to achieve its goals and preserve Portland's livability.

### **What are the goals for the project and who set them?**

The City's Development Review Team initially developed the goals for the Land Division Code Rewrite Project, with assistance from planning consultants. Members of the team included managers from the six City bureaus directly involved in development permitting and two members of City Council. The goal setting process is described in the Project History section, below. The core project goals include:

1. Write and structure the Land Division Code so that:
  - Procedures are timely, clear, and easy to understand;
  - Regulations are clear and easy to understand;
  - It provides opportunities for creative land development; and
  - It promotes good urban form and design.
2. Focus on the land division procedures and regulations to foster the orderly and efficient provision of services.
3. Provide for citizen participation at appropriate times throughout both the code writing project and the land division process.
4. Use the Land Division Rewrite Project as an opportunity to identify and resolve the sometimes competing City policies related to land divisions and to identify what should be addressed in the land division regulations versus other titles of the City Code.
5. Design the land division requirements as an implementation tool for the Region 2040 growth concepts and the City of Portland goals to encourage and support infill and redevelopment.

As the project has evolved, the Planning Commission has provided additional guidance, including:

- Allow infill development on lands not constrained by flood or landslide hazard areas, areas without significant trees, and areas without environmental resources;
- Provide connections for pedestrian and bicycle travel;
- Support procedures that provide more information and more certainty earlier in the process;
- Support systems development charges (SDCs), especially for parks. (This issue has been addressed outside of the Land Division Code Rewrite. A Parks SDC is now in place to acquire additional park capacity to accommodate new development); and
- Improve enforcement of conditions of approval placed on land divisions (This issue has been addressed outside of the Land Division Code Rewrite. The Office of Planning and Development Review is currently implementing a work program to monitor and update their enforcement practices).

In addition, City Council and the Director's Discussion Group requested amendments to the recommendation that would ensure that the land division code provides for:

- Livability and sustainability of Portland's neighborhoods;
- Compatibility of new development with existing neighborhood character;
- Good site design and building design;

- Affordable housing;
- A multi-modal transportation system;
- Meaningful, constructive community involvement;
- A flexible, predictable, and efficient permit process; and
- Enforceability.

There are several “basic” City Policies to which change is not recommended:

- The public health and safety must be protected. For example, these regulations make it clear that new streets and lots cannot create or worsen landslide hazards.
- Services must be adequate—or must be made adequate—before land can be divided or developed. This proposal clarifies and reinforces the service requirements that must be met as part of the land division process.
- Land must be divided so that the lots can reasonably be developed. Requirements in this draft, such as minimum frontage and minimum lot area, ensure that new lots are buildable.
- The general process steps remain the same. In this draft, as in current practice, the first phase is review of the preliminary plan with significant public involvement. Once the preliminary plan is approved, the second phase—final plat review—focuses on the technical issues.

## **PROJECT OVERVIEW**

The Land Division Code Rewrite Recommendation contained in this report will:

- Use a more flexible, Planned Unit Development-like approach for lot dimensional standards while continuing to require sites to comply with maximum density requirements;
- Recognize the special impacts of development on narrow lots by requiring narrow lots in single dwelling zones to meet certain design standards at the land division stage and by amending additional design-related regulations;
- Remove disincentives to building connecting streets and sidewalks;
- Add specific requirements for land subject to flood or landslide, with environmental zoning, or with seeps and springs;
- Require tree preservation, consistent with the existing tree ordinance;
- Adopt connectivity criteria that are consistent with the Metro 2000 Regional Transportation Plan and tailored to Portland’s street pattern;
- Update development review procedures to revise thresholds, modify timing, and define land use and technical decisions; and
- Clarify the relationship between the Land Division Code and technical service bureau requirements for new land divisions.

The recommendation directs certain service bureaus to publish guidelines and standards for the technical decisions that will be made as part of the land division process. The recommendation also encourages continued inter-bureau discussion related to the issue of impervious surface. Strides have been made outside the context of the Land Division Code Rewrite project to better integrate the City’s development review functions, including land division reviews. The City’s work on process management is discussed in more detail in Part V of this report.

## **Lots and Density**

The recommendation uses a more flexible, Planned Unit Development-like approach for lot dimensional standards while still requiring sites to meet maximum and minimum density requirements. Instead of requiring relatively rigid lot dimensions, as the current regulations do, this approach separates density from lot size requirements and would allow development to be clustered on the site in smaller lots, if the overall density for the site remains within the allowable minimum and maximum for the zone. Additional flexibility in terms of development types and lot dimensions could be gained through a Planned Development Review.

Site density will be calculated differently than it is calculated today, and adjustments to site density will be prohibited under the recommendation. Portland's Comprehensive Plan and Zoning Map will continue to set the maximum density allowed in each area of the city. No land is being rezoned through the Land Division Code Rewrite project.

The approach to lot size and density recommended by this project accomplishes several things: it provides more certainty earlier in the process about the number of lots to be allowed on the site; it removes disincentives to providing street connectivity and full street amenities; and it encourages protection of environmentally sensitive land and preservation of environmental resources on the site. For more information on the number of allowed lots and dimensional requirements for these lots, see the Lots chapters in Part III of this report.

## **Design Standards**

The recommendation includes design standards that are intended to mitigate the visual impact of development on narrow lots. At the hearing on the project before the City Council in February 2000, many testifiers expressed a desire to ensure that development on narrow lots be sensitively designed. Over the remainder of the year, the Planning Director worked with a discussion group to develop design standards that would be applied to single-dwelling development on narrow lots in the single-dwelling zones. (See Project History, below, for additional information about the discussion group process that occurred in "Phase Five" of the project.)

The design standards included in this recommendation require that narrow lots:

- preserve a minimum amount of curb space per unit for on-street parking;
- have no more than 50 percent of the façade of any structure as garage wall;
- adhere to a maximum structural height-to-width ratio to prevent structures from appearing excessively tall;
- use existing alleys for vehicle access;
- have front doors that are at or near grade (attached houses only); and
- prepare a preliminary landscape plan showing at least 60 percent of front yard landscaped (attached houses only).

Some of these standards will be applied at the land division stage, while others will be applied at the development stage. The standards will encourage narrow lots to be developed in ways that harmonize with the surrounding developed neighborhood, and that prevent the automobile from visually overwhelming and detracting from the street face of narrow lot development. A future Bureau of Planning project will build on this work to examine issues related to the design of development on infill sites in other situations throughout the City.

## **Resource Preservation, Environmental Protection, and Open Space**

The recommendation encourages preservation of environmental resources on a site by allowing more flexibility in the creation of lots. Allowing lots to be created of varying sizes

enables environmental features to be left undisturbed on a larger lot, or protected within a special tract, while new development is clustered on smaller lots outside of the area occupied by the resource. (See Lots and Density, above). The recommendation includes special provisions for landslide hazard areas, flood hazard areas, and land in environmental overlay zones or otherwise subject to environmental review. The recommendation also includes regulations related to seeps and springs and tree preservation.

### ***Environmental overlay zones***

The recommended Land Division Code works in combination with Chapter 33.430, Environmental Zones, to protect identified environmental resources on the land division site. Sites that require environmental reviews are required to undergo the environmental review concurrently with the land division review, and are required to go through a Type III land division review procedure. During the first phase of a land division, land within an environmental protection zone on the site must be placed entirely within an environmental resource tract and cannot be developed. All land that is not within the allowed disturbance area of an environmental conservation zone must also be placed within an environmental resource tract. As is the case under the existing code, land within environmental overlay zones is not included in the calculation of minimum density for the site.

### ***Seeps and springs***

The recommendation requires the preservation of seeps and springs that are not already identified and protected by an environmental overlay zone on the site.

### ***Landslide hazard area***

As part of this recommendation, the city will be adopting a Potential Landslide Hazard Area map based on data from Metro and a Portland State University study regarding areas with landslide potential throughout the city. Under the recommendation a site containing land that is included on this map must demonstrate that the proposed layout reasonably limits the risk of landslide. This demonstration must be supported by findings that include a site-specific study prepared by a team that includes a Certified Geotechnical Engineer and a Certified Engineering Geologist. If any lots are proposed within the landslide hazard area and more than four units are being proposed, the land division proposal will be required to go through a Type III review process. Land within the landslide hazard area will not be included in the calculation of minimum density for the site.

### ***Flood hazard area***

The recommendation prohibits lots being created in the active floodway unless the site will house river-dependent uses such as a marina. The recommendation requires that lots be located outside of the flood hazard area if possible and requires that building sites be located entirely outside of the flood hazard area in most residential zones. Land within the flood hazard area will not be included in the calculation of minimum density for the site.

### ***Required recreation area***

The recommendation requires that at least ten percent of the site be dedicated for outdoor recreation use if forty or more units or lots are being proposed. This area must be placed in a tract and must meet certain standards.

### ***Tree preservation***

The recommendation requires preservation of historic landmark trees as well as preservation of at least 35% of the tree diameter on the site. Root systems of trees must be preserved from disturbance during site development. The recommended tree preservation regulations work in combination with additional tree preservation regulations that apply at the development stage.



### **Solar access**

The recommendation requires lots to be configured in a way that maximizes solar access for the lots where practicable. These approval criteria replace cumbersome regulations in the existing code with regulations that can be more easily balanced against other public purposes, such as environmental protection and growth management.

### **Services**

Under the existing Land Division regulations, multiple service bureaus review land division proposals as they relate to the provision of services including streets, water, sanitary sewer, and stormwater management. The decisions made by these bureaus are generally based on technical discretion and are not land use decisions. The relationship between land use decisions and technical decisions is not always clear in the existing code and has led to some uncertainty on the part of code administrators, developers, and citizens.

The recommendation clearly indicates which decisions related to services are land use decisions and which decisions are technical. Land use decisions are made by the Director of the Office of Planning and Development Review or the Hearings Officer based on the standards and approval criteria included in the Land Division regulations. Technical decisions are made based on the technical expertise of the appropriate service bureau and any applicable codes or guidelines. The recommendation directs service bureaus to publish guidelines and standards for the technical decisions that will be made as part of the land division process and requires that this work be completed in advance of the implementation date of the new code (see Part V for additional information).

### **Streets**

The recommendation requires that certain aspects related to rights-of-way in a land division be approved through a land use decision, including the type, location, and width of the right-of-way. Service bureaus will approve the specific elements of the street and its design through a technical decision.

#### Connectivity, street location, and street plans

The recommendation requires land divisions to meet a certain level of minimum street connectivity that implements the requirements of the Regional Transportation Plan. The specific location of streets will be determined through a land use decision based on site characteristics. The connectivity and location criteria will be supplemented by a Conceptual Street Plan Map to be adopted as part of the City's update of the Transportation System Plan, and by specific street plans, where they exist.

#### Street width and type

The recommendation requires specific right-of-way widths based on characteristics and intended use of the site. While the street width will be determined through a land use decision, the street also needs to be able to accommodate any street elements required as part of the technical decision. The recommendation also allows lots to face on a green, instead of a traditional street.

#### Ownership, maintenance, and access

The recommendation requires that all through streets, as well as certain dead-end streets, be dedicated to the public. Where they are allowed, the recommendation requires that private streets be held in common ownership with a public access easement and be completely contained within a tract.

### ***Water, Sewer, Stormwater***

The recommendation requires that water, sanitary sewer, and stormwater systems be approved through a technical decision by the appropriate service bureau. The recommendation also requires that applicants set aside enough space for an adequate stormwater management system on the site; compliance with this criterion will be determined through a land use decision.

### ***Emergency Services***

Technical requirements related to emergency services are generally covered by specific requirements related to water service and streets.

### **Procedures**

The recommendation includes two major procedural changes for land division reviews. First, new and enhanced procedures for land divisions are recommended throughout the report and code. These changes provide better information to applicants, earlier opportunities for public involvement (such as the Neighborhood Contact requirement), improved coordination among City bureaus, and more consistent administrative decisions. These changes are in response to concerns raised by applicants, City staff, and the public.

Second, the recommendation includes a new procedure type, the Type IIx, for land divisions that otherwise would be assigned to a Type II procedure. A land division review requires substantial coordination and information sharing between the City bureaus. The existing Type II timeline does not provide enough time to coordinate all the information prior to the issuance of a Preliminary Plan decision. The new Type IIx procedure is intended to provide more time during the Preliminary Plan review for staff and neighbors to submit comments and for the Preliminary Plan decision to be made.

The recommendation also assigns procedure types (I, IIx, and III) to a variety of land division situations. The recommended monitoring program will be able to evaluate the effectiveness of the Type IIx procedure and the procedure assignments.

The recommendation includes special procedural provisions for land divisions on industrial-zoned sites. Often an applicant will not know the needs of a potential industrial land user until the sale or lease of property is imminent. The Planning Commission recommended an innovative method for large sites in industrial zones. This option, to phase in lots during Final Plat, will be available to large industrially-zoned sites because the requirements of the industrial land users vary widely in terms of the configuration and size of lots. While this was not one of the issues originally identified by the consultants, the Columbia Corridor Association and Port of Portland raised it at the Planning Commission hearing on February 24, 1998. For more information on new industrial zone features, see the Reviews and Procedures chapters in Part III of this report.

For more information on other new process features, see the Reviews and Procedures Chapters in Part III of this report.

## **Changes from the November 1999 Recommended Draft**

The April 2, 2001 Recommended Draft and September 26, 2001 As-Adopted Report reflects changes that have been made to the recommendation based on the work of the Director's Discussion group as well as minor technical refinements based on the input of implementation staff. (See Project History, below, for additional information about the discussion group process.) Major amendments from the earlier draft include:

- Increase minimum required lot area for standard lots in all residential zones from 1999 recommendations;
- Recognize the special impacts of development on narrow lots by requiring narrow lots in single dwelling zones to meet certain design standards at the land division stage and by amending additional design-related regulations;
- Require Type III review for projects that propose alternative housing types and create compatibility criteria for these reviews;
- Decrease the threshold for Recreation Area Requirement to 40 units;
- Add criteria for the solar orientation of lots;
- Allow lots to front onto a common green space;
- Protect springs and seeps that may have been inadvertently left out of the environmental zones; and
- Provide more specific guidance for development on landslide prone sites; and
- Replace land use approval criteria for certain service-related decisions with language requiring compliance with the technical requirements of the appropriate service bureau—service bureaus would be required to publish technical manuals and guides before the land division rules go into effect.
- Explore several additional issues as part of a future City work program, including, creating technical standards for streets according to their use and function rather than ownership; creating criteria for when streets should be public and when they can be private; and creating narrow street standards that can accommodate infill sites.

## **PROJECT HISTORY**

There have been five phases of the Land Division Code Rewrite Project. Each phase has set the stage for more specific work, from identifying issues to drafting code concepts, to proposing code language, to refining code language to take into account design and service bureau accountability. The Development Review Team was the steering committee for Phases Two and Three. In Phase Four, the Planning Commission guided the project. Phase Five has been guided by the City Council with input from a citizen and city staff discussion group facilitated by the Planning Director. The process towards adoption of a new Land Division Code Rewrite has remained flexible to new ideas and taken on new challenges over time. Throughout the process the public has been invited to participate in shaping the recommendation.

### **Phase One/Scoping**

At the direction of City Council, the Bureau of Planning hired a consultant team in August 1994 to identify strengths and weaknesses of the existing Land Division Code. The consultant team solicited comments from over 70 people at 20 meetings. Participants in this process included a cross-section of stakeholders representing City bureaus, neighborhood associations, professional developers, development consultants, business and civic groups, land use lawyers, state and county agencies, and special interest groups. Neighborhood associations and neighborhood coalitions from around the City participated in the meetings, including: Southwest Neighborhoods, Inc., Centennial, Hazelwood, Pleasant Valley, Forest Park, Northwest District Association, and Arlington Heights.

The consultant team compiled the responses into issues and problem statements. In general, the participants said the existing land division code was unclear about certain standards and procedures, and was outdated. Based on this and other responses, the consultant team recommended a comprehensive overhaul of the land division code, and prioritized issues for the Development Review Team to consider in the next phase of the project.

### **Phase Two/Code Concepts**

This phase began with the Development Review Team adopting five project goals. These goals served as a framework to discuss issues and prepare alternatives.

Assisted by a consultant team, the Bureau of Planning formed a broad-based Project Advisory Committee (PAC) to serve as a sounding board for the consultants' work on the issues and alternatives. The committee's 31 members included developers, neighbors, representatives of other community interests, and City staff (see back inside cover of this report for a full list of committee members). The committee met seven times over six months to review draft issue papers, discuss regulatory options, and vote on the options. Given the diversity of interests on the PAC, no consensus was reached on many of the issues. During this time, five public workshops were also held to solicit comments from a broader audience.

The consultant team prepared a report on these issues, alternatives and recommended approaches. The report is entitled "Final Project Report for Land Division Code Rewrite Project, November 4, 1996." It was intended to serve as a guide to actual code writing by the Bureau of Planning.

In November 1996 and January 1997, the Planning Commission held public hearings on this report. Thirteen people testified in person, and 13 comment letters were received. Most of the testimony came from neighborhood associations, but business and agency interests were also represented.

The commissioners commented on the public testimony and the consultant's report and directed staff to prepare a code proposal built on this foundation. Staff consolidated the discussion that came out of the Planning Commission hearing into the five general themes that with the original goals formed the framework for the Proposed Draft of the Land Division Code.

### **Phase Three/Proposed Code**

Early in this phase, the Bureau of Planning began converting code concepts and comments into code language, in a format based on that of Title 33, Planning and Zoning. A subcommittee of the Development Review Team met several times to review draft code language. A number of City bureaus participated on that subcommittee. Staff also held two open houses to discuss draft code language, and attended neighborhood meetings, including the Citywide Land Use Forum, Southwest Neighborhoods, Inc. Land Use Chairs, Columbia Corridor Association, and Irvington Community Association.

In February 1998, the Planning Commission held a public hearing on the Proposed Draft, dated January 23, 1998. This report was staff's first cut at code language, with numerous placeholders noted for future work. The report served to frame ideas for review and comment by the Planning Commission and the public. Comments from the public hearing would give staff direction for the next draft.

As before, much of the testimony was from residents. Several business and organizational representatives also submitted testimony. The Port of Portland testified that industrial land

divisions needed to be more flexible and allow for market-driven lot configurations that could meet the varying needs of different industrial tenants; the Port warned that the inflexibility of the existing and proposed review processes discouraged industries from locating or relocating in the city. In developing the Second Proposed Draft, staff tried wherever possible to address key concerns raised in the testimony.

For the next eight months, the Bureau of Planning refined and replaced gaps in the proposed code. Staff reviewed draft code with a subcommittee of the Planning Commission and other City staff. In September 1998, staff issued the Second Proposed Draft, held two open houses, and met with various neighborhood and business groups. Staff met several times with the Columbia Corridor Association and the Port of Portland to discuss a new approach to industrial land divisions.

#### **Phase Four/Recommended Code**

The Planning Commission held a public hearing on the Second Proposed Draft on October 27, 1998.

In terms of code standards, neighbors voiced concern that the proposal would allow development that is not compatible with the existing neighborhood character. The proposed lot calculation formula and flexible lot rules were seen as overly permissive. Several residents wanted the new land division regulations to look more like the existing Planned Unit Development chapter.

After the close of testimony, individual commissioners proposed amendments for consideration by the full Planning Commission. The Planning Commission identified, at this time, 111 amendments and asked the Bureau of Planning to respond to them over a series of work sessions.

The Planning Commission deliberated at length on these amendments. On key issues, City staff met with a subcommittee of the Planning Commission to test staff responses before they were presented to the full commission (see Special Committees, below). In addition to clarifications, the Planning Commission modified the Second Proposed Draft to accommodate 49 of the amendments. Staff incorporated all these changes into an internal Working Draft, dated September 16, 1999.

In addition to the text of the Working Draft (representing all input from three rounds of public testimony), the Planning Commission added an errata list (dated October 19) and four recommendations of the Planning Commission Subcommittee to their recommendation to City Council. The subcommittee recommendations from its October 11 meeting include:

- Making connectivity language slightly more discretionary;
- Adding the West Portland Town Center connectivity map to the recommendation package;
- Requiring land in environmental zones in large site industrial land divisions to be in the first phase of platting; and
- Providing a cross-reference to Urban Forestry rules on Heritage Trees.

The Planning Commission also added a few implementation-related recommendations including allocating funds for two-year work program to monitor the new Land Division Regulations. On October 19, 1999, the Planning Commission voted to forward their Recommended Draft on new land division regulations for consideration by City Council. The Recommended Draft was available for review on November 29, 2000.

## **Phase Five/Discussion Group Refinements to Recommended Code**

On February 16, 2000, the City Council held its first hearing on the Land Division Code Rewrite Project. At this hearing the Council received considerable testimony suggesting changes to the recommendation. In particular, testimony centered on administration of the service requirements, including street standards, protection of environmental resources, and the regulation of design on narrow lots.

At the close of this hearing, the Planning Director offered to seek advice from community representatives on key policy and technical issues of concern, and report back to the City Council with strategic changes to the original recommendation.

Between April and October 2000, the Planning Director met with a discussion group that included representation from the development community, citizens, and city staff, as well as delegates from other organizations with an interest in the outcome of the process.

On November 30, 2000 the Planning Director gave a report to the City Council on the outcome of the discussion group work. In that report, the Planning Director recommended a package of changes to the Planning Commission's recommendation. The City Council voted to accept this report with several amendments and directed the Bureau of Planning to prepare a revised recommendation based on the changes suggested by the Director's Report. The Director met with the discussion group one additional time in January to seek input on some of the design-related revisions being developed. The final result is the *April 2, 2001 Recommended Draft of the Land Division Code Rewrite Project*.

On May 16, 2001, June 27, 2001, and September 19, 2001, the City Council held hearings on the recommendation and approved amendments to the recommendation. All City Council-approved amendments are reflected in the *September 26, 2001 As-Adopted Report*.

On February 20, 2002, March 14, 2002, and March 20, 2002, the City Council held hearings on a series of implementation-related housekeeping amendments. *The Final Report* reflects these amendments.

## **PUBLIC INVOLVEMENT**

The Land Division Code Rewrite Project has involved extensive public involvement throughout the process.

### **Involvement in scoping and concept development**

In the fall of 1994, project staff and consultants solicited comments from over 70 people at 20 meetings. The consultants invited a cross-section of participants: City bureaus, neighborhood associations, professional developers, development consultants, business and civic groups, land use lawyers, state and county agencies, and special interest groups. Neighborhoods from around the city participated in the meetings, including: Southwest Neighborhoods, Inc., Centennial, Hazelwood, Pleasant Valley, Forest Park, Northwest District Association, and Arlington Heights. A consultant report summarized those interviews. The report called for a comprehensive overhaul of the Land Division Regulations and identified issues to review in that process.

Between September 1995 and February 1996, the 31 members of the PAC met to advise project staff and consultants on 27 issues identified by the Development Review Team (DRT). The PAC's members included developers, neighbors, representatives of other community interests, and City staff. The PAC met seven times over six months to review draft issue papers and discuss regulatory options to address each issue. Results of the

PAC discussions and votes on preferred options are in a document available for review at the Bureau of Planning.

The City sponsored five public workshops to solicit comments on the 27 issues. Many PAC members also participated in at least one public workshop.

In November 1996 and January 1997, the Planning Commission held public hearings on the consultants' final report. Thirteen people gave oral testimony, and 13 comment letters were received.

### **Proposed draft review and Planning Commission hearings**

Notices of Planning Commission hearings and open houses were mailed to all neighborhood and business associations and other interested persons requesting such notice. For the Planning Commission hearing of October 27, 1998, staff mailed notice to over 900 persons.

After publication of the first proposed draft, staff held two public open houses. In addition, staff attended meetings of the Citywide Land Use Forum, Southwest Neighborhoods, Inc. (SWNI) Land Use Chairs, Columbia Corridor Association, and Irvington Community Association. In February 1998, the Planning Commission held a public hearing on the proposal contained in the first *Proposed Draft*.

After publication of the second proposed draft, staff held two public open houses and met twice with the Citywide Land Use Forum and once with a representative of the Home Builders of Metropolitan Portland. Staff also met several times with the Columbia Corridor Association and the Port of Portland regarding special needs of industrial sites in the land division process. The Planning Commission held a hearing on the Second Proposed Draft on October 27, 1998. Thirty-five people testified in person, and 27 comment letters were submitted for review by the Planning Commission.

### **Recommended draft review and City Council hearings**

Notices of the City Council hearing and open houses were mailed to 800 persons including everyone who participated in the October 27 Planning Commission hearing and all others who requested such notice.

A report to the City Council from the Planning Commission titled *Land Division Code Rewrite Project, Recommended Draft* was available on November 29, 1999. In December 1999, staff held three open houses and attended additional public meetings to explain the recommendations contained in the report. The City Council held a public hearing on February 16, 1999, and received oral testimony from 45 persons and 36 comment letters.

A discussion group that included city staff and 22 representatives from the development community, neighborhood associations, and other community and environmental organizations met 13 times between February 2000 and November 2000. The Planning Director presented amendments recommended by this group at a City Council hearing on November 30, 2000.

An Open House was held to introduce the April 2, 2001 Recommended Draft to citizens. Staff was also available to answer questions at upcoming workshops for the Southwest Community Plan and attended additional meetings as requested by the public to answer questions and discuss the report. City Council held public hearings on the recommendation and amendments to it on May 16, 2001, June 27, 2001, and September 19, 2001. Notices of the City Council hearing and open house on this recommendation were mailed to everyone who has expressed interest in the Land Division Code Rewrite Project and all others who requested such notice.





**Part III:**

**Recommended Amendments to  
the Zoning Code—New Land  
Division Regulations**

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## Commentary

## **600's - LAND DIVISIONS AND PLANNED DEVELOPMENTS**

### **LOTS**

- 33.605 Lots in the Open Space Zone
- 33.610 Lots in RF through R5 Zones
- 33.611 Lots in the R2.5 Zone
- 33.612 Lots in Multi-Dwelling Zones
- 33.613 Lots in Commercial Zones
- 33.614 Lots in Employment Zones
- 33.615 Lots in Industrial Zones

### **ADDITIONAL REGULATIONS**

- 33.630 Tree Preservation
- 33.631 Sites in Flood Hazard Areas
- 33.632 Sites in Potential Landslide Hazard Areas
- 33.633 Phased Plans and Staged Final Plats
- 33.634 Required Recreation Area
- 33.635 Clearing and Grading and Land Suitability
- 33.636 Tracts and Easements
- 33.638 Planned Development
- 33.639 Solar Access
- 33.640 Streams, Springs, and Seeps
- 33.641 Transportation Impact

### **SERVICES AND UTILITIES**

- 33.651 Water Service
- 33.652 Sanitary Sewer Disposal Service
- 33.653 Stormwater Management
- 33.654 Rights-of-Way

### **REVIEWS**

- 33.660 Review in OS & R Zones
- 33.662 Review in C, E, & I Zones
- 33.664 Review on Large Sites in I Zones
- 33.665 Planned Development Review
- 33.667 Property Line Adjustments
- 33.668 Review of Changes to an Approved Planned Unit Development
- 33.669 Review of Changes to an Approved Industrial Park

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## Commentary

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.605  
LOTS IN THE OPEN SPACE ZONE**

Sections:

- 33.605.010 Purpose
- 33.605.020 Where This Approval Criterion Applies
- 33.605.100 Lot Dimension Approval Criterion

**33.605.010 Purpose**

This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate development and uses in accordance with the planned intensity of the zone.

**33.605.020 Where This Approval Criterion Applies**

The approval criterion of this chapter applies to land divisions in the Open Space zone.

**33.605.100 Lot Dimension Approval Criterion**

There are no minimum lot dimensions in the Open Space zone. New lots must be of a size, shape, and orientation that is appropriate for uses that are allowed, or are limited or conditional uses, in the Open Space zone.

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## Commentary

Currently, the minimum lot dimension standards in the Zoning Code ensure that maximum density is not exceeded. During a land division, it is these standards (minimum lot area, width, and depth) that control the size and shape of each lot, and the overall density of the site.

This recommendation separates lot size from density and creates two independent sets of standards. Density will be calculated based on gross site area. Within the density limits, lot dimensions will be more flexible than in the current regulations. The recommended minimum lot dimension standards allow more sites to be developed with the flexibility of Planned Unit Developments (PUDs).

This approach has several advantages:

- It will be relatively easy for applicants to configure their lots in ways that will avoid areas subject to landslide or floods, areas with significant trees, and areas with environmental resources.
- Applicants and neighbors will know the minimum and maximum density of a site in the early stages of the proposal, which provides more certainty.
- The current approach calculates density after the street area is subtracted. This serves as a disincentive for developers to provide amenities—such as sidewalks and landscape strips—which may reduce their potential density. For the same reason, it is difficult to persuade developers to dedicate a through street, even if it will improve connectivity in the area. In some instances, sidewalks and planting strips are actually in easements on the lots themselves, which effectively reduces the lot size while technically meeting the standards. The new approach will remove barriers to the provision of sidewalks, connections, and the like.
- Many of the properties within the City with potential for subdivision have significant land constraints or are irregularly shaped. This approach simplifies the process for dividing such sites.

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.610  
LOTS IN RF THROUGH R5 ZONES**

Sections:

33.610.010	Purpose
33.610.020	Where These Standards Apply
33.610.100	Density Standards
33.610.200	Lot Dimension Standards
33.610.300	Through Lots
33.610.400	Flag Lots
33.610.500	Split Zoned Lots

**33.610.010 Purpose**

This chapter contains the density and lot dimension standards for approval of a Preliminary Plan for a land division in the RF through R5 zones. These standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate uses and development.

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## Commentary

**.100.C.1** Maximum density standards ensure that the number of dwelling units or lots in a given area corresponds to the level of intensity planned for that area. For land divisions in the single-dwelling zones, the maximum density regulation limits the number of lots that can be created. For example, in the R5 zone, maximum density ensures that the intensity of the zone does not exceed 1 unit per 5,000 square feet (8.712 units per acre). The recommendation is that maximum density be calculated using the following formula:

When no street is created, maximum density is based on the gross site area and the maximum number of units allowed per acre.

**Example 1: Maximum Density; no street created.**

Situation: A 40,000 square foot site in the R5 zone; no street will be created.

Calculations:

40,000 sq. foot site area ÷ 5,000 (max density from Table 110-3) = 8

Result: A maximum of 8 lots is allowed.

<b>Excerpt from Table 110-3 Development Standards in Single-Dwelling Zones</b>					
	RF Zone	R20 Zone	R10 Zone	R7 Zone	R5 Zone
Maximum Density (see 33.110.205)	1 unit per 87,120 sq ft	1 unit per 20,000 sq ft	1 unit per 10,000 sq ft	1 unit per 7,000 sq ft	1 unit per 5,000 sq ft

Currently, the Zoning Code allows some increases in density by considering adjustments to reduce minimum lot sizes (33.805.030.B.8). The amount that a lot may be reduced varies with the zone. For example, in the R20 zone, lot size may be reduced through an adjustment from 20,000 to 15,000 square feet, or by 25 percent. In the R7 zone, lot size may be reduced from 7,000 to 6,000 square feet, or by 14 percent.

Rather than considering adjustments to density, the Planning Commission originally recommended that adjustments to maximum density be prohibited and that maximum density automatically "round-up" when the calculation is within three-quarters of the next unit. There was considerable controversy surrounding this recommendation and it was reviewed by the Director and the Discussion Group. As a result of that process, the recommendation has been changed in favor of a tiered method of rounding maximum density. The Director's recommendation on rounding is described in Section 33.930.020, Fractions.

As in the rest of the zoning code, regulations specific to an area supercede those of this more general standard.



## RF Through R5 Zones

### 33.610.020 Where These Standards Apply

The standards of this chapter apply to land divisions in the RF through R5 zones.

### 33.610.100 Density Standards

- A. Purpose.** Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.
- B. Generally.** The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial width street, or dedicating right-of-way to widen an existing right-of-way.
- C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited:
1. Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed on the site:

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad \div \text{Maximum density from Table 110-3;} \\ &\quad = \text{Maximum number of lots allowed.} \end{aligned}$$

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## Commentary

**.100.C.2** Currently, minimum density in single-dwelling zones is 90 percent of the maximum. If the site has environmental zoning, then the area with the environmental zone is subtracted from the site area before doing the minimum calculation. A different formula for calculating minimum density is recommended here. The recommended formula is consistent with Metro's recommendation that minimum density be at least 80 percent of maximum density.

As part of the formula, the area in a flood hazard or potential landslide hazard area is subtracted from gross site area, as is done currently with environmental zoning. If the entire site is in an Environmental Overlay Zone, flood hazard, or potential landslide hazard area, then the minimum density requirement is zero. These areas are subtracted because development is discouraged on them. Development in flood- and landslide-prone areas creates hazards and costs for many; preservation of environmental resources is a benefit to the public.

However, minimum density standards are a critical tool for meeting the City's housing goals. Therefore, recommendation is that adjustments to the minimum standards be prohibited, beyond the exceptions built into the standards themselves.

When no streets are created the minimum density calculation is as follows:

**Example 3: Minimum Density; no site constraints, no street.**

Situation: A 40,000 square foot site in the R5 zone. No street will be created.

Calculations:

$$40,000 \text{ sq. ft} \times 0.80 = 32,000$$

$$32,000 \div 5,000 \text{ (from Table 110-3)} = 6.4$$

Result: A minimum of 6 lots is required (See 33.930, for the recommended rounding formula).

**Example 4: Minimum Density; site constraints, no street.**

Situation: A 40,000 square foot site in the R5 zone; 10,000 sq. ft. of the site is in an environmental overlay zone. No street will be created.

Calculations:

$$40,000 \text{ sq. ft} - 10,000 \text{ sq. ft. in environmental zone} = 30,000$$

$$30,000 \times 0.80 = 24,000$$

$$24,000 \div 5,000 \text{ (from Table 110-3)} = 4.8$$

Result: A minimum of 5 lots is required.

2. Minimum density. Minimum density is based on the zone and size of the site, and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

Square footage of site;

- Square footage of site within an environmental overlay zone, potential landslide hazard area, or flood hazard area;

x 0.80;

÷ Maximum density from Table 110-3;

= Minimum number of lots required.

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## Commentary

**.100.D.1** When a street is created, the formula for maximum density is different: the density is based on 85 percent of the gross site area. Staff research determined that when streets are created, an average of 15 percent of site area is devoted to streets.

Because an average is being used to represent the street requirement, there will be some cases where higher density will be allowed on a site than under the current scheme which is to base density on the gross site area minus the actual area devoted to streets. This higher density is a trade-off for some of the public benefits of this approach, including removing barriers to the provision of through streets and full street amenities, such as sidewalks; and the ease with which applicants will be able to avoid developing on landslide- or flood-prone lands, or in ways that would damage environmental resources and trees.

**Example 5: Maximum Density; street created.**

Situation: A 40,000 square foot site in the R5 zone; streets will be created.

Calculations:

$$40,000 \text{ sq. foot site area} \times 0.85 = 34,000$$

$$34,000 \div 5,000 \text{ (maximum density from Table 110-3)} = 6.8$$

Result: A maximum of 7 lots is allowed (See 33.930, for the recommended rounding formula).

**.100.D.2** When a street is created, 0.68 (68%) is used as the minimum density multiplier. This keeps the minimum density at 80% of the maximum because when streets are created the maximum density is calculated at 85% of the gross site area (see D.1, above).

**Example 6: Minimum Density; site constraints, street created.**

Situation: A 40,000 square foot site in the R5 zone; 10,000 sq. ft. of the site is in an environmental overlay zone; a through street will be created.

Calculations:

$$40,000 \text{ sq. ft site area} - 10,000 \text{ sq. ft in environmental zone} = 30,000$$

$$30,000 \times 0.68 = 20,400$$

$$20,400 \div 5,000 \text{ (from Table 110-3)} = 4.08$$

Result: A minimum of 4 lots is required.

**.100.E.1** In order to ensure that minimum density is always at least one less than the maximum, minimum density is reduced by one if the minimum and maximum density calculations result in the same number.

**.100.E.2** In order to ensure that minimum density is never more than the maximum, minimum density is reduced to one less than the maximum if the calculations result in the minimum being more than maximum.

**D. Street created.** Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited:

1. Maximum density. Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad \times 0.85; \\ &\quad \div \text{Maximum density from Table 110-3;} \\ &\quad = \text{Maximum number of lots allowed.} \end{aligned}$$

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints, and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of Subsection 33.610.100.E:

$$\begin{aligned} &\text{Square footage of site} \\ &\quad - \text{Square footage of site within an environmental overlay zone, potential} \\ &\quad \quad \text{landslide hazard area, or flood hazard area;} \\ &\quad \quad \times 0.68 \\ &\quad \quad \div \text{Maximum density from Table 110-3} \\ &\quad \quad = \text{Minimum number of lots required.} \end{aligned}$$

**E. Exceptions to minimum density.** Exceptions to minimum density standards are allowed in the following situations. Adjustments to this subsection are prohibited:

1. If the minimum required density is equal to the maximum allowed density, then the minimum is automatically reduced by one; or
2. If the minimum required density is larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum.

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## Commentary

.200 As discussed in the commentary at the beginning of this chapter, density is separated from lot size. This approach increases the options for size and shape of lots, while basing density on the entire site area, rather than on a "per lot" basis. The result is that particular site characteristics can be accommodated without the need for multiple adjustments. This approach is similar to that used currently in the cluster and PUD regulations; the flexibility is being extended to more situations.

Initially, the Planning Commission recommended lot dimension standards that allowed a great deal of flexibility. However, many neighborhood advocates were not comfortable with the amount of flexibility that the Planning Commission recommended. Their concern was that new lots would not be compatible with existing neighborhood patterns.

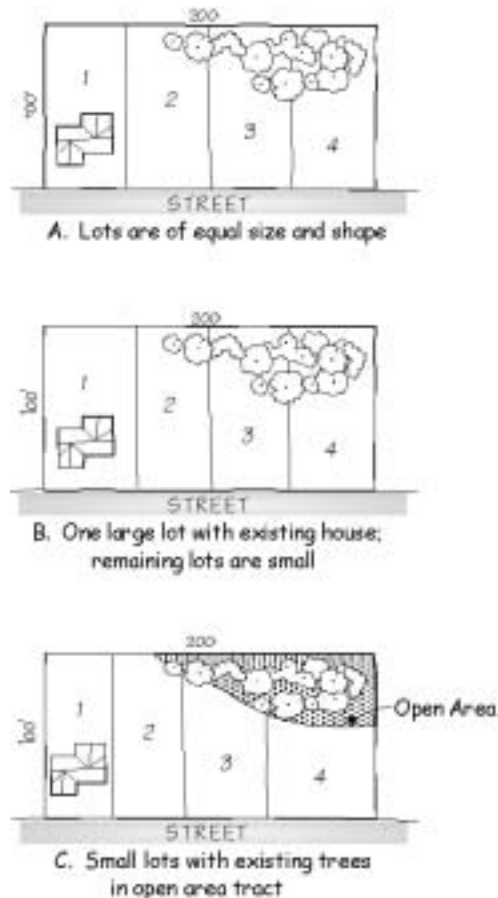
The Director's discussion group worked extensively on this issue and was able to find a middle ground between allowing flexible lot sizes and ensuring neighborhood compatibility. The new recommendation has some built-in flexibility, but at a certain threshold in every zone, narrow lots will be required to meet design standards tailored towards ensuring the development fits better within the regulations. If the proposal does not meet all of the design standards for narrow lots, then discretionary review is required.

### Example 7:

**Situation:** A 20,000 square foot site in the R5 zone; no streets will be created.

**Current Code:** Each lot must be at least 50 feet wide (measured at the mid-point), 80 feet deep (measured at the mid-point), and at least 5,000 square feet in area. If the site is of the appropriate shape, 4 lots may be created. The minimum lot area requirement currently controls maximum density. If the site is oddly shaped or has constraints, it may not be possible to create 4 lots without adjustments.

**Recommended Code:** As shown in the commentary with Section 33.610.100, the maximum density on this site would still be 4 lots, but the lots may vary in size. This proposal recommends a clustering approach. The result will be an average lot size of 5,000 square feet; there may be a variety of lot sizes, or some of the site may be in a tract.



### **33.610.200 Lot Dimension Standards**

Lots in the RF through R5 zones must meet the lot dimension standards of this section.

**A. Purpose.** The lot dimension standards ensure that:

- Each lot has enough room for a reasonably-sized house and garage;
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are compatible with existing lots;
- Lots are wide enough to allow development to orient toward the street;
- Lots don't narrow to an unbuildable width close to the street
- Each lot has adequate access from the street;
- Each lot has access for utilities and services; and
- Lots are not landlocked.

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## Commentary

**.200.B** Each lot must have a minimum lot area to ensure that each lot has enough area for a reasonably-sized house, garage, setbacks, and private outdoor area. The Planning Commission originally recommended that new lots be at least one-half of the minimum lot area currently required by the zoning code. The Director's recommendation increases the minimum lot area from one-half to 60 percent of the minimum lot area required today. This increased lot area requirement is part of the changes made by the Director to address compatibility issues. Lots that are smaller than this new standard must go through discretionary review in order to be approved.

**.200.C** This recommendation also includes a maximum lot area regulation to ensure that new lots are not significantly larger than existing lots. This recommendation is made for two reasons: one, overly large lots may not be compatible with existing lots; and two, to ensure that new oversized lots do not appear to be further dividable.



<b>Table 610-1</b> <b>Lot Dimension Standards</b>					
	<b>RF</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5</b>
Minimum Lot Area	52,000 sq. ft.	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.	3,000 sq. ft.
Maximum Lot Area	151,000 sq. ft.	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width	60 ft.[1]	60 ft.[1]	50 ft.[1]	40 ft.[1]	36 ft.[1]
Minimum Front Lot Line	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	60 ft.	55 ft.	50 ft.

Notes:

[1] See 33.610.200.D.

- B. Minimum lot area.** Each lot must meet the minimum lot area standard stated in Table 610-1. Lots that do not meet the minimum lot area standard may be requested through Planned Development Review. Adjustments are prohibited.
- C. Maximum lot area.** Lots larger than the maximum lot area standards stated in Table 610-1 are not allowed.

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## Commentary

**.200.D** To ensure that development can reasonably be built near to and orient toward the street, a minimum lot width is required at the front setback line. The issue of compatibility and appropriate minimum lot width came up frequently during the Planning Commission's and the Director's review of these regulations. After extensive work with the Discussion Group, the Director recommends that each new lot meet the minimum lot width standard reflected in Table 610-1 or, if the lot will be narrower than the standard allows, meet a series of design standards crafted specifically to deal with design compatibility issues that affect narrow lots. Some of the standards apply at the land division stage while others apply at the development stage (See Chapter 33.110). The standards that apply at the land division stage address driveway location, garage dominance, landscaping and alley access. The standards that must be met at the development stage deal with minimum height and front door location. If any of these design standards are not met, then discretionary review to evaluate the design is required.

**D. Minimum lot width.** For the purposes of this subsection, width is measured at the minimum front building setback line. Where this setback line is curved, width is measured from the intersection points of the setback line with the side lot lines. Each lot must meet one of the following standards. Lots that do not meet these standards may be requested through Planned Development Review. Adjustments to the standards are prohibited.

1. Each lot must meet the minimum lot width standard stated in Table 610-1; or
2. There is no minimum lot width for lots that meet all of the following:
  - a. If the lot abuts a public alley, then vehicle access must be from the alley;
  - b. There must be at least 15 contiguous feet of uninterrupted curb space for each lot being created under these provisions. This distance is measured along the face of the curb, or along the edge of the roadway pavement if there is no curb. Each lot's space must be located along the street that the lot's front lot line abuts, and must abut the land division site; however, each space does not have to be located directly in front of it's associated lot. See Figure 610-1. Lots that have vehicle access from an alley are exempt from this standard;
  - c. Lots must be configured so that development on the site will be able to meet the 50 percent garage limitation standard of Paragraph 33.110.250.E.4 at the time of development;
  - d. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and
  - e. When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley.

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## Commentary

**.200.E** Title 34 currently requires each lot to have minimum street frontage of 25 feet. The regulation has been renamed for purposes of clarity and the amount of frontage required has been increased to 30 feet. This requirement ensures that the development on the lot has enough room to be oriented towards the street.

The definition of front lot line is: "A lot line that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines which abut a street. If two or more street lot lines are of the same length, then the applicant or property owner can choose which lot line is to be the front. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length."

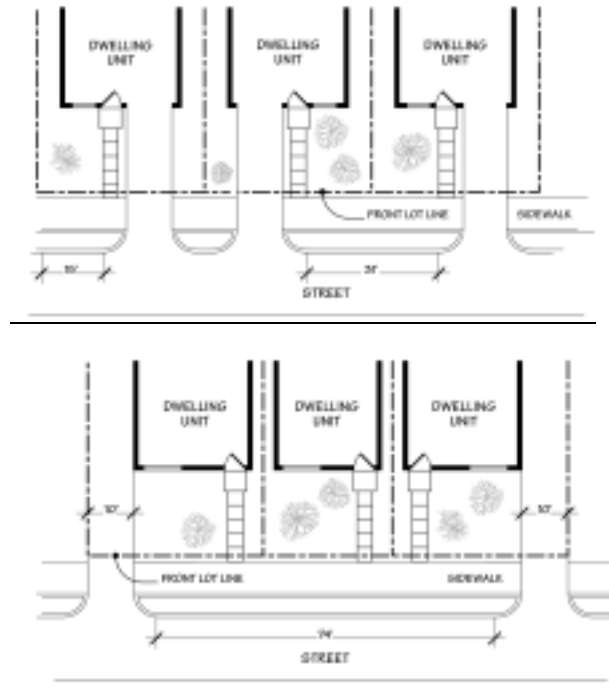
Currently, there is no requirement that the street to which the front lot line abuts be improved or even provide actual access. For example, there are a number of "helicopter" streets, primarily in the outer southeast area where prior Multnomah County street plans have been only partially implemented. These street fragments are in the middle of a block and do not connect to another street at either end; in theory, they can only be reached by helicopter, thus the informal name.

This recommendation does not require that the front lot line abut a street that can provide actual access. However, vehicular access must be provided to each lot; where access is not from the frontage street it is often provided via an easement across neighboring property.



**.200.F** To ensure that new lots are deep enough to accommodate a reasonable sized house, garage, and outdoor area, a minimum lot depth is recommended.

**Figure 610-1**  
**Examples That Meet The Uninterrupted Curb Standard**



- E. Minimum front lot line.** Each lot must have a front lot line that meets the minimum front lot line standard stated in Table 610-1. Lots that are created under the provisions of Paragraph D.2. above, may reduce the front lot line to equal the width of the lot. Lots that do not meet the minimum front lot line standard may be requested through Planned Development Review. Adjustments to this standard are prohibited.
  
- F. Minimum lot depth.** Each lot must meet the minimum lot depth standard stated in Table 610-1. Lots that do not meet the minimum lot depth standard may be requested through Planned Development Review. Adjustments to this standard are prohibited.

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## Commentary

.300 The creation of double frontage or through lots is limited, and allowed only when both frontages are on local service streets. Citizens have raised concerns about situations where development on double frontage lots "turns its back" to one of the streets, resulting in an unpleasant and sometimes unsafe pedestrian experience. Typically, development on through lots turns away from the street with the most traffic by having the front of the house face the street with less traffic and building a tall fence along the property line that abuts the high traffic street. This can yield a streetscape that is a wall of back fences or high hedges.



If a site has frontage on a busy traffic street, such as a neighborhood collector or arterial, driveway access to future lots may be limited or even prohibited. Alleys or frontage roads may be developed as alternatives to creation of through lots so the resulting development can orient toward the street.

Future residents of houses facing busy streets may be negatively affected by the traffic. Though not required by this regulation, design features may be employed to counter such impacts. Frontage streets can effectively distance the residential development from the traffic street. Increased front yard setback distance and landscape strip width can reduce impacts of noise and dust.

The Planning Commission heard testimony suggesting a broadening of the existing definition of through lot to include situations where a lot with frontage on a cul-de-sac also has frontage on an existing street at its rear lot line (the fronting streets are perpendicular, not parallel). While this situation essentially creates a through lot, it is not necessary to include it in the definition. In most cases, a dead-end street will not be permitted so close to an existing street because of the connectivity requirements of Chapter 33.654. These regulations strongly encourage through streets; dead-end streets are allowed in specific situations. Therefore, this through lot situation will occur only where a through street is not practicable or desirable, and there is no alternative lot configuration.

### **33.610.300 Through Lots**

- A. Purpose.** This standard ensures that lots are configured in a way that development can be oriented toward streets to increase the safety and enjoyment of pedestrians and bicyclists. The standard also ensures that development does not “turn its back” on a collector or major city traffic street.
- B. Standard.** Through lots are allowed only where both front lot lines are on local service streets. The minimum front lot line and minimum width standards apply to one frontage of the through lot.

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## Commentary

**.400.B** Currently, the land division regulations for flag lots are in Chapter 33.277. Flag lots are allowed in residential zones if the standards of Chapter 33.277 are met. There have been complaints about flag lots and flag lot development stemming from the fact that development on flag lots is often out of character with much of the surrounding, traditional street-oriented development. Development on flag lots is removed from the street and often “feels” as if it’s in someone else’s backyard. There are concerns about privacy on surrounding properties, and concerns about lack of visibility from neighbors who are concerned about neighborhood safety and crime reduction. On flag lots, there is no obvious “front lot line” for the house to orient to, so development does not add to a sense of community or promote “eyes on the street.” In addition, the long driveways increase the amount of impervious surface and stormwater run-off.

In response to these complaints, the recommendation strongly limits the circumstances under which a flag lot is allowed.

Even though the recommendation limits flag lots, they are allowed in certain narrow situations. A flag lot will be allowed if the land division is creating no more than two lots and there is an existing house on the site that precludes a division in accordance with the minimum lot width requirements for a standard lot.

**.400.C-D** These requirements are currently in the zoning code.



### **33.610.400 Flag Lots**

The following standards apply to flag lots in the RF through R5 zones:

- A. Purpose.** These standards allow the creation of flag lots in limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable.
- B. When a flag lot is allowed.** A flag lot is allowed only when the following are met:
  - 1. An existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standard of Paragraph 33.610.200.D.1.
  - 2. Only two lots are proposed; and
  - 3. Minimum density requirements for the site will be met.
- C. Flag lot access pole.** The pole portion of the flag lot must meet the following standards. Adjustments are prohibited:
  - 1. The pole must connect to a street;
  - 2. The pole must be at least 12 feet wide for its entire length; and
  - 3. The pole must be part of the flag lot and must be under the same ownership as the flag portion.
- D. Minimum lot dimensions.** Flag lots are exempt from the minimum front lot line standard. The minimum lot width and minimum lot depth required for each flag lot is 40 feet. For the purposes of this subsection width is measured at the midpoint of the opposite lot lines. All other lot dimension standards must be met.

### **33.610.500 Split Zoned Lots**

- A. Purpose.** This standard ensures that lots do not have more than one zone. Lots that are split by more than one zone present practical problems related to the applicability of use and development standards.
- B. Standard.** On sites with more than one base zone, each lot must be entirely within one zone. The creation of lots that are in more than one zone is not allowed.

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## Commentary

.020 The regulations in this chapter apply to lots in the R2.5 zone that will be developed with attached houses. The requirements for lots in the R2.5 zone that will be developed with detached houses are the same as those required for lots in the R5 zone. Instead of repeating the regulations, lots in the R2.5 zone that will be developed with detached houses are required to meet the R5 regulations.

**CHAPTER 33.611  
LOTS IN THE R2.5 ZONE**

Sections:

33.611.010	Purpose
33.611.020	Where These Standards Apply
33.611.030	Required Housing Type
33.611.100	Density Standards
33.611.200	Lot Dimension Standards
33.611.300	Through Lots
33.611.400	Split Zoned Lots

**33.611.010 Purpose**

This chapter contains the density and lot dimension requirements for approval of a Preliminary Plan for a land division in the R2.5 zone. These requirements ensure that lots are consistent with the desired character of the zone while allowing lots to vary in size and shape provided the planned intensity of the zone is respected. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate structures in accordance with the planned intensity of the R2.5 zone.

**33.611.020 Where These Standards Apply**

The standards of this chapter apply to lots in a land division in the R2.5 zone that will be developed with attached houses. Lots in a land division in the R2.5 zone that will be developed with detached houses must meet the regulations for land divisions in the R5 zone in Chapter 33.610, Lots in RF through R5 zones.

**33.611.030 Required Housing Type**

Lots created under the regulations of this chapter must be developed with attached houses.

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## Commentary

**.100.C.1** Maximum density standards ensure that the number of dwelling units or lots in a given area corresponds to the level of intensity planned for that area. For land divisions in the R2.5 zone, the maximum density standard limits the number of attached house lots that can be created; maximum density ensures that the intensity of the zone does not exceed 1 unit per 2,500 square feet (17.424 units per acre).

Maximum density is calculated using a formula as described below.

Currently, the zoning code allows some increases in density by considering adjustments to reduce minimum lot sizes (33.805.030.B.8). The amount that a lot may be reduced varies with the zone. For example, in the R20 zone, lot size may be reduced from 20,000 to 15,000 square feet, or by 25 percent. In the R7 zone, lot size may be reduced from 7,000 to 6,000 square feet, or by 14 percent. Rather than considering adjustments to density, the Planning Commission originally recommended that adjustments to maximum density be prohibited and that maximum density automatically "round-up" when the calculation is within three-quarters of the next unit. There was considerable controversy surrounding this recommendation and the recommendation was reviewed by the Director and the discussion group. As a result of that review process, the recommendation has been changed in favor of a more gradual tiered method of rounding maximum density. The Director's recommendation is described in detail in Section 33.930.020, Fractions.

When no street is created, the formula is straightforward. Density is based on the gross site area and the maximum units allowed per acre. In the R2.5 zone the maximum density for attached houses translates into 1 unit per 2,500 square feet of site area.

**Example 8: Maximum Density; no street.**

Situation: A 40,000 square foot site in the R2.5 zone; no streets will be created.

Calculations:

40,000 sq. foot site area ÷ 2,500 (max density from Table 110-3) = 16

Result: A maximum of 16 lots are allowed

**Density calculations for land divisions with both attached and detached houses.**

The method for calculating density for land divisions with both attached and detached houses is the same as the method used for land divisions with only attached houses, except that the detached house area (proposed number of detached houses, multiplied by 5,000) is subtracted from the total site area before the area is divided by 2,500 sq. ft. The result is the number of attached houses allowed on the site.

For calculations of minimum density, the detached house area is subtracted after the area in an environmental overlay zone, or landslide or flood hazard area is subtracted. For calculations of density where a street is created, the detached house area is subtracted after the total square footage of the site is multiplied by 0.85 (or .068 when it's minimum density).

### **33.611.100 Density Standards**

- A. Purpose.** Density standards match housing density with the availability of public services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the return on public investments in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given applicable base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.
- B. Generally.** The method used to calculate density depends on whether a street is created as part of the land division. As used in this chapter, creation of a street means a full street on the site, creating the first stage of a partial width street on the site, or extending an existing street onto the site. It does not include additional stages of a partial width street, or dedicating right-of-way to widen an existing right-of-way.
- C. No street created.** Where no street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited.

1. Maximum density. Maximum density is based on the zone and the size of the site. The following formula is used to determine the maximum number of lots allowed on the site:

$$\begin{array}{l} \text{Square footage of site;} \\ \div 2,500; \\ = \text{Maximum number of lots allowed.} \end{array}$$

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## Commentary

**.100.C.2** Minimum density ensures that enough housing units can be created to accommodate the projected need for housing. In the R2.5 zone, minimum density is expressed by a minimum number of lots required.

Currently, minimum density in the R2.5 zone is 90 percent of the allowed maximum. If the site has environmental zoning, then the area with the environmental zone is subtracted from the site area. The Planning Commission recommends a different formula for calculating minimum density. This recommended formula is consistent with Metro recommendations that minimum density be based on 80 percent of maximum density.

As part of the formula, land in a flood hazard or landslide hazard area is subtracted from gross site area, as is done now with environmental zoning. If the entire site is in an Environmental Overlay Zone, flood hazard or landslide hazard area, then the minimum density requirement is reduced to zero. These areas are subtracted because development is discouraged on them. Development in flood- and landslide-prone areas creates hazards and costs for many; preservation of environmental resources is a benefit to the public.

It should be noted that the maximum allowed density is not reduced on most sites with these constraints; the minimum number of lots required is reduced, thereby allowing flexibility on these hard-to-develop sites. However, minimum density standards are a critical tool for meeting the City's housing goals. Therefore, adjustments to the minimum requirements are prohibited, beyond the exceptions built into the standards themselves.

**Example 9: Minimum Density; site constraints, no street.**

Situation: A 40,000 square foot site in the R2.5 zone; 10,000 sq. ft. of the site is in an environmental overlay zone. No streets will be created.

Calculations:

40,000 sq. ft site area - 10,000 sq. ft in environmental zone = 30,000

30,000 × 0.80 = 24,000

24,000 ÷ 2,500 (from Table 110-3) = 9.6

Result: A minimum of 10 lots are required (minimums are rounded up; see Measurements, 33.930).

2. Minimum density. Minimum density is based on the zone and the size of the site and whether there are physical constraints. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:

Square footage of site;

- Square footage of site within an environmental overlay zone,  
landslide hazard area, or flood hazard area;

x 0.80;

÷ 2,500;

= Minimum number of lots required.

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## Commentary

**.100.D.1** When a street will be created, the maximum density formula is different: the density is based on 85 percent of the gross site area. Staff research determined that during the past two years an average of 15 percent of site area has been devoted to right-of-way.

Because an average is being used to represent the street requirement, there will be some cases where higher density will be allowed on a site than under the current scheme. This higher density is a trade-off for some of the public benefits of this approach, including removing barriers to the provision of through streets and full street amenities, such as sidewalks; and the ease with which applicants will be able to avoid developing on landslide- or flood-prone lands, or in ways that would damage environmental resources and trees.

**Example 10: Maximum Density; street created.**

Situation: A 40,000 square foot site in the R2.5 zone; streets will be created.

Calculations:

$$40,000 \text{ sq. foot site area} \times 0.85 = 34,000$$

$$34,000 \div 2,500 \text{ (max density from Table 110-3)} = 13.6$$

Result: A maximum of 14 lots are allowed (See Measurements, 33.930).

**.100.D.2** When a street is created, 0.68 (68%) is used as the minimum density multiplier. This keeps the minimum density at 80% of the maximum because when streets are created the maximum density is calculated at 85% of the gross site area (see .C.1, above).

**Example 11: Minimum Density; site constraints, street created.**

Situation: A 40,000 square foot site in the R2.5 zone; 10,000 sq. ft. of the site is in an environmental overlay zone. Dead-end street will be created.

Calculations:

$$40,000 \text{ sq. ft site area} - 10,000 \text{ sq. ft in environmental zone} = 30,000$$

$$30,000 \times 0.68 = 20,400$$

$$20,400 \div 2,500 \text{ (from Table 110-3)} = 8.16$$

Result: A minimum of 9 lots are required (See Measurements, 33.930).

**.100.E.1** In order to ensure that minimum density is always at least one less than the maximum, minimum density is reduced by one if the minimum and maximum density calculations result in the same number.

**.100.E.2** In order to ensure that minimum density is never more than the maximum, minimum density is reduced to one less than the maximum if the calculations result in the minimum being a higher number than maximum.



**D. Street created.** Where a street will be created as part of the land division, the following maximum and minimum density standards apply. Adjustments to this subsection are prohibited.

1. Maximum density. Maximum density is based on the zone, the size of the site and whether a street is being created. The following formula is used to determine the maximum number of lots allowed on the site:

$$\begin{aligned} &\text{Square footage of site;} \\ &\quad \times 0.85; \\ &\quad \div 2,500; \\ &\quad = \text{Maximum number of lots allowed.} \end{aligned}$$

2. Minimum density. Minimum density is based on the zone, the size of the site, whether there are physical constraints and whether a street is being created. The following formula is used to determine the minimum number of lots required on the site. Exceptions to minimum density are allowed under the provisions of 33.611.100.E:

$$\begin{aligned} &\text{Square footage of site} \\ &\quad - \text{Square footage of site within an environmental overlay zone, landslide} \\ &\quad \quad \text{hazard area, or flood hazard area;} \\ &\quad \quad \times 0.68 \\ &\quad \quad \div 2,500; \\ &\quad = \text{Minimum number of lots required.} \end{aligned}$$

**E. Exceptions to minimum density.** Exceptions to minimum density standards are allowed in the following situations:

1. If minimum density is equal to maximum density, then the minimum is automatically reduced by one; or
2. If minimum density is larger than maximum density then the minimum is reduced to one less than the maximum.

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## Commentary

**.200.B** Each lot must be a minimum of 1,600 square feet in area. This is the same lot area standard that is currently in the zoning code. However, while an individual lot may be 1,600 square feet in area, the average lot size over the entire site must be 2,500 square feet. This minimum lot area requirement ensures that each lot has enough area for reasonably-sized development. Lots that are smaller than this standard must go through discretionary review in order to be approved.

**.200.C** To ensure that development can reasonably be built near to and orient toward the street, a minimum lot width is required at the front setback line. The issues of compatibility and appropriate minimum lot width, especially for attached houses, came up frequently during the Planning Commission's and the Director's review of these regulation. After extensive work with the discussion group, the Director recommends that each new lot for an attached house be at least 36 feet wide or, if the lot will be more narrow, meet a series of design standards crafted specifically to deal with the design compatibility issues that affect attached houses on narrow lots. Some of the standards apply at the land division stage while others apply at the development stage (See Chapter 33.110). The standards that apply at the land division stage address driveway location, garage dominance, landscaping and alley access. The standards that must be met at the development stage deal with minimum height and front door location. If any of these design standards are not met, then discretionary review of the design of the structure is required.

Currently, most of the existing lots for attached houses in Portland are less than 36 feet wide. Under this recommendation, new lots of similar width will have to meet additional design standards.

### **33.611.200 Lot Dimension Standards**

Lots in the R2.5 zone that will be developed with attached houses must meet the lot dimension standards listed in this section. Lots that do not meet these standards may be requested through Planned Development Review. Adjustments to the standards are prohibited.

**A. Purpose.** The lot dimension standards ensure that:

- Each lot has enough room for a reasonably-sized attached house;
- Lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone;
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;
- Each lot has room for at least a small, private outdoor area;
- Lots are wide enough to allow development to orient toward the street;
- Each lot has access for utilities and services;
- Lots are not landlocked;
- Lots don't narrow to an unworkable width close to the street; and
- Lots are compatible with existing lots;

**B. Minimum lot area.** Each lot must be at least 1,600 square feet in area.

**C. Minimum lot width.** For the purposes of this subsection, width is measured at the minimum front building setback line. Where the setback line is curved, width is measured from the intersection points of the setback line with the side lot lines. Each lot must meet one of the following standards. Lots that do not meet these standards may be requested through Planned Development Review. Adjustments to the standards are prohibited.

1. Each lot must be at least 36 feet wide; or
2. There is no minimum lot width for lots that meet all of the following:
  - a. If the lot abuts a public alley, then vehicle access must be from the alley;
  - b. There must be at least 15 contiguous feet of uninterrupted curb space for each lot being created under these provisions. This distance is measured along the face of the curb, or along the edge of the roadway pavement if there is no curb. Each lot's space must be located along the street that the lot's front lot line abuts, and must abut the land division site; however each space does not have to be located directly in front of it's associated lot. See Figure 611-1. Lots that have vehicle access from an alley are exempt from this standard;
  - c. Lots must be configured so that development on the site will be able to meet the 50 percent garage limitation standard of Paragraph 33.110.250.E.4, at the time of development;
  - d. Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development; and
  - e. When a driveway is proposed to provide vehicle access to more than two lots, it must be an alley.

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## Commentary

**.200.D** Title 34 currently requires each lot to have minimum street frontage of 25 feet. The regulation has been renamed for purposes of clarity and the amount of frontage required has been increased to 30 feet. This requirement ensures that the development on the lot has enough room to be oriented toward the street.

**.200.E** To ensure that new lots are deep enough to accommodate a reasonable sized attached house, and outdoor area, a minimum lot depth is recommended.

**.300** The creation of double frontage or through lots is limited—allowed only when both frontages are on local service streets. Citizens have raised concerns about situations where development on double frontage lots “turns its back” to one of the streets, resulting in an unpleasant and sometimes unsafe pedestrian experience. Typically, development on through lots turns away from the street with the most traffic by having the front of the house face the street with less traffic and building a tall fence along the property line that abuts the high traffic street. This can yield a streetscape that is a wall of back fences and high hedges.

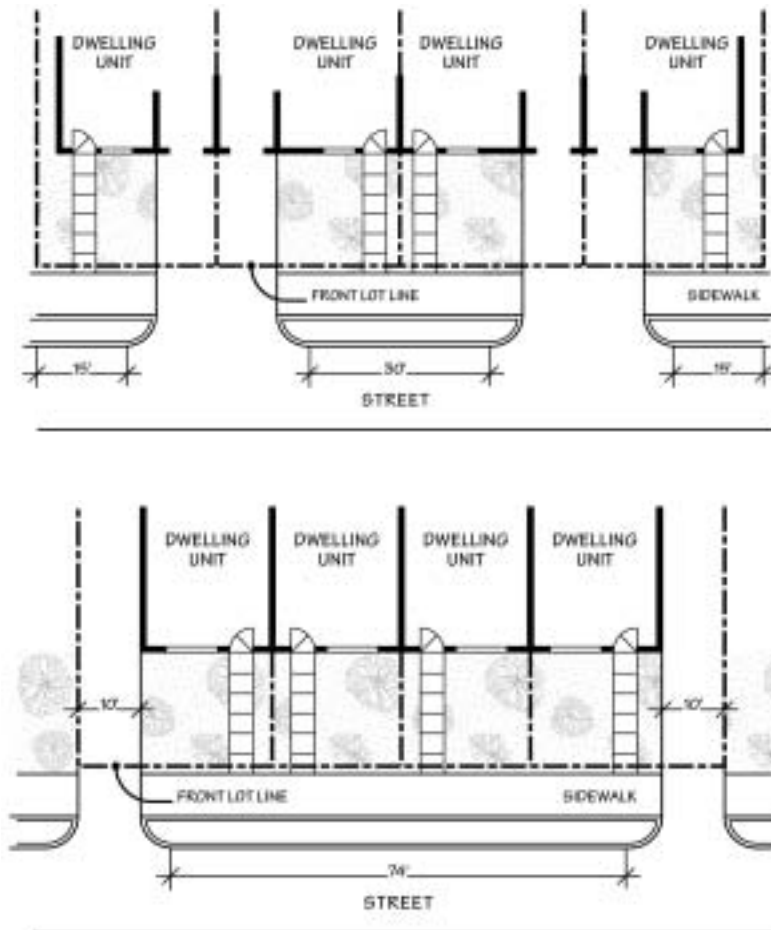
If a site has frontage on a busy traffic street, such as a neighborhood collector or arterial, driveway access to future lots may be limited or even prohibited. Alleys or frontage roads may be developed as alternatives to creation of through lots so the resulting development can orient toward the street.

Future residents of houses facing busy streets may be negatively affected by the traffic. Though not required by this regulation, design features may be employed to counter such impacts. Frontage streets can effectively distance the residential development from the traffic street. Increased front yard setback distance and landscape strip width can reduce impacts of noise and dust.

The Planning Commission heard testimony suggesting broadening the existing definition of through lot to include situations where a lot with frontage on a cul-de-sac also has frontage on an existing street at its rear lot line (the fronting streets are perpendicular, not parallel). While this situation essentially creates a through lot, it is not necessary to include it in the definition. In most cases, a dead-end street will not be permitted in close proximity to an existing street due to the connectivity regulations of 33.654. These regulations strongly encourage through streets; dead-end streets are allowed in specific situations. Therefore, this through lot situation will occur only where a through street is not practicable or desirable, and there is no alternative lot configuration.

- D. Minimum front lot line.** Each lot must have a front lot line that is at least 30 feet long. Lots that are created under the provisions of Paragraph .C.2. above, may reduce the front lot line to equal the width of the lot.
- E. Minimum lot depth.** Each lot must be at least 40 feet deep.

**Figure 611-1**  
**Examples That Meet The Uninterrupted Curb Standard**



### **33.611.300 Through Lots**

- A. Purpose.** This standard ensures that lots are configured in a way that development can be oriented toward streets, including local, collector and traffic streets, to increase the safety and enjoyment of pedestrians and bicyclists. The standard also ensures that development does not turn its back on a collector or traffic street.
- C. Standard.** Through lots are allowed only where both front lot lines are on local service streets. The minimum front lot line and minimum width standards apply to one frontage of the through lot.

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## Commentary

#### **33.611.400 Split Zoned Lots**

- A. Purpose.** This standard ensures that lots do not have more than one zone. Lots that are split by more than one zone present practical problems related to the applicability of use and development standards.
- B. Standard.** On sites with more than one base zone, each lot must be entirely within one zone. The creation of lots that are in more than one zone is not allowed.

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## Commentary

.100 In the multi-dwelling zones, density is based on dwelling units per square foot of site area. Generally, minimum and maximum density requirements are met at the time of development rather than when the land is divided. However, sometimes lots are created in the multi-dwelling zones for detached or attached houses. In this case, density must be determined at the time of the land division so that staff can ensure that the new configuration of lots can accommodate at least the minimum density.

Currently, there is a large minimum lot area requirement (10,000 square feet in area) in the R1 and RH zones because their maximum and minimum densities are high. In these zones, the minimum area requirement ensures that sites are large enough to easily accommodate higher densities: For example, although a 5,000 square-foot lot in the R1 zone is allowed to have five dwelling units on it, it is difficult to develop that many units on that small a site. The larger, 10,000 square-foot size makes it easier to develop and maximize density while still meeting all development standards.

The R3 and R2 zones have smaller minimum lot area requirements (4,000 square feet) and currently have no minimum density requirements. Chapter 33.120, Multi-Dwelling Zones, is being amended to add minimum densities to the R3 and R2 zones as follows:

- When the maximum density is three units or more, the minimum density is 80 percent of maximum;
- When the maximum density is two units, the minimum density is also two units.
- When the maximum density is one unit, the minimum density is one unit.

These new minimum densities for R2 and R3 serve two purposes: First, in order to meet the City's housing goals, we need to make sure all of our land zoned for multi-dwelling development is developed at close to its full potential. Currently, quite a bit of single-dwelling construction is occurring in the R3 zone. Second, Metro's Urban Growth Management Functional Plan (UGMFP) requires minimum densities in all residential zones.

The existing minimum density in the R1 zone is also changing. Currently, minimum density in the R1 zone is 21 units per acre (50 percent of maximum). The UGMFP requires that minimum density in R1 be at least 30 units per acre. Development standards in R1 make development at the existing minimum density difficult on small sites. Therefore, the following is recommended for the R1 zone in Chapter 33.120, Multi-Dwelling Zones:

- When the site is 10,000 square feet or larger, the minimum density is 80 percent of maximum.
- When the site is less than 10,000 square feet, the minimum density is 50 percent of maximum.



**CHAPTER 33.612  
LOTS IN MULTI-DWELLING ZONES**

Sections:

33.612.010	Purpose
33.612.020	Where These Standards Apply
33.612.100	Density
33.612.200	Lot Dimension Standards

**33.612.010 Purpose**

This chapter contains the density and lot dimension standards for approval of a Preliminary Plan for a land division in the multi-dwelling zones. These standards ensure that lots are consistent with the desired character of each zone. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate development and uses in accordance with the planned intensity of the zone.

**33.612.020 Where These Standards Apply**

The standards of this chapter apply to land divisions in the multi-dwelling zones.

**33.612.100 Density**

- A. Single-dwelling development.** When single-dwelling development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is subtracted from the total site area in order to calculate minimum and maximum density.
- B. All other development.** When development other than single-dwelling is proposed, minimum and maximum density must be met at the time of development.

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## Commentary

**.200.B R3 and R2 zones:** In keeping with the proposed minimum density requirements, the minimum lot dimension regulations for the R3 zone must be large enough to ensure that new lots have enough area to support at least 2 units. Accordingly, in the R3 zone, the minimum lot area has been increased from 4,000 to 6,000 square feet, and the minimum lot area regulation remains at 4,000 square feet in the R2 zone, which is enough lot area to support at least 2 units. This approach encourages the development of duplexes and multi-dwelling structures on lots in R3 and R2 zones. Minimum lot dimensions and minimum density requirements in R1 and RH zones already encourage this. Attached or detached single-dwelling units are also allowed.

**R1, RH, RX, IR zones:** These minimum lot dimension requirements are in the zoning code now; the only change is moving them to this section.

**Minimum front lot line:** A minimum front lot line requirement has been added to all multi-dwelling zones. This requirement replaces the frontage requirement currently in Title 34. See the commentary about minimum front lot lines for Section 33.610.200.

**.100.B.2-4** The minimum lot dimensions stated in Table 612-1 ensure that lots in multi-dwelling zones have enough area to support at least 2 units. However, because attached and detached houses are also allowed in the multi-dwelling zones these exceptions to those minimums are also allowed. The density of the base zone remains the same; only the lot size dimensions change. These exceptions currently exist in the zoning code; the only change is moving them to this section.

### 33.612.200 Lot Dimension Standards

**A. Purpose.** These standards ensure that:

- Each lot has enough room for multi-dwelling development that meets all the requirements of the zoning code;
- Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible.
- The multi-dwelling zones can be developed to full potential; and
- Housing goals for the City are met.

**B. Lot dimensions.**

1. Multi-dwelling development. Minimum lot dimensions for lots that will be developed with multi-dwelling structures or multi-dwelling development are stated in Table 612-1.

<b>Table 612-1 Minimum Lot Dimensions</b>						
	<b>R3</b>	<b>R2</b>	<b>R1</b>	<b>RH</b>	<b>RX</b>	<b>IR</b>
Minimum Lot Area	6,000 sq. ft.	4,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	none	10,000 sq. ft. <sup>1</sup>
Minimum Lot Width	50 ft.	33 ft.	70 ft.	70 ft.	none	70 ft. <sup>1</sup>
Minimum Lot Depth	80 ft.	100 ft.	100 ft.	100 ft.	none	100 ft. <sup>1</sup>
Minimum Front Lot Line	50 ft.	30 ft.	70 ft.	70 ft.	none	70 ft. <sup>1</sup>

Notes:

[1] This regulation may be superceded by an Impact Mitigation Plan.

2. Detached houses. The minimum lot area required for lots to be developed with detached houses is 3,000 square feet. The minimum lot width and minimum front lot line required is 36 feet. There is no minimum lot depth requirement.
3. Attached houses in the R3 and R2 zones. The minimum lot area for lots to be developed with attached houses in the R3 and R2 zones is 1,600 square feet. There are no minimum lot width, minimum front lot line, or minimum lot depth requirements.
4. Attached houses in the R1 and RH zones. The minimum lot area for lots to be developed with attached houses in the R1 and RH zones is 800 square feet. There are no minimum lot width, minimum front lot line, or minimum lot depth requirements.

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## Commentary

.100 The recommendation maintains the existing standard for minimum front lot line.

**CHAPTER 33.613  
LOTS IN COMMERCIAL ZONES**

Sections:

- 33.613.010 Purpose
- 33.613.020 Where This Standard and Approval Criterion Apply
- 33.613.100 Minimum Front Lot Line Standard
- 33.613.200 Minimum Lot Area, Width and Depth Approval Criterion

**33.613.010 Purpose**

Because of the wide range of uses allowed in the commercial zones, the amount of land needed for commercial developments varies, as does the size and shape. Most lots in commercial zones have one commercial structure, along with accessory uses, but some lots support more than one commercial structure and use. Because of this variety of potential development, there are no specific lot dimension standards except for a minimum front lot line requirement that ensures that lots do not narrow to an unworkable width at the street. The area, width and depth of each lot is evaluated for the development proposed, taking into consideration the location and characteristics of the site.

This chapter works in conjunction with other chapters of this Title to ensure that the land division creates lots that can support appropriate development and uses in accordance with the planned intensity of each zone.

**33.613.020 Where This Standard and Approval Criterion Applies**

The standard and approval criterion of this chapter apply to land divisions in the commercial zones.

**33.613.100 Minimum Front Lot Line Standard**

Each lot must have a front lot line that is at least 25 feet long except for lots that will be developed with attached houses. Lots that will be developed with attached houses must have a front lot line that is at least 16 feet long.

**33.613.200 Minimum Lot Area, Width and Depth Approval Criterion**

There are no minimum lot area, width or depth standards. Lots must be of a size, shape, and orientation that is appropriate for the location of the land division and for the type of development and use that is contemplated.

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## Commentary

**.100.A** These minimum size and shape standards are currently in the zoning code. The only change is that they are being moved to this chapter.

**.100.B** Currently all new lots must have a minimum front lot line that is 25 feet long. The standard is being increased to ensure that development standard related to driveway width, driveway landscaping and pedestrian access can be accommodated.

**.200** This exception is currently in the zoning code. The only change is that it is moved to this section.

**CHAPTER 33.614  
LOTS IN EMPLOYMENT ZONES**

Sections:

- 33.614.010 Purpose
- 33.614.020 Where These Standards Apply
- 33.614.100 Minimum Lot Dimension Standards
- 33.614.200 Exception

**33.614.010 Purpose**

This chapter contains the lot dimension standards for approval of a Preliminary Plan for a land division in an employment zone. These standards ensure that lots are consistent with the desired character of the employment zones. Lots may vary in size and shape to accommodate a range of employment uses. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate development and uses.

**33.614.020 Where These Standards Apply**

The standards of this chapter apply to land divisions in the employment zones.

**33.614.100 Minimum Lot Dimension Standards.**

- A. Minimum size and shape.** All lots must meet the following minimum size and shape standards. An exception is allowed under the provisions of Section 33.614.200.
1. EG1 zone. All lots in the EG1 zone must meet Standard A stated in Table 614-1.
  2. EG2 zone. The following standards apply in the EG2 zone.
    - a. For land divisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 614-1 and the remainder must meet Standard B.
    - b. For land divisions of less than 10 lots, all but one lot must meet Standard A stated in Table 614-1. One lot may meet Standard B. The lots that meet Standard A may not be redivided unless they continue to meet Standard A.
  3. EX zone. There are no required minimum lot dimensions for lots in the EX zone.

<b>Table 614-1</b>		
<b>Minimum Lot Size and Shape in Employment Zones</b>		
	Minimum Lot Area	Minimum Dimension
Standard A	20,000 sq. ft.	100 ft x 100 ft
Standard B	10,000 sq. ft.	75 ft. x 75 ft.

- B. Minimum Front Lot Line.** Each lot must have a front lot line that is at least 35 feet long. Lots that will be developed with detached or attached houses are exempt from this standard.

**33.614.200 Exception**

Land under existing buildings may be divided when the ownership of the existing building is also being divided. There are no minimum lot sizes in these cases. However, all zoning code development standards must be met.

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## Commentary

**.100.A** These regulations are currently in the zoning code. The only change is that they are moved to this section.

**.100.B** Currently all new lots must have a minimum front lot line that is 25 feet long. The standard is being increased to ensure that development standard related to driveway width, driveway landscaping and pedestrian access can be accommodated.

**.200** This exception is currently in the zoning code. The only change is that it is moved to this section.



**CHAPTER 33.615  
LOTS IN INDUSTRIAL ZONES**

Sections:

- 33.615.010 Purpose
- 33.615.020 Where These Standards Apply
- 33.615.100 Minimum Lot Dimension Standards
- 33.615.200 Exception

**33.615.010 Purpose**

This chapter contains the lot dimension standards for approval of a Preliminary Plan for a land division in an industrial zone. These standards ensure that lots are consistent with the desired character of the industrial zones. Lots may vary in size and shape to accommodate a range of industrial uses. This chapter works in conjunction with other chapters of this Title to ensure that land divisions create lots that can support appropriate development and uses.

**33.615.020 Where These Standards Apply**

The standards of this chapter apply to land divisions in the industrial zones.

**33.615.100 Minimum Lot Dimension Standards**

- A. Minimum size and shape.** All lots must meet the following minimum size and shape standards. An exception is allowed under the provisions of Section 33.615.200.

1. IG1 zone. All lots in the IG1 zone must meet Standard A stated in Table 615-1.
2. IG2 and IH zones.
  - a. For land divisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 615-1 and the remainder must meet Standard B.
  - b. For land divisions of fewer than 10 lots, all but one lot must meet Standard A stated in Table 615-1. One lot may meet Standard B. The lots that meet Standard A may not be redivided unless they continue to meet Standard A.

<b>Table 615-1 Minimum Lot Size and Shape in Industrial Zones</b>		
	Minimum Lot Area	Minimum Dimension
Standard A	40,000 sq. ft.	150 ft. x 150 ft.
Standard B	10,000 sq. ft.	75 ft. x 75 ft.

- B. Minimum front lot line.** Each lot must have a front lot line that is at least 35 feet long.

**33.615.200 Exception**

Land under existing buildings may be divided when the ownership of the existing building is also being divided. There are no minimum lot sizes in these cases. However, all zoning code development standards must be met.

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## Commentary

**Introduction.** This chapter is intended to preserve trees at the land division phase of development. By requiring preservation of trees, many of the public benefits of trees will be retained. In addition, the standards ensure that trees on the site are seriously considered in the design and layout of the land division.

**CHAPTER 33.630  
TREE PRESERVATION**

Sections:

- 33.630.010 Purpose
- 33.630.020 Where These Regulations Apply
- 33.630.030 Exempt From These Regulations
- 33.630.100 Tree Preservation Standards
- 33.630.200 Tree Preservation Methods
- 33.630.300 Mitigation Option
- 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
- 33.630.500 Tree Preservation Credit
- 33.630.600 Relationship To Other Tree Regulations

**33.630.010 Purpose**

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

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

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

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

**33.630.020 Where These Regulations Apply**

This chapter applies to land divisions in all zones where:

- A.** There is at least one significant tree on the site that is not in an Environmental Overlay Zone; or
- B.** There is at least one tree that is at least 6 inches in diameter on the site that is not in an Environmental Overlay Zone.

This chapter does not apply to the portions of the site in an Environmental Overlay Zone.

Tree preservation requirements apply to the trees on the site other than those listed in Section 33.630.030, Exempt From These Regulations. The percentage of total tree diameter to be preserved is based on the total diameter of the trees on the portion of the site that is not in an Environmental Overlay Zone after the total diameter of exempt trees is subtracted.

In addition, the tree requirements of this chapter only apply to trees where the primary trunk is located entirely on the land division site.

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## Commentary

**33.630.030 Exempt From These Regulations**

The following trees are exempt from the regulations of this chapter:

- A.** Trees that are listed as nuisance or prohibited on the Portland Plant List;
- B.** Trees that pose an immediate danger to life and safety as determined by the City Forester or a certified arborist;
- C.** Trees that are dead, as determined by the City Forester or a certified arborist;
- D.** Trees that are diseased in a manner that threatens their continued viability, or represents a significant threat to the health of surrounding trees, as determined by the City Forester or a certified arborist; and
- E.** Trees that are within 10 feet of an existing building that will remain on the site.

<b>Table 630-1 Significant Trees</b>		
<b>Common Name</b>	<b>Scientific Name</b>	<b>Diameter</b>
All trees not listed in this table except trees listed as nuisance or prohibited on the Portland Plant List		more than 20 inches
Big-leaf Maple	<i>Acer macrophyllum</i>	18 inches
Bitter Cherry	<i>Prunus emarginata</i>	10 inches
Black Cottonwood	<i>Populus balsamifera</i> ssp. <i>trichocarpa</i>	18 inches
Black Hawthorn	<i>Crataegus douglasii</i> var. <i>douglasii</i>	8 inches
Black Hawthorn	<i>Crataegus suksdorfii</i>	8 inches
Cascara	<i>Rhamnus purshiana</i>	6 inches
Douglas Fir	<i>Pseudotsuga menziesii</i>	18 inches
Garry Oak	<i>Quercus garryana</i>	4 inches
Grand Fir	<i>Abies grandis</i>	10 inches
Madrone	<i>Arbutus menziesii</i>	4 inches
Oregon Ash	<i>Fraxinus latifolia</i>	10 inches
Pacific Yew	<i>Taxus brevifolia</i>	2 inches
Ponderosa Pine	<i>Pinus ponderosa</i>	8 inches
Red Alder	<i>Alnus rubra</i>	18 inches
Scouler Willow	<i>Salix scouleriana</i>	6 inches
Western Flowering Dogwood	<i>Cornus nuttallii</i>	6 inches
Western Hemlock	<i>Tsuga heterophylla</i>	10 inches
Western Red Cedar	<i>Thuja plicata</i>	10 inches

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## Commentary

.100 The standards are intended to guide the layout of the lots and services to preserve trees on the site. The standards also encourage the preservation of as many of the significant trees as possible. Table 630-1 lists the significant trees that must be inventoried and preserved.

Historic Landmark Trees are shown on the Zoning Map and are defined as:

**Historic Landmark Tree.** A Historic Landmark Tree is designated by the Historic Landmarks Commission because of its historical or cultural significance.

### **33.630.100 Tree Preservation Standards**

- A.** Existing trees must be preserved. The applicant must choose one of the following options. Significant trees are listed in Table 630-1:
  - 1. Option 1: Preserve at least 35 percent of the total tree diameter on the site;
  - 2. Option 2: Preserve at least 50 percent of the significant trees on the site and at least 30 percent of the total tree diameter on the site;
  - 3. Option 3: Preserve at least 75 percent of the significant trees on the site and at least 25 percent of the total tree diameter on the site; or
  - 4. Option 4: Preserve all of the significant trees on the site and at least 20 percent of the total tree diameter on the site.
  - 5. Option 5: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.
- B. Historic Landmark Trees.** Historic Landmark Trees must be preserved. They may be removed only if approved by the Historic Landmarks Commission.
- C. Heritage Trees.** Heritage Trees are regulated by Chapter 20.40.150, Heritage Trees, of the City Code.
- D. Calculations.**
  - 1. Tree diameter and significant trees. When calculating the amount of tree diameter and the number of significant trees on the site, the applicant may choose one of the following methods of measurement:
    - a. Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or
    - b. Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of significant trees present. Sampling must be carried out by a professional forester based on standard methodologies.
  - 2. Tree canopy. When calculating the amount of tree canopy on the site, the total canopy area is based on the most recent aerial photograph available. If the most recent aerial photograph available is more than 5 years old, the applicant must provide a more recent photograph.

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## Commentary

**.200.A.1** This regulation ensures that trees to be protected within a tract are given a sufficient setback from the edge of the tract to allow for their survival.



### **33.630.200 Tree Preservation Methods**

Trees must be preserved either in a tract or by use of a tree preservation plan.

**A. Tree preservation tracts.** The following standards apply to sites where trees will be preserved in tracts:

1. Tract boundary. The boundary of a tree preservation tract must be at least five feet from the root protection zone of any trees to be protected within the tract. Where the edge of the root protection zone is less than 5 feet from the edge of the site, the tract boundary will be located along the edge of the site. See Figure 630-1; and
2. Construction fencing.
  - a. A construction fence must be placed along the boundary of the tract or a larger area;
  - b. The location and material of the fence must be shown on the clearing and grading plan;
  - c. The fence must be in place before clearing, grading, or construction starts and remain in place until construction is complete; and
  - d. The fence must meet one of the following:
    - (1) The fence must be 6 foot high orange plastic and be secured to the ground with 8-foot metal posts, or
    - (2) The fence must be 6 foot high steel on concrete blocks.

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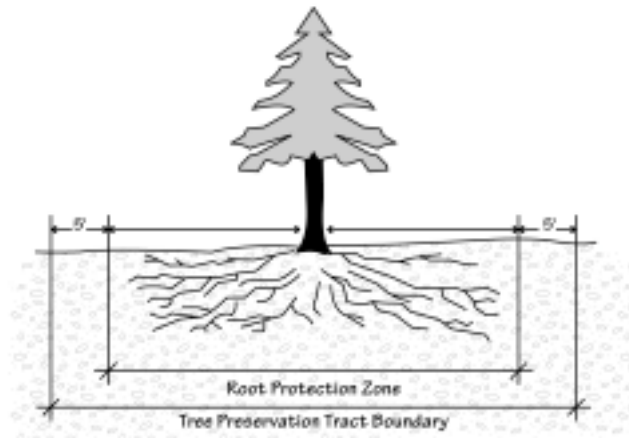
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## Commentary

**.200.B** The tree preservation plan assures that the trees that will be preserved will remain as the lots are sold and developed. While it is not required, it is highly recommended that a Certified Arborist prepare the tree preservation plan, and also be on site during site grading and service and utility construction.

**.300** The mitigation option is available in cases where meeting the standards of 33.630.100 will conflict with meeting minimum density or other service-related standards including connectivity. In these cases, less than 35 percent of the canopy will be preserved, but trees cut down must be mitigated for and as many trees as possible must remain.

**Figure 630-1**  
**Boundary of Tree Preservation Tract**



- B. Tree preservation plan.** Trees that will be preserved on individual lots must be permanently preserved through a tree preservation plan, as specified in Section 33.248.065, Tree Preservation Plans. Trees to be preserved must be healthy and the tree, including the root protection zone, must be outside of areas proposed for structures, services, and utilities. For the purposes of this chapter, the tree preservation plan must be completed by a certified arborist or landscape architect.

**33.630.300 Mitigation Option**

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

- A.** It is not possible under any reasonable scenario to meet Section 33.630.100, and meet minimum density;
- B.** It is not possible under any reasonable scenario to meet Section 33.630.100, and meet all of the service requirements of Chapters 33.651 through 33.654, including connectivity;
- C.** It is not possible under any reasonable scenario to meet Section 33.630.100, and implement an adopted street plan;
- D.** As many trees as possible are preserved; and
- E.** The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, eco-roof, porous paving, or pervious surface permanently preserved in a tract.

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## Commentary

**.400** Modifications to site-related development standards and minimum density will be allowed through a land division if the modification will help the applicant meet the standards of 33.630.100. This modification of standards option is available and should be explored by the applicant before the mitigation option is allowed.

**.500** Tree preservation and replacement regulations that apply to residential development will guide tree cutting and planting at the time of development. The amount of trees required to be preserved or replaced per lot is based on the size of the lot. These regulations are currently in the zoning code.

This provision, which allows trees that are in a tree preservation tract to count toward the development standard, is a powerful incentive for preserving trees at the land division stage where design for tree protection can be most efficient.

**.600** Trees are also subject to other regulations of this and other Titles, including the Environmental Overlay Zone, Scenic Resource Overlay Zone, and various plan districts. Additionally, recently-adopted tree preservation and replacement regulations that apply to residential development will guide tree cutting and planting at the time of development.

### **33.630.400 Modifications That Will Better Meet Tree Preservation Requirements**

**A. Site-related development standards.** The review body may consider adjustments to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards (such as FAR, or number of units) are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word “prohibited,” or a regulation that is a qualifying situation or threshold is prohibited. In order to approve the modification, the review body must find that the modification will result in the application better meeting the requirements of Section 33.630.100, and will, on balance, be consistent with the purpose of the regulation being modified.

**B. Minimum Density.**

1. A reduction in minimum density may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.
2. For land divisions of 2 to 10 lots, minimum density may be reduced by 1 dwelling unit. For land divisions of 11 to 20 lots, minimum density may be reduced by 2 dwelling units. For land divisions of more than 20 lots, minimum density may be reduced by 3 dwelling units. Reductions greater than those listed in this paragraph are prohibited.
3. The review body will approve the reduction in minimum density if they find that the reduction will result in the proposal better meeting the requirements of Section 33.630.100.
4. If the review body approves a reduction of minimum density, trees preserved must be in a tree preservation tract.

### **33.630.500 Tree Preservation Credit**

Trees in a tree preservation tract that is outside of an environmental overlay zone may count toward meeting the individual lot requirements of the T1 standard of section 33.248.020, Landscaping and Screening Standards.

### **33.630.600 Relationship To Other Tree Regulations**

Other tree preservation regulations of this Title and other Titles may apply at the time of a land division and at the time of development.

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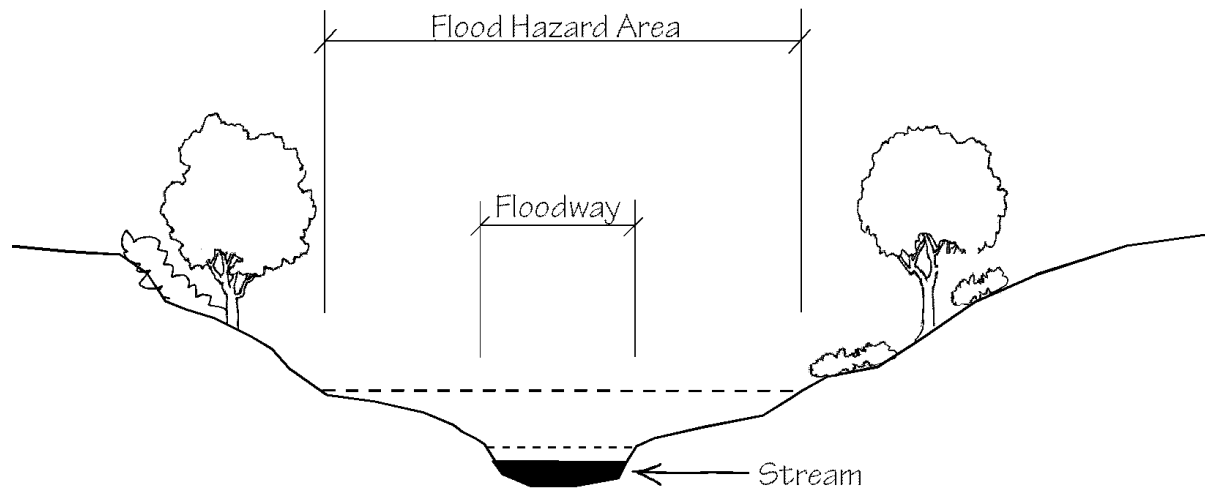
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## Commentary

### Introduction

The regulations of this chapter direct potential development away from floodplains by limiting the creation of lots in flood hazard areas.

The definitions of Floodway (the active flowing channel during a flood, as designated on the FEMA flood map) and Flood Hazard Area (land subject to a one percent or greater chance of flooding in any given year) are included in Chapter 33.910.



*Cross Section Showing Flood Hazard Area and Floodway.*

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.631  
SITES IN FLOOD HAZARD AREAS**

Sections:

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

**33.631.010 Purpose**

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

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

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

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## Commentary

**.100.A.** In the single-dwelling residential zones, lots should be outside the flood hazard area where possible. If this is not possible, lots must be configured so that each has a buildable area outside of the flood hazard area. This is consistent with current land division flood hazard regulations and with recommendations from the Federal Government and the American Planning Association. In the single-dwelling residential zones, where there is no opportunity to divide land or build outside the flood hazard area, land divisions will not be allowed.

**.100.B** The tiered approach to land divisions in the higher density residential, commercial, employment, and industrial zones discourages creation of unbuildable lots and encourages creation of lots that will allow development to locate away from potential flood waters. These regulations are not intended to force river-dependent uses and development such as marine terminals and boat moorages to locate on high ground. These regulations are also not intended to disallow any structures or uses that would be allowed at the development stage under Titles 24 and 33 of Portland City Code. These regulations dovetail with requirements under Title 24 that will apply to the development on the site.



### **33.631.100 Flood Hazard Area Approval Criteria**

**A. RF through R2.5 zones.** The following criteria must be met in the RF through R2.5 zones:

1. Where possible, all lots must be outside of the flood hazard area; and
2. Where it is not possible to have all lots outside of the flood hazard area, all proposed building areas must be outside of the flood hazard area.

**B. R3 through IR, C, E, and I zones.** The following criteria must be met in the R3 through IR, C, E, and I zones:

1. Where possible, each lot must have adequate area outside of the flood hazard area to accommodate allowed or proposed uses. This criterion does not apply to river-dependent uses; and
2. Where it is not possible to create lots that have adequate area outside of the flood hazard area to accommodate allowed or proposed uses, the following must be met:
  - a. Lots must be configured so that development on them will reduce the impact of flooding and to provide the greatest protection for development from flooding;
  - b. Lots must be configured so that allowed or proposed uses that are not river-dependent will be able to locate on the highest ground and near the highest point of access, and so that development on the lots can be configured in a manner that will minimize obstruction of floodwaters; and
  - c. Where the proposed uses and development are river-dependent, lots must be configured so that development on them will minimize obstruction of floodwaters.

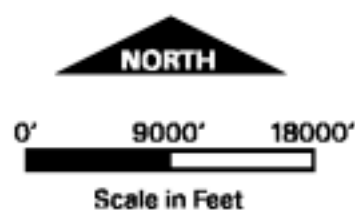
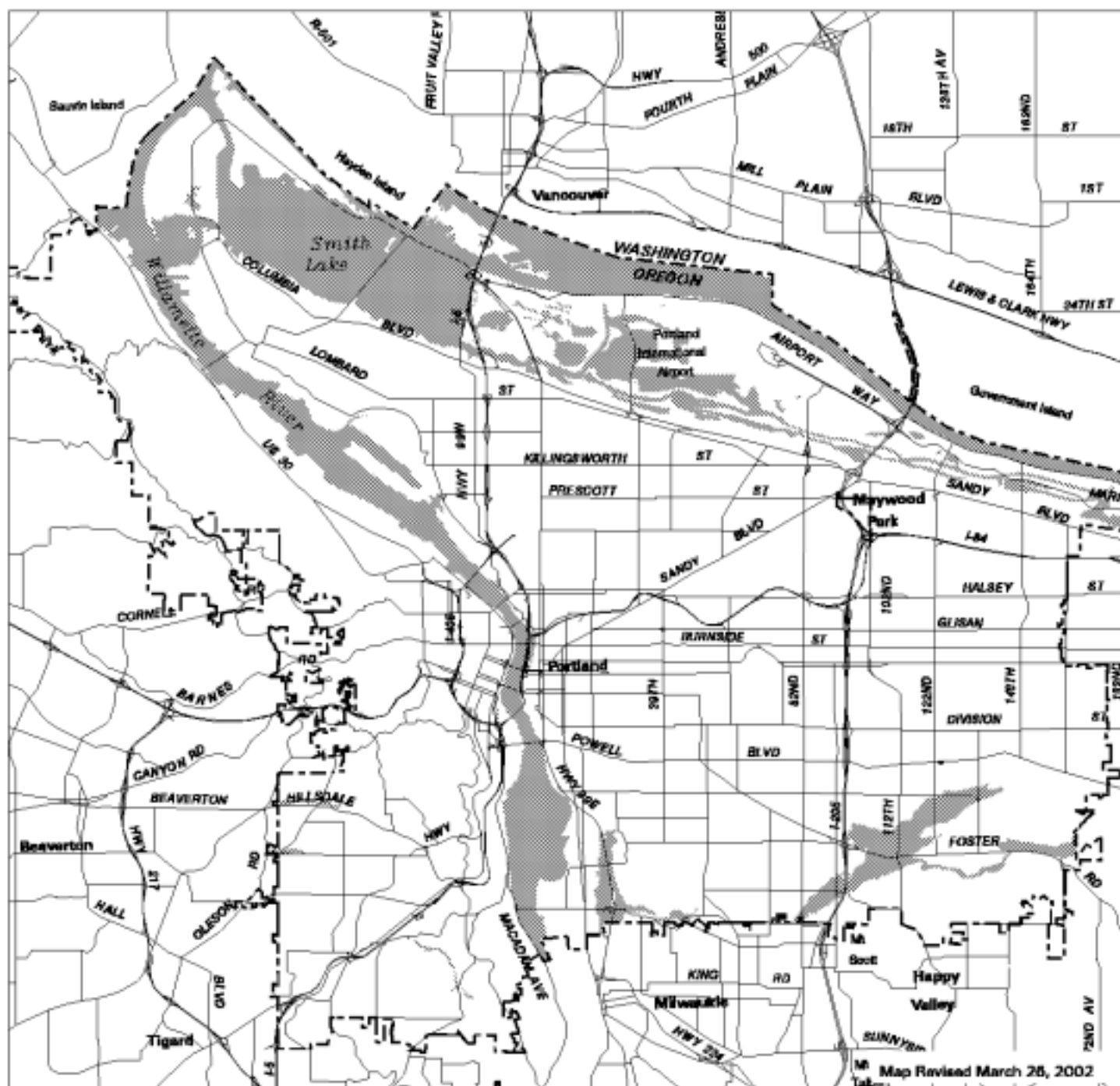
**C. In all zones.** The following criteria must be met in all zones:

1. Services proposed in the flood hazard area must be located and built to minimize or eliminate flood damage to the services; and
2. The floodway must be entirely within a flood hazard tract unless river-dependent land-uses and development are proposed on the site.

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## Commentary



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## Commentary

### Introduction

The regulations of this chapter are intended to ensure that land divisions in areas of potential landslide hazard are designed based on detailed knowledge of site conditions in order to reduce the risk of public and private losses as a result of landslides. The regulations of 33.730.060, Application Requirements, refer to the City's Potential Landslide Hazard Area Map. This map is used to identify areas where additional site information is needed on ground stability to ensure that the land can be divided and developed in a safe manner. A reduced version of the Potential Landslide Hazard Area map can be found in Appendix B of this report.

The map is based on information gathered by Metro and on a study led by Dr. Scott Burns at Portland State University. In addition, the map includes all land within the City that has a slope of 15 percent or greater. In combination, this information identifies areas of likely or potential landslide danger. The information from Metro identified steep slopes that Metro used to compile their earthquake hazard map. The Portland State Study delineated four zones of high landslide potential based on the mapping of the more than 676 landslide events that occurred as a result of the February 1996 storms.

If any portion of a land division site is within a Potential Landslide Hazard Area, a detailed, site-specific study will be required as part of an application for Preliminary Plan approval (see 33.730.060). The study must be done by a team that includes both a Certified Engineering Geologist (CEG) and a Geotechnical Engineer, and may include on-site reconnaissance. A site-specific study using input from both a CEG and a Geotechnical Engineer provides for a more complete review of a development site and more detailed information on where and how a site may be safely developed.

**.100** The recommendation for regulating land divisions in and near landslide hazard areas is similar to that of the policy for flood hazards; avoid creating lots that put people and property at risk and that make hazardous conditions worse. The approval criterion allows creation of lots on landslide hazard areas based on the CEG and Geotechnical Engineer's report and recommendations. In some cases an engineered development proposal can actually stabilize a landslide situation. The portion of the site within the potential landslide hazard area is subtracted from the gross site area used for minimum density calculation (See Chapter 33.610, Lots in RF through R5 Zones). In many cases, this will reduce the minimum density requirement to zero.

The factor of safety is an industry standard and is commonly used in the Uniform Building Code (UBC) and other design guides. It is the ratio of the resisting forces to the driving forces. Calculation of the factor of safety is complex and requires not only geological and engineering expertise and analysis, but requires use of professional judgment when considering the special circumstances of the site. There are many different ways to determine factor of safety, and depending upon the method chosen, different ratios can be obtained. Due to such uncertainties and the uniqueness of conditions present at any given site, this criterion avoids defining a "reasonable" level of risk. Instead, this approval criterion provides focused guidance in the evaluation of the landslide hazard study by all parties, including City staff, other experts, concerned citizens or other interested parties.

**CHAPTER 33.632  
SITES IN POTENTIAL LANDSLIDE HAZARD AREAS**

Sections:

- 33.632.010 Purpose
- 33.632.020 Where This Approval Criterion Applies
- 33.632.100 Landslide Hazard Approval Criterion

**33.632.010 Purpose**

The approval criterion for lands subject to landslide will help minimize public and private losses as a result of landslides. The approval criterion limit the creation of lots on lands subject to landslides in order to direct development away from hazardous areas. The approval criterion ensures that lots and development present the least amount of risk of causing landslides, and are protected as much as possible from landslides. The approval criterion ensures that lots are created where development can occur with the least likelihood of causing landslides on the site or adjacent properties. In some cases, the approval criterion will result in requirements to stabilize sites through engineered solutions.

**33.632.020 Where This Approval Criterion Applies**

The approval criterion of this chapter applies to all proposals for land divisions where any portion of the site is within a potential landslide hazard area.

**33.632.100 Landslide Hazard Area Approval Criterion**

The following approval criterion must be met: Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.

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## Commentary

**.100** Phased land divisions offer an alternative to dividing an entire site at once and so allow part of the site to be divided and sold before the remainder of the site is divided. For some applicants, this option is an important financial consideration. However, the applicant must provide information about how the balance of the site will be divided; without adequate foresight and planning, optimal alternatives for the development of the site as a whole may not be achieved.

**.120.A** Only very large sites will be allowed to phase preliminary plans. The likelihood of meeting requirements such as connectivity and minimum density on the entire site is more easily compromised on small sites.

**.120.B** A future division plan is defined in Chapter 33.910, Definitions. The first phase of the land division must include all area within an Environmental Overlay Zone, and the floodway. By requiring these areas to be included in the first phase, the density, services, and size and shape of lots can be designed to have the least impact on the resource areas. It also avoids the risk that a future phase will have no option but to propose development in a resource area.

**.120.C** Future phases will remain within tracts until a Preliminary Plan is submitted, and a Final Plat is approved for the tract.

**.120 D** The future division plan is not binding on the City or the applicant: the purpose of this plan is to ensure that the design of the first phase does not preclude future phases from meeting the requirements of this and other Titles. Further, the existence of this plan will likely preempt any future argument about the feasibility of meeting minimum density. If an applicant wishes the plan to be binding on the City, they may apply for Preliminary Plan approval for the entire site.

**.200** Staged Final Plats offer an alternative to constructing required infrastructure at one time. If the site is platted in stages, the infrastructure can be constructed in stages. For some applicants, this option is an important financial consideration. In some cases, staging Final Plats is a desirable alternative.

An applicant will be required to provide information about how the Final Plats will be staged during the Preliminary Plan review. The Preliminary Plan will be evaluated based on the number and sequence of staged Final Plats. In addition, there is a time limit on how long the applicant can take to submit all of the Final Plat stages. All stages must be submitted within 5 years of the first stage. See Section 33.730.060, Application Requirements and Section 33.730.130, Expiration of Approval, for more information on staged Final Plat application requirements and time lines.

**.220** The first stage of the Final Plat must include all area within an Environmental Overlay Zone, a tree preservation tract, and the floodway.

**CHAPTER 33.633  
PHASED LAND DIVISIONS AND STAGED FINAL PLATS**

Sections:

Phased Land Divisions

33.633.100 Purpose

33.633.110 Where These Standards Apply

33.633.120 Phased Land Division Standards

Staged Final Plats

33.633.200 Purpose

33.633.210 When Staged Final Plats Are Allowed

33.633.220 Staged Final Plat Standard

**Phased Land Divisions**

**33.633.100 Purpose**

Phased land divisions allow minimum density requirements for a site to be met in several phases rather than at one time.

**33.633.110 Where These Standards Apply**

The standards of Section 33.633.120 apply to proposals for phased land divisions in the RF through R2.5 zones.

**33.633.120 Phased Land Division Standards**

Phased land divisions are allowed if the all of the following are met. Adjustments to these standards are prohibited:

- A.** The required minimum density for the site is 40 or more lots;
- B.** All portions of the site that are in the floodway or an Environmental Overlay Zone must be included in the first phase;
- C.** All portions of the site that are to be divided in future phases must be held in non-development tracts;
- D.** A future division plan must show how each subsequent phase can meet minimum density, the other requirements of Chapters 33.610 through 33.654, and all other regulations of the Portland City Code; and
- E.** Applications for Preliminary Plan approval of subsequent phases are subject to the regulations in effect at the time of each application.

**Staged Final Plats**

**33.633.200 Purpose**

Staged Final Plats allow improvements, such as streets, services, and utilities to be constructed in stages rather than all at one time.

**33.633.210 When Staged Final Plats Are Allowed**

Staged Final Plats are allowed for all land division sites.

**33.633.220 Staged Final Plat Standard**

All portions of the site that are in an Environmental Overlay Zone, in the floodway, or will be in a tree preservation tract must be included in the first Final Plat stage.

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## Commentary

**.010** Large land divisions in residential zones will be required to provide improved recreation areas. A large land division (one that is creating over 40 new housing units) is, in effect, a new neighborhood and should be designed to accommodate the recreational needs of that community.

**.200.A** At least 10 percent of the land division site must be set aside for recreational purposes. The recreation area can be developed as one space or multiple spaces—in some zones the recreation area may also be developed as floor area within the building.



**CHAPTER 33.634  
REQUIRED RECREATION AREA**

Sections:

- 33.634.010 Purpose
- 33.634.100 Where These Regulations Apply
- 33.634.200 Required Recreation Area Standards
- 33.634.300 Required Recreation Area Approval Criteria

**33.634.010 Purpose**

Providing area for recreation ensures that the recreational needs of those who will live on the site will be accommodated. Large land divisions—those that will create a minimum of 40 new dwelling units—create a neighborhood that is big enough to warrant a recreation area that is accessible to all in the new community. Creating the space for recreation at the time of the land division is the most efficient way to ensure that the space is created. The land division process provides the opportunity to design the recreation area so that it relates to the lot and street pattern of the land division.

**33.634.100 Where These Regulations Apply**

The regulations of this chapter apply to land divisions in residential zones when the minimum required density is 40 or more dwelling units.

**33.634.200 Required Recreation Area Standards**

The following standards must be met:

- A. Size.** At least 10 percent of the total site area of the land division site must be devoted to recreation area.
- B. RF-R2 zones.** In the RF-R2 zones, the recreation area must be in one or more recreation area tracts. Recreation area tracts must meet the requirements of Subsection D., below.
- C. R1-IR zones.** In the R1-IR zones, the recreation area may be in one or more recreation area tracts, in a roof-top garden, or in floor area improved for the purpose of passive or active recreation. Recreation area tracts must meet the requirements of Subsection D., below.

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## Commentary

**.200.D.1** These minimum dimensions ensure that no one area is so small as to be unusable. 100 feet by 100 feet is large enough to accommodate at least a swing set and picnic table or a few community garden spaces.

**.200.D.2** The recreation area must include both passive and active recreational uses. Many active uses are not compatible with the resources in environmental zones and the risks in flood hazard or landslide hazard areas. Therefore, the required recreation area must be at least 50 percent outside of these sensitive areas. For example, areas within an environmental zone of a land division site may be appropriate for passive recreation such as nature trails, while active recreational improvements such as ball fields and playgrounds must be located outside the environmental zone.

**.200.D.3** Thirty feet of street frontage ensures that the recreation area is accessible from the street and is not perceived as a private recreation space for only a few lots.

**.200.D.4** In chapter 33.636, Tracts and Easements, ownership regulations allow a tract to be owned by a group, by one individual, or owned by a public or private non-profit organization. This ownership arrangement is appropriate for some kinds of tracts. However, recreation area tracts required by this chapter must be owned in common by everyone living in the land division or by a public agency such as the City. This type of ownership arrangement ensures that the recreation areas remain open and accessible to residents of the land division.

**.300.A.** The location of the recreation area is important from a usability perspective. It should be located where recreation can take place. For example, it is not reasonable for a recreation area to be located on a steep slope.

**.300.C.** Each recreation area must be improved for recreational use. Both active and passive recreation must be available to those who live on the land division site. It is not enough to simply provide unimproved open area: The recreation area should have improvements for children's play, space for picnics, or trails and walkways to wander along. In some cases, these recreation areas may even have organized sports fields or garden plots.

**D. Recreation area tracts.** Recreation area tracts required by this chapter must meet the following standards:

1. Size. Each tract must be at least 100 feet wide by 100 feet deep;
2. Location. No more than 50 percent of each recreation area tract may be in an Environmental Overlay Zone or in a flood hazard area;
3. Accessibility. Each recreation area tract must have at least 30 feet of street frontage;
4. Ownership. The tracts must be owned in common by all of the owners of the land division site, owned by a Homeowners' Association, or owned by a public agency; and
5. Improvements. Improvements must be installed in each tract prior to the first pavement lift on the site or, if no streets are created, prior to the issuance of the first foundation permit.

**33.634.300 Required Recreation Area Approval Criteria.**

All of the following approval criteria must be met:

- A.** Location. Each recreation area must be located on a part of the site that can be reasonably developed for recreational use;
- B.** Accessibility. Each recreation area must be reasonably accessible to all those who will live on the land division site; and
- C.** Improvements. Each recreation area must be improved in order to meet the recreational needs of those who will live on the land division site. Provision for both active and passive recreation must be included. Where there is more than one recreation area, not all areas must be improved for both active and passive recreation. Recreation areas may include improvements such as children's play equipment, picnic areas, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. Surety may be required which specifies the timing of recreation area improvements.

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## Commentary

**Introduction** Preliminary Clearing and Grading Plans must be submitted for all land division applications. Each land division will be subject to regulations that ensure limits of disturbance are reasonable, given site conditions, infrastructure needs, and tree preservation requirements. The approval criteria emphasize retention of existing drainage patterns and minimization of disturbance areas needed for site development.

Clearing and grading are two distinct site development activities. Clearing refers to activities that remove existing vegetation or strip surface material from the site. Grading refers to all cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with preparation of lots, including the necessary infrastructure such as street, pedestrian/bicycle connections, or utility construction.

**Recommended Procedure for Clearing and Grading Permits** The recommended procedure for clearing and grading permits is similar to the procedure that is currently in place. A major difference is that a Preliminary Clearing and Grading Plan will be required for every land division. This plan may show proposed clearing and grading needed only for the services and utilities that serve the site (partial plan) or it may show grading for the entire site, including lots (full site plan). See Section 33.730.060, Application Requirements, for a list of required plan elements.

Partial Clearing and Grading Plan: At a minimum, the Preliminary Clearing and Grading plan must show proposed clearing and grading limits for all street and pedestrian connection right-of-way improvements and for services and utilities. That includes any structures located outside the rights-of-way that are necessary for construction of the street, such as a retaining wall. Under this option, review is limited to those areas specified on the clearing and grading plan. Grading permits for these specified areas may be issued prior to Final Plat approval. However, a grading permit for the site's remaining areas - lots and tracts - will not be issued until after the City approves the Final Plat.

Full Site Clearing and Grading Plan: Preliminary Clearing and Grading Plans for the entire site may be reviewed at the preliminary plan stage. Under this option, grading permits for streets, pedestrian paths, services and utilities, lots and tracts may be issued before Final Plat approval.

As a matter of practice, clearing and grading permits will be issued by the City only after all of the following occurs:

1. The Preliminary Plan is approved;
2. A complete Final Plat application is submitted; and
3. The Final Plat has been reviewed by all service bureaus and OPDR in conjunction with the clearing and grading permit application and is considered to be in compliance with significant technical and land use requirements (generally the point at which service and utility permits have been submitted, reviewed and corrected, and compliance with Preliminary Plan conditions is shown or can be shown).

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.635  
CLEARING, GRADING, AND LAND SUITABILITY**

Sections:

33.635.010	Purpose
33.635.020	Where These Approval Criteria Apply
33.635.100	Clearing and Grading Approval Criteria
33.635.200	Land Suitability Approval Criterion

**33.635.010 Purpose**

These approval criteria:

- Ensure limits of disturbance are reasonable given infrastructure needs, site conditions, and tree preservation requirements;
- Limit impacts of erosion and sedimentation;
- Protect water quality and aquatic habitat;
- Allow some site development activities to occur before Final Plat approval; and
- Ensure that new lots can be safely developed.

**33.635.020 Where These Approval Criteria Apply**

The approval criteria of this chapter apply to proposals for land divisions in all zones.

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## Commentary

**.100** To adequately address the approval criteria, applications for sites relatively free of development constraints will need to include general information on grading and clearing activity. Conversely, applications for sites with constraints (such as slopes, water bodies, trees, and protected resources) will need to include detailed information about proposed clearing and grading activities.

**.100.A** Maintaining existing topography helps protect the natural drainage system, thereby minimizing impacts to existing vegetation and adjacent properties.

**.100.B-.C** These criteria provide a reasonability test of the extent of clearing and grading. The first is intended to ensure that the proposed amounts of clearing and grading are sufficient for what is proposed, the second ensures that clearing and grading is not excessive for what is proposed. Such examination requires the applicant to consider at the preliminary stage how the site should be altered and to what extent, and could lead to consideration of unconventional development schemes in order to limit unnecessary site disturbance.

**.100.D** Replacing the site's topsoil after grading is complete will benefit future planting on lots or tracts. Native topsoil helps to reestablish permanent vegetation because it is high in organic and native seed content.

**.100.E** When soil will be stockpiled for later use as required by .100.C above, it should remain on the site if possible. Areas of the site that are to be disturbed for site development are the preferred locations for stockpiles. Areas not designated for disturbance are to be avoided.

**.200** This language was added as part of the amendments adopted by the Council on March 20, 2002. The language was added to continue the existing practice of requiring that work be done on the site to resolve known land hazards at the land division stage, allowing for a more comprehensive consideration of potential hazards before lots come in for development permits.

**33.635.100 Clearing and Grading Approval Criteria**

The Preliminary Clearing and Grading Plan must meet the following approval criteria:

- A.** Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
- B.** Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
- C.** Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
- D.** Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and
- E.** Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.

**33.635.200 Land Suitability Approval Criterion**

Where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

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## Commentary

**.100** Tracts and easements are two different ways to specify land for a distinct purpose. Tracts are generally parcels of land owned in common by several people who also maintain the tract. Easements are generally an agreement between two parties for the use of land for a specific purpose.

**.100.B** The maintenance agreement can also include an agreement to allow owners of other property in the vicinity to share in the use, ownership, and maintenance of the street.



**CHAPTER 33.636  
TRACTS AND EASEMENTS**

Sections:

33.636.100 Requirements for Tracts and Easements

**33.636.100 Requirements for Tracts and Easements**

- A. Ownership of tracts.** Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:
1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
  2. The Homeowners' Association for the area served by the tract;
  3. A public or private non-profit organization; or
  4. The City or other jurisdiction.
- B. Maintenance agreement.** The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by OPDR and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat or Final Development Plan within 90 days of the final decision.

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## Commentary

**Chapter 33.638** This chapter replaces some of the elements of Chapter 33.269, Planned Unit Developments. Most of the provisions of Chapter 33.269 are incorporated into other land division regulations. However, some of the provisions will move to this new chapter, including:

- The provisions allowing flexibility in housing types,
- Allowance for commercial uses in a residential zone; and
- Transfer of development rights within a site but across zoning boundaries, and to accommodate transfer of development rights from another site.

**.100** This is similar to flexibility now allowed in Chapter 33.269, Planned Unit Developments.

**.100.A-D** These provisions allow a developer to propose attached houses, duplexes or multi-dwelling development in a situation where it would not otherwise be allowed. This kind of flexibility is allowed now through Planned Unit Developments. As with PUDs, this approach would look at the design of the proposed development, with an eye to how the structures integrate into the existing neighborhood development pattern. See Chapter 33.665, Planned Development Review

**.100.E** Multi-Dwelling development is defined in the zoning code; it allows multiple residential structures on one lot. The structures may be detached, attached, single-dwelling or multi-dwelling structures.

**CHAPTER 33.638  
PLANNED DEVELOPMENT**

Sections:

- 33.638.010 Purpose
- 33.638.020 Relationship to Other Regulations
- 33.638.100 Additional Allowed Uses and Development

**33.638.010 Purpose**

The Planned Development regulations provide an opportunity for innovative and creative development, while assuring that the development will complement existing neighborhood character. These regulations allow flexibility beyond that allowed by other chapters of this Title, if the proposed development is well-designed and can be successfully integrated into the neighborhood.

**33.638.020 Relationship to Other Regulations**

- A. Flexibility.** Approval of a Planned Development allows certain kinds of flexibility for residential development. Some of the flexibility allowed by Planned Developments may also be allowed under other provisions of this Title. Where such situations exist, the applicant may choose which provision to apply.
- B. Density.** Minimum density requirements must be met in a Planned Development. Adjustments to minimum density are prohibited. Where the density requirement is expressed as a number of lots, it can be met in the Planned Development by providing the same number of dwelling units.
- C. Land Divisions.** A Planned Development may be the only land use review requested for a site, or may be part of a proposal for a Land Division. Certain site conditions or aspects of a proposal require a Land Division, including situations where a tract is required (such as when there is floodway on the site), or where rights-of-way are requested or required.

**33.638.100 Additional Allowed Uses and Development**

In addition to the housing types and uses allowed by other chapters of this Title, the following uses and development may be requested through Planned Development Review. More than one of these elements may be requested:

- A. Attached houses.** Attached houses may be requested in the RF through R5 zones;
- B. Duplexes.** Duplexes may be requested in the RF through R2.5 zones;
- C. Attached duplexes.** Attached duplexes may be requested in the RF through R2.5 zones;
- D. Multi-dwelling structures.** Multi-dwelling structures may be requested in the RF through R2.5 zones;
- E. Multi-dwelling development.** Proposals to allow multi-dwelling development on a lot may be requested in RF through R2.5 zones;

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## Commentary

**.100.F** As part of a Planned Development proposal, applicants may request modifications to site-related development standards. The modification will be processed as part of the Planned Development and an adjustment review is not required.

**.100.G** Lots that do not meet the minimum lot dimensional requirements of the zone may be requested through a Planned Development.

**.100.H** The current regulations in Chapter 33.269 refer to the CN2 zone. However, the CN1 zone is more pedestrian-oriented than the CN2 zone, and so more consistent with the concept of "neighborhood support commercial."

**.100.I** Transfer of development within a site is allowed as part of the current Planned Unit Development regulations. This language just clarifies that concept.

**.100.J** Transfer of development between sites is included in the current regulations; a Planned Unit Development is currently required for both sending and receiving sites.

- F. Modification of site-related development standards.** Modification of site-related development standards may be requested through a Planned Development.
- G. Alternative residential dimensions.** Proposals for lots that do not meet the minimum lot area, minimum lot depth, or minimum front lot line standards may be requested in RF through R2.5 zones. Proposals for lots that do not meet the minimum lot size dimensions may be requested in the RH through R3 zones.
- H. Commercial uses.** Commercial uses that are allowed in the CN1 zone may be requested in the RF through R1 zones;
- I. Transfer of development within a site.** Transfer of development rights across zoning lines within the site may be proposed as follows:
1. RF through R1 zones. If the site is located in more than one zone, and all the zones are RF through R1, the total number of units allowed on the site is calculated by adding up the number of units allowed by each zone. The dwelling units may be placed without regard to zone boundaries.
  2. RH and RX zones. If the site is located in more than one zone, and the zones are RH and RX, the total amount of floor area allowed on the site is calculated by adding up the amount of floor area allowed by each zone. The floor area may be placed without regard to zone boundaries.
  3. C, E, and I zones. If the site is located in more than one zone, and all the zones are C, E, and I zones, the total amount of floor area allowed on the site is calculated by adding up the amount of floor area allowed by each zone. The floor area may be placed without regard to zone boundaries.
  4. All zones. If the site is located in more than one zone, and at least one of the zones is RF through R1, and at least one of the zones is RH, RX, C, E, or I, then the total number of dwelling units allowed on the site is calculated as follows:
    - a. The number of units allowed on the RF through R1 portion of the site is calculated in terms of dwelling units;
    - b. The number of units allowed on the other portion of the site is calculated in terms of floor area;
    - c. The floor area calculation is converted to dwelling units at the rate of 1 dwelling unit per 1,000 square feet of floor area;
    - d. The two dwelling unit numbers are added together, and may be placed without regard to zone boundaries.
- J. Transfer of development between sites.** Sites that are eligible to transfer development rights to another site are designated in other chapters of this Title. Where such transfers occur, both the sending and receiving sites must be part of a Planned Development.

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## Commentary

**.020** Generally, the solar access regulations should be applied at the last stages of the preliminary design, after issues regarding environmental resources, hazard areas, and service provision have been resolved. While orienting lots for optimal sun exposure is an important consideration, there is a greater public interest in satisfying these other issues. For instance, consider a land division site that lies almost entirely within the flood hazard area. The site's small portion outside of the flood hazard area is devoted to the lots, all of which must have narrow widths along a north-south street, making it difficult to comply with the solar access requirements. In this case, the flood hazard area regulations take priority over the solar access regulations because they help direct development away from hazardous areas and limit loss from flooding. It is expected that conflicts with the solar access requirements will be rare, due to the flexible nature of the approval criteria.

**.100** The solar access approval criteria focus on the lot width of individual lots as compared to all lots in the land division. Specific target widths are not identified to provide flexibility when site conditions (such as location of streets or stormwater facilities on the site, environmental resource or constrained lands) limit the options for lot design.

**.100.A.1** These lots can be the narrowest in the land division and still obtain good solar exposure since the back yards will be south-facing. Additionally, shadows from structures on these lots will be cast onto the street, not adjacent lots. Therefore, it's optimal to place as many lots as practicable along the south side of east-west streets.

**.100.A.2** At intersections, the two corner lots north of the east-west street should be narrow at the north-south street frontage. A longer dimension on the east-west street will result, creating the potential for a long, narrow house. Although these lots will be narrow, solar exposure is favorable since there is ample south-facing access.

**.100.B** Lots with frontage on north-south streets should be the widest of all lots in the land division. Since south exposure is potentially limited for these lots, an ample width will encourage square-shaped house footprints, increasing the potential for south and west exposure in the front or back yards of these lots.

**CHAPTER 33.639  
SOLAR ACCESS**

Sections

- 33.639.010 Purpose
- 33.639.020 Where These Approval Criteria Apply
- 33.639.100 Solar Access Approval Criteria

**33.639.010 Purpose**

The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

**33.639.020 Where These Approval Criteria Apply**

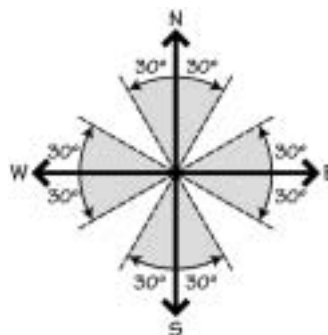
The approval criteria of this chapter apply to lots for single-dwelling detached development created as part of a land division proposal in all zones. Where it is not practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's, the regulations of the other chapters supercede the approval criteria of this chapter.

**33.639.100 Solar Access Approval Criteria**

All of the following approval criteria must be met:

- A.** On streets that are within 30 degrees of a true east-west axis, see Figure 639-1, the narrowest lots should be:
  - 1. Interior lots on the south side of the street. See Figure 639-2; and
  - 2. Corner lots on the north side of the street. See Figure 639-3.
- B.** On streets that are within 30 degrees of a true north-south axis, the widest lots should be interior lots on the east or west side of the street. See Figure 639-4.

**Figure 639-1  
Axes within 30 Degrees of North-South and East-West**



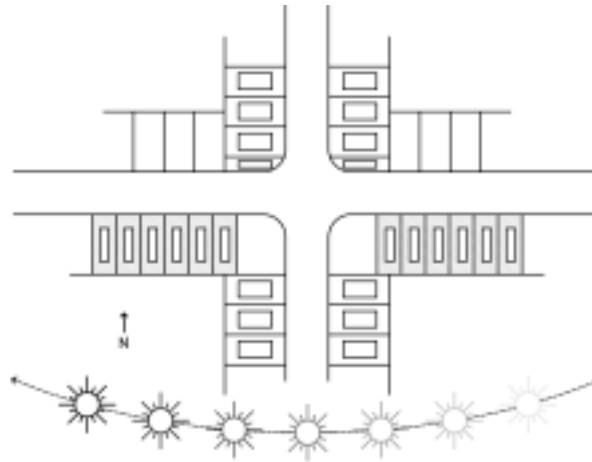
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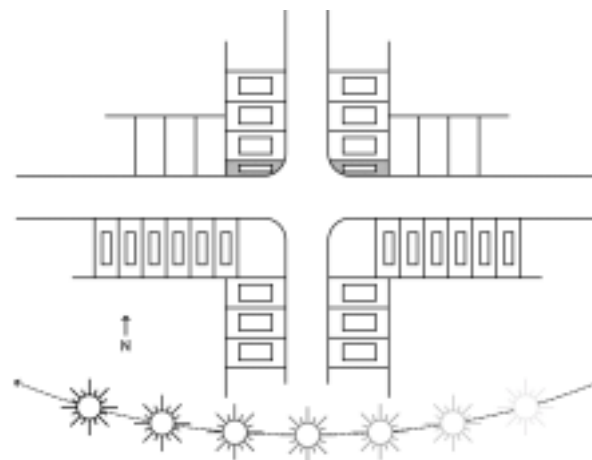
## Commentary



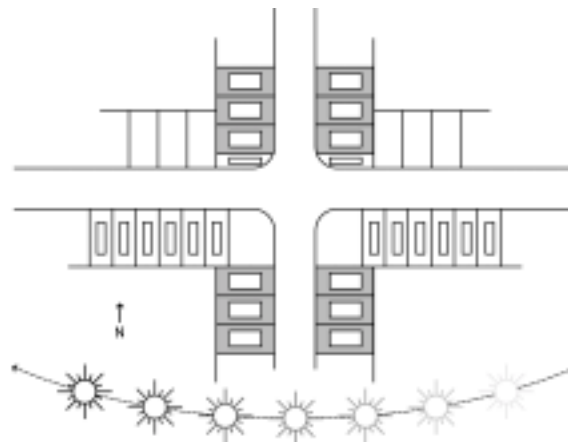
**Figure 639-2**  
**Interior Lots on South Side of Street**



**Figure 639-3**  
**Corner Lots on North Side of Street**



**Figure 639-4**  
**Interior Lots on East and West Side of Street**



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## Commentary

**.010** While the City's efforts to protect valuable natural resources has been thorough and on-going, it is still possible that a stream, spring, or seep has been missed. The purpose of this chapter is to ensure that these water features are protected from degradation due to development and are maintained in their natural state.

**.200.A.** This standard protects the water feature by preserving it in a tract including a 15 foot buffer around the feature. This protects the feature from development and construction work and preserves its natural water quality functions. Definitions of stream, spring, and riparian seep can be found in 33.910, Definitions.

**CHAPTER 33.640  
STREAMS, SPRINGS, AND SEEPS**

Sections:

- 33.640.010 Purpose
- 33.640.100 Where These Standards Apply
- 33.640.200 Stream, Spring, and Seep Standards

**33.640.010 Purpose**

The standards in this chapter ensure that important streams, seeps and springs that are not already protected by the Environmental Overlay Zones, are maintained in their natural state.

**33.640.100 Where These Standards Apply**

The standards of this chapter apply to all land divisions where a stream, spring, or seep on the site is outside of an Environmental Overlay Zone.

**33.640.200 Stream, Spring, and Seep Standards**

**A. Preservation in a tract.** Streams, springs, and seeps must be preserved in a tract as follows:

1. The edges of the tract must be at least 15 feet from the edges of the stream, spring, or seep. The edges of a seep or spring are determined through a wetland delineation, performed by an environmental scientist, and approved by OPDR. If one or more wetland characteristics are absent from the resource, the delineation will be based on the wetland characteristics present. The edges of a stream are defined as the top-of-bank. Where the edge of the stream, spring, or seep is less than 15 feet from the edge of the site, the tract boundary will be located along the edge of the site;
2. Existing structures within the area described in Paragraph A.1 may be excluded from the tract;
3. Exception. Where the tract required by Paragraph A.1 would preclude compliance with the front lot line requirements of Chapters 33.610 through .615, the stream, seep, or stream may be in an easement that meets the other requirements of Paragraph A.1.

**B. Development allowed in the tract or easement.** The following development, improvements, and activities are allowed in the tract or easement:

1. Disturbance associated with discharging stormwater to the stream channel, if BES has determined that the site's storm water cannot discharge to a storm sewer and OPDR has determined that on-site infiltration is not an option;
2. Removal of non-native invasive species with hand held equipment;
3. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;
4. Erosion control measures allowed by Title 10 of Portland City Code;

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## Commentary

5. Construction of required driveway connections or required connections to services when there is no practicable alternative to locating the driveways or service connections within the tract or easement; and
  6. Maintenance and repair of existing utilities, services, and driveways;
- C. When tract or easement may be crossed by a right-of-way.** Public or private rights of way may cross the seep, spring, or stream tract or easement if the following approval criteria are met:
1. There is no reasonable alternative location for the right-of-way;
  2. The applicant has demonstrated that it is possible to construct street improvements within the right-of-way that will meet all of the following:
    - a. The street improvements will not impede the flow of the stream, spring, or seep;
    - b. The street improvements will impact the slope, width, and depth of the stream channel, spring, or seep to the minimum extent practicable; and
    - c. The street improvements will not impede fish passage in a stream, spring, or seep has been identified by the Oregon Department of Fish and Wildlife as fish-bearing.
- D. Minimum density.** Minimum density is waived in order to better meet these standards.

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## **Commentary**

### **CHAPTER 33.641 TRANSPORTATION IMPACTS**

This chapter requires that Type IIx and Type III land divisions meet an approval criterion designed to evaluate the impacts on the transportation system. The language in this criterion is very similar to language currently in the Transportation Element of the Comprehensive Plan (TE), Implementation Section, which was adopted by Ordinance 16585 on September 23, 1992 by City Council. It is important that the language in this chapter mirrors the language in the TE to avoid potential conflicts.

The Transportation System Plan, now under development, will re-evaluate the process and thresholds for review, consistent with the State Transportation Planning Rule and the Metro Regional Transportation Plan requirements.

**CHAPTER 33.641  
TRANSPORTATION IMPACTS**

Sections:

- 33.641.010 Purpose
- 33.641.015 Where This Approval Criterion Applies
- 33.641.020 Approval Criterion
- 33.641.030 Mitigation
- 33.641.040 When a Transportation Impact Study May Be Required
- 33.641.050 Elements of a Transportation Impact Study

**33.641.010 Purpose**

The regulations of this chapter allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects. The purpose of a transportation impact study is to assess the effects of routing or volume of traffic in the vicinity of the site on traffic conditions, transit, pedestrian and bicycle movement, and neighborhood livability.

**33.641.015 Where This Approval Criterion Applies**

This approval criterion applies to land divisions in all zones.

**33.641.020 Approval Criterion**

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

**33.641.030 Mitigation**

The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

**33.641.040 When a Transportation Impact Study May Be Required**

A Transportation Impact Study may be required by the City Engineer for a Type IIx or Type III land division when the development allowed through the proposed land division will exceed the following thresholds:

- A. Trip generation threshold.** More than 100 new vehicle trips will be generated in the peak direction (inbound or outbound) during the site's peak traffic hour.
- B. Neighborhood traffic threshold.** More than 250 new trips will be generated per day that are likely to use predominantly residential Local Service Streets.

**33.641.050 Elements of a Transportation Impact Study**

The elements of a transportation impact study are outlined in the Transportation Impact Study Guidelines, available from the Office of Transportation. These elements may be modified or expanded upon by the City Engineer to address the specific needs of a site and its vicinity.

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## Commentary

### Introduction

Water service decisions are technical decisions, except when an environmental zone is affected. Generally, the Water and Fire Bureaus will make the water service decisions.

**.020** A technical decision is not a land use decision. Technical requirements are—or will be—in other Titles of the City Code, or in manuals adopted by the service bureaus, such as the City's Standard Construction Specifications Manual.

Currently, City Titles 21 and 31 address provision of water service. In addition, the Fire Bureau implements a set of guidelines for land divisions. The Fire Bureau's Code Enforcement Policy B-1 includes requirements for water mains and fire hydrants; the Fire Bureau requirements work in conjunction with Water Bureau requirements for these facilities.

Most of Portland is served by the Portland Water Bureau. However, some areas are served by another provider, such as the Rockwood Water District or the Powell Valley Water District.



**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.651  
WATER SERVICE**

Sections:

- 33.651.010 Purpose
- 33.651.020 Water Service Standards
- 33.651.030 Environmental Overlay Zones

**33.651.010 Purpose**

Water service provides water for public health and emergency purpose, including fire suppression. These standards ensure that the public water system will serve each lot in the land division and, where appropriate, will extend through the land division to reach adjacent sites. They will result in an efficient, flexible water distribution system that can serve a variety of development configurations while minimizing overall development costs.

**33.651.020 Water Service Standard**

Water service must meet the standard of this section. Adjustments are prohibited. The Water Bureau or District and the Fire Bureau have verified that water facilities with adequate capacity and pressure are available to serve the proposed development.

**33.651.030 Environmental Overlay Zones**

If any portion of the water service is within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Overlay Zones.

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## Commentary

**.020** These are technical requirements and are not a land use decision. The requirements are—or will be—in other Titles of the City Code, or in manuals adopted by the service bureaus, such as the City's Standard Construction Specifications Manual.

**CHAPTER 33.652  
SANITARY SEWER DISPOSAL SERVICE**

Sections:

- 33.652.010 Purpose
- 33.652.020 Sanitary Sewer Disposal Service Standards
- 33.652.030 Environmental Overlay Zones

**33.652.010 Purpose**

The sanitary sewer disposal service standard protects the public health by providing for the safe and sanitary collection, treatment, and disposal of waste products from development in the land division. This standard will result in an efficient, flexible sewer system that can serve a variety of development configurations within reasonable overall development costs.

**33.652.020 Sanitary Sewer Disposal Service Standards**

Sanitary sewer disposal service must meet the standards of this section. Adjustments are prohibited.

**A. Availability of sanitary sewer.**

1. The Bureau of Environmental Services has verified that sewer facilities are available to serve the proposed development; or
2. OPDR has approved the use of a private on-site sanitary sewage disposal system.

**B. Public sanitary sewage disposal.** Where public sewer facilities are available to serve the proposed development, the Bureau of Environmental Services has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system. The approval is based on the Sewer Design Manual; and

**C. Private sanitary sewage disposal.** Where private on-site sanitary sewage disposal is proposed, OPDR and Environmental Services have preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system.

**33.652.030 Environmental Overlay Zones**

If any portion of the sanitary sewer is within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Overlay Zones.

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## Commentary

### Introduction

In July 1997, City Council accepted a policy report from the Stormwater Policy Advisory Committee (SPAC). The SPAC report recommends that all new development manage stormwater as close as possible to the development site. This new approach to stormwater management is prompted by a requirement of the City's National Pollution Discharge Elimination System (NPDES) stormwater permit. In July, 1997, City Council directed that the Bureau of Environmental Services (BES) initiate a stormwater manual and make necessary amendments to the City Code to carry out the stormwater policy.

The Stormwater Management Chapter implements the SPAC policy recommendations for land divisions. The SPAC recommends that:

- Stormwater be managed as close as practicable to the site at which development occurs, in a manner which avoids negative quality and quantity impacts on adjacent streams, wetlands, groundwater and other water bodies;
- To the maximum extent practicable, the quality of stormwater leaving a site after development has occurred is equal to or better than the quality of stormwater leaving the site prior to development; and
- To the maximum extent practicable, the quantity of stormwater leaving a site after development has occurred is equal to or less than the quantity of stormwater leaving the site prior to development.

The SPAC has also set performance standards to achieve their recommendations. The performance standards are:

#### A. Quality

1. Standard Stormwater quality measures and practices must be designed so that the quality of stormwater leaving the site post-development, either by surface or groundwater flows, is equal to or better than the quality of stormwater leaving the site pre-development.



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## Commentary

2. Design Criteria. Water quality treatment standards for post-development stormwater flows will be based on a range of storm frequencies of up to the .83 inches/24 hour event.

### B. Quantity

1. Flow Rate Standard. Stormwater collection systems must be designed so that the flow rate of stormwater leaving the site post-development is equal to or less than the pre-development flow rate.
2. Design Criteria. Detention standards for post-development stormwater flows will be based on a range of storm frequencies of up to the 10-year event.

In July 1999, BES adopted the Stormwater Manual that describes their requirements and standards and provides assistance to those trying to meet the standards. Stormwater management plans will be required for land divisions and must comply with the BES Stormwater Manual.

There are two ways to comply with the performance standards for stormwater quality and quantity:

- A. The BES Stormwater Manual lists stormwater management measures and practices that are, essentially, "pre-approved." When the applicant specifies, on the Preliminary Plan that the measures and practices can and will be used, the performance standards are met.
- B. Measures and practices not included in the manual may be used if the applicant can demonstrate how the alternative will meet the performance standards in the BES Stormwater Manual.

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

**CHAPTER 33.653  
STORMWATER MANAGEMENT**

Sections:

33.653.010	Purpose
33.653.020	Stormwater Management Approval Criteria
33.653.030	Stormwater Management Approval Standards
33.653.040	Environmental Overlay Zones

**33.653.010 Purpose**

These regulations provide for the efficient and flexible placement of stormwater facilities serving a variety of development configurations. The standards and criteria of this chapter recognize that on-site stormwater facilities may be land intensive and site specific, consequently affecting the arrangement of lots and streets. These regulations ensure that the land division site has an adequate area and an appropriate location for stormwater facilities. The approval criteria ensure that it is feasible to develop a stormwater system that will have adequate capacity for the developed site.

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## Commentary

**.020** The SPAC recommendation that specifically applies to land divisions directs that stormwater runoff from all impervious surfaces be managed on the land division site to the extent practical. Impervious surfaces include, but are not limited to, all planned and anticipated buildings, streets, driveways and walkways. Therefore, the applicant for a land division must identify and reserve areas and locations for stormwater management measures or practices and related conveyance systems as part of the application for Preliminary Plan approval.

These requirements directly address the SPAC recommendation and ensure that an applicant will set aside sufficient area to handle the stormwater system that may be required. The applicant must provide sufficient detailed information to show that their proposal can meet all requirements of Chapter 17.38, the City's Sewer Design Manual, and the Stormwater Manual, including performance standards. These methods must also meet the Office of Planning and Development Review (OPDR) and Uniform Plumbing Code requirements for disposal setbacks. Currently, OPDR requires stormwater facilities be set back 10 feet from all buildings and 5 feet from all property lines.

The Director's discussion group recommends that the only decisions governing stormwater services be the size and location of the tract and capacity of the system. This is a change from the Planning Commission's recommendation which made all stormwater decisions subject to the land use process.

**.020.A** Where the facilities are located and how much land will be used for them are part of the land use decision, through this approval criterion. However, determination of what type of facilities are used on the site is a technical decision that will be decided by BES.

**020.B** The objective of this criterion is to determine whether a system with adequate capacity can serve the site, given the expected development. It is not intended to result in a requirement of a specific facility for the site. Whatever facility is proposed after preliminary plan approval, it must fit within the area set aside for stormwater management. The change in facility type need not be considered as part of a land use decision, unless the change affects the approval and/or conditions of the Preliminary Plan decision.

**.030.A-B** These standards reflect that facility type, location, design, disposal method and capacity are technical aspects of the required stormwater system, and that such decisions are technical in nature and made by BES and OPDR, based on adopted manuals, guides and specific site characteristics.

**.030.C-D** These standards ensures that land set aside for the stormwater management system at the preliminary plan stage will be preserved in a tract.



### **33.653.020 Stormwater Management Approval Criteria**

Stormwater management must meet the following approval criteria:

- A.** If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and
- B.** The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

### **33.653.030 Stormwater Management Standards**

Stormwater management facilities must meet the following standards. Adjustments are prohibited.

- A.** The Bureau of Environmental Services has preliminarily approved the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The approval is based on the Sewer Design Manual and the Stormwater Management Manual;
- B.** The Office of Planning and Development Review has preliminarily approved the capacity, type, location, feasibility, and land area required of any proposed private on-site stormwater disposal facilities; and
- C.** A stormwater facility that serves more than one lot must be in a tract or within the right of way; however, it may be in an easement where the location of the tract would preclude compliance with the front lot line requirements of Chapters 33.610 through 33.615. If the facility is in a tract, it must be either owned in common by all of the owners of the lots served by the facility, by a Homeowners' Association, by a public agency, or by a non-profit organization.
- D.** Driveways may cross stormwater tracts and easements.

### **33.653.040 Environmental Overlay Zones**

If any portion of the stormwater management system or disposal system is proposed within an Environmental Overlay Zone, it is subject to the regulations of Chapter 33.430, Environmental Zones.

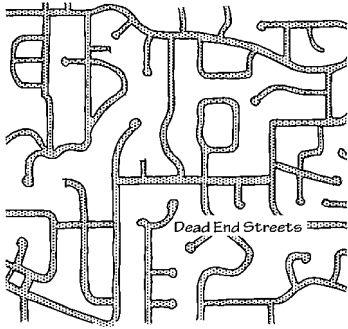
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## Commentary

**.110** To maximize general circulation within a neighborhood, through streets are encouraged on all sites. Through streets shorten trips within a neighborhood, and help tie the elements within a neighborhood together. Through streets make it easier for people to walk or bicycle to their destinations.

Dead end street patterns are discouraged.



The City is in the process of creating conceptual master street plans for areas with incomplete street systems and these regulations will be amended in the future to dovetail with those street plans.

**.110.C.1.a** The November 1999 Recommended Draft contained special connectivity requirements for regional centers, town centers, and station communities. Those requirements were based on the Urban Growth Management Functional Plan. Subsequently, the requirements have been revised and are now contained in the Regional Transportation Plan. The previous connectivity requirements have been replaced by a city-wide connectivity requirement that calls for street spacing of no more than 530 feet. These intervals are not intended to be applied strictly, but approximately, and after analysis of the relevant characteristics of the site and adjacent properties.

The Director's discussion group recommends that the type, location and width of the right-of-way be a land use decision. Elements within the right-of-way, such as the roadway and sidewalks, will be technical decisions. PDOT will have adopted manuals or guides that include standards for the elements and the situations where they can vary.

**.110.C.1.b** In already developed areas, the street pattern surrounding the land divisions site may exceed Metro's connectivity requirements. Land divisions sites should extend the street pattern of the surrounding area in these cases.

**CHAPTER 33.654  
RIGHTS-OF-WAY**

Sections:

- 33.654.010 Purpose
- 33.654.110 Connectivity and Location of Rights-of-Way
- 33.654.120 Design of Rights-of-Way
- 33.654.130 Additional Approval Criteria for Rights-of-Way
- 33.654.150 Ownership, Maintenance, and Public Use of Rights-of-Way
- 33.654.160 Street Classification

**33.654.010 Purpose**

Rights-of-way provide for movement and access to, within, and through a land division site by pedestrians, bicycles, and motor vehicles. These regulations ensure that the right-of-way system will serve each lot in the land division. Where possible, the system will extend through the land division to reach adjacent sites. Constraints, such as steep slopes or environmental zones on or near the site may influence the location or preclude connected rights-of-way. These regulations protect the public health and safety by ensuring safe movement and access for emergency and service vehicles.

**33.654.110 Connectivity and Location of Rights-of-Way**

- A. Purpose.** The regulations of this section ensure provision of efficient access to as many lots as possible, and enhance direct movement by pedestrians, bicycles, and motor vehicles between destinations. Direct routes for bicycles and pedestrians from residential areas to neighborhood facilities, such as schools and parks, are particularly important to increase the convenience of travelling by foot or bicycle. The specific location of rights-of-way is influenced by a variety of conditions, including existing development, streets and lot patterns, and environmental features.
- B. Where these regulations apply.** The following approval criteria apply to all local streets, alleys, and pedestrian connections within the land division site.
- C. Approval criteria.**
  - 1. Through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:
    - a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;
    - b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;

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## Commentary

**.110.C.1.c** Most land division sites are part of developed blocks that include existing lot patterns, streets, and development. These characteristics, along with natural features such as slopes, trees or flood hazard areas, affect the location and route of new streets and sometimes deter creation of through streets. The criteria of this section allow flexibility in street location so that site characteristics can be considered. The analysis of the characteristics of the site and adjacent properties should focus on finding a workable location for the through street on the site, not on removing existing features such as significant trees or houses, or eliminating the through street altogether. For example, a land division site with a house 530 feet from the centerline of an existing off-site street, the interval of 530 feet is applied strictly, the house must be removed to allow for street development. Other options can be explored, such as placing new through street at a point that's either closer to or farther away from the existing street - a location that doesn't interfere with the house; or narrowing the width of the right-of-way for a short distance to avoid the house. Both options would preserve the house while meeting the approval criteria.

For sites with existing houses, every effort should be made to retain the houses (if desired by the property owner) while still providing for connectivity. For some sites, it may not be possible to meet both objectives. There is a point when the value of providing a connected transportation system exceeds the value of retaining a house. These criteria do not identify that point, but allow consideration of site and are to make the determination.

**.110.C.1.d** If a pedestrian connection is narrow and is fenced along both sides, safety is compromised since there are few opportunities for alternate routes. To address this concern, this document includes a recommendation to amend the fence height regulations of the zoning code to restrict fence heights to 3-1/2 feet adjacent to pedestrian connections. (See Chapter 33.110).

**.110.C.2** The limits on dead-end streets in this criterion are based on the Regional Transportation Plan requirements. These limits are intended to be applied approximately, after analysis of the characteristics of the site and adjacent properties. The requirements also implement the Fire Bureau's B1 Policy which limits the number of units that can be accessed by a dead end street. The required spacing continues current traffic safety practice.

**.120** This section contains all of the approval criteria and standards related to the design of rights-of-way. The term right-of-way (ROW) includes both public and private rights-of-way. (See Chapter 33.910, Definitions) Each land division application must include proposed widths of each right-of-way. The ROW typically contains the roadway, curbs, planting strips, and sidewalks. The roadway is the paved surface between curbs, including travel lanes and on-street parking. The Office of Transportation will determine the elements and widths of elements contained within the ROW. Their decisions will be based on adopted manuals and guides, such as the Pedestrian Guidelines and the ROW Guidelines. The initial configuration of the elements will be known during the preliminary plan process. However, these decisions are technical decisions, separate from the land use review, to allow for flexibility during the street design and construction processes, where unforeseen site conditions may necessitate a change from the initial configuration of elements.

- c. Characteristics of the site, adjacent sites, and vicinity, such as:
    - (1) Terrain;
    - (2) Whether adjacent sites may be further divided;
    - (3) The location of existing streets and pedestrian connections;
    - (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection;
    - (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and
    - (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;
  - d. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.
- 2. Dead-end streets in OS, R, C, and E zones. In OS, R, C, and E zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than 18 dwelling units. Public dead-end streets should generally be at least 200 feet apart.
  - 3. Pedestrian connections in I Zones. In I zones, pedestrian connections to all regional transitways, major city transit streets, minor transit streets, off-street paths, and recreational trails within 1,300 feet of the site are required where appropriate and practicable. The connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible. Only the portion of the pedestrian connection that is on the land division site is required.
  - 4. Alleys in all zones. Alleys may be provided where appropriate.

### **33.654.120 Design of Rights-of-Way**

- A. Purpose.** The purpose of these standards and approval criteria is to ensure that the vehicle, bicycle, and pedestrian circulation system is designed to be safe, efficient, and convenient.

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## Commentary

**.120.B** The Office of Transportation will determine the design characteristics of non-local streets. Non-local streets are all streets that are not classified as local service streets in the Transportation Element of the Portland Comprehensive Plan. They vary widely in design, and include neighborhood and district collectors, major city traffic streets, major and minor transit streets, City bikeways, and regional trafficways and transitways. A complete list of street classifications is in the Transportation Element.

**.120.C.3** Large turnarounds in residential areas detract from community design but are sometimes needed to accommodate emergency vehicles. The right-of-way for the turnaround should be designed to minimize the resulting paved area, especially on short streets.

- B. Non-local street standard.** For streets other than local service streets, the Office of Transportation has approved the right-of-way width and all elements within the street right-of-way.
- C. Local street approval criteria and standards.** The following approval criteria and standards apply to all local service streets except for common greens:
1. Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.
  2. Standard for configuration of elements within the right-of-way. For public streets, the Office of Transportation has approved the configuration of elements within the street right-of-way. For private streets, the Office of Planning and Development Review has approved the configuration of elements within the street right-of-way.
  3. Standards for turnarounds.
    - a. When a turnaround is required. A turnaround is required on a dead-end street in the following situations:
      - (1) The street will serve 4 or more lots;
      - (2) The street is at least 300 feet long; or
      - (3) When required by the City Engineer, the Fire Bureau, or OPDR.
    - b. Temporary turnaround. Where a street is temporarily terminating within the land division site, the City Engineer, OPDR, or Fire Bureau may require a temporary turnaround.
    - c. The following approval criteria and standard applies to permanent and temporary turnarounds:
      - (1) Approval criteria. The turnaround must:
        - Be of a size to accommodate expected users, taking into consideration the characteristics of the site such as existing structures, natural features, the length of the street, and the number of housing units served by the street;
        - Minimize paved area;
        - Provide adequate area for safe vehicular movement; and
        - Provide adequate area for safe and convenient movement by bicyclists and pedestrians traveling on the street or traveling from the street to a pedestrian connection.
      - (2) Standard. For public streets, the Office of Transportation has approved the configuration of elements within the turnaround right-of-way. For private streets, the Office of Planning and Development Review has approved the configuration of elements within the turnaround right-of-way.

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## Commentary

**.120.D.** Common greens are defined in 33.910 as: A street that provides for pedestrian and bicycle access, but not for vehicle access, to abutting property and generally provides a common area for use by residents of adjacent property. A common green may function as a community yard. Hard and soft landscape features may be included in a green street, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.

**.120.D.2** A common green is a type of street that generally provides a common area for use by residents of adjacent property. It also provides for pedestrian and bicycle access, but not vehicle access, to abutting property. Hard and soft landscape features may be included in a green street, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.

Because a green street doesn't provide for vehicle access, each lot must have an alternative way to access required parking for future development—each dwelling unit must have at least one parking space. Additionally, the Fire Bureau must review and approve the plan to ensure that the lots have adequate emergency access.

**.120.E** While most rights-of-way for pedestrian connections should be at least 15 feet wide (see Right-of-Way Guidelines, in Appendix A), widths may vary depending upon the level of use and conditions of the site and surrounding area. For instance, rights-of-way for connections within high density zones or developments near a school are expected to accommodate high numbers of users and may need to be wider than 15 feet. In addition, the length of the connection is an important element in the safety and use of the pathway. To prevent a long, tunnel-like path, connections longer than 200 feet should have a right-of-way that is more than 15 feet wide.

Elements within the pedestrian connection right-of-way are technical decisions, and include the pathway and buffer area. The buffer area may contain landscaping or other amenities such as lighting and benches. It is also needed for maintenance of the pathway or utilities, and to provide flexibility in pathway location to avoid significant vegetation or other natural features. Establishment of vegetation along both sides of the pathway enhances the appearance of the pathway and may eliminate the need for fencing, but might block views to and from adjacent properties. Plants should consist primarily of ground cover or low growing shrubs, interspersed with trees. The L2 landscape standard ( See 33.248, Landscaping and Screening) provides for a continuous low level screen, appropriate for many pedestrian connections.



**D. Common green approval criteria and standards.** The following approval criteria and standards apply to common greens:

1. Right-of-way.
  - a. Approval criterion for width of the right-of-way. The width of the common green right-of-way must be sufficient to accommodate expected users and uses. The width must take into consideration the characteristics of the site and vicinity, such as the existing pedestrian system, whether a through pedestrian connection will be provided, structures, natural features, and the community activities that may occur within the street.
  - b. Standards for configuration of elements within the right-of-way.
    - (1) For public streets, the Office of Transportation has approved the configuration of elements within the street right-of-way. For private streets, the Office of Planning and Development Review has approved the configuration of elements within the street right-of-way.
    - (2) Common greens must be dead-end streets. Through common greens are prohibited.
  - c. Standards for turnarounds. Turnarounds are not required for a common green.
2. Standards for land divisions with common greens. Land divisions that include a common green must meet the following standards:
  - a. The Fire Bureau has approved the land division for emergency access; and
  - b. Lots that have a front lot line on a common green must meet Section 33.266.110, Minimum Required Parking Spaces.

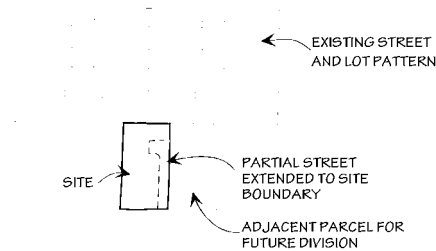
**E. Pedestrian connections.** The following approval criteria and standards apply to pedestrian connections:

1. Approval criterion for width of the right-of-way. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.
2. Standard for configuration of elements within the right-of-way. For public pedestrian connections, the Office of Transportation has approved the configuration of elements within the pedestrian connection right-of-way. For private pedestrian connections, the Office of Planning and Development Review has approved the configuration of elements within the pedestrian connection right-of-way.

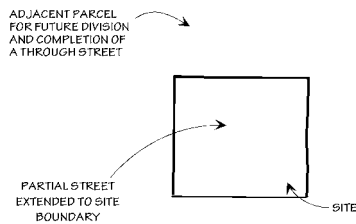
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## Commentary

**.130.D** When a street is required, the applicant is only required to provide/improve the portion of the street that is located on the site. The intention is that future land divisions will complete the connection. However, when a through street (or pedestrian connection) is required it must be designed to accommodate through traffic even though it may not function as a through street until sometime in the future.



**.130.D** This example shows a partial dead-end street that will be completed when the adjacent site develops.



**.130.D** This example shows a partial through street that will be completed when the adjacent site develops.

**.150** Connected streets and pedestrian connections form the basic local transportation network. These facilities should be dedicated to the public to ensure the highest level of access and maintenance.

Most rights-of-way will be dedicated to the public and available for public use. Some public right-of-way improvements will be maintained by the City, other improvements will be maintained by the owners of adjacent property. Rights-of-way that are not dedicated to the City are maintained by adjacent property owners.

**F. Alleys.** The following approval criteria and standards apply to alleys:

1. Approval criterion for width of the right-of-way. The width of the alley right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity such as existing street and pedestrian system improvements, existing structures, and natural features.
2. Standard for configuration of elements within the right-of-way. For public alleys, the Office of Transportation has approved the configuration of elements within the alley right-of-way. For private alleys, the Office of Planning and Development Review has approved the configuration of elements within the alley right-of-way.
3. Standard for turnarounds. The City Engineer, Office of Planning and Development Review, or Fire Bureau may require a turnaround on a dead-end alley.

#### **33.654.130 Additional Approval Criteria for Rights-of-Way**

- A. Utilities.** Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.
- B. Extension of existing public dead-end streets and pedestrian connections.** Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.
- C. Future extension of proposed dead-end streets and pedestrian connections.** Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites.
- D. Partial rights-of-way.** Partial rights-of-way and street improvements may be appropriate where the proposed right-of-way and street improvements are expected to be provided by the owner of the adjacent property.

#### **33.654.150 Ownership, Maintenance, and Public Use of Rights-Of-Way**

- A. Purpose.** To protect long-term access and both public and private investment in the street system, the rights and responsibilities for the street system must be clear. Property owners must know their maintenance responsibilities and what public use to expect on rights-of-way.
- B. Ownership.** The following standards must be met. Adjustments are prohibited.
  1. Through streets. Through streets must be dedicated to the public.
  2. Partial streets. Partial streets must be dedicated to the public.

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## Commentary

**.150.B.4** Because these pedestrian connections are a major component of the local transportation system, they should be treated similarly to through streets and be dedicated to the public.

3. Dead-end streets and turnarounds.
  - a. Dead-end streets, including the turnarounds, that serve or have the potential to serve nine or more lots on-site and off-site, must be dedicated to the public.
  - b. Dead-end streets, including the turnarounds, that serve or have the potential to serve up to eight lots on-site and off-site, may be dedicated to the public or may be privately owned in common by the owners of property served by the street or by the Homeowners' Association. If the street is not dedicated to the public, it must be in a tract.
  - c. Exceptions for common greens. Common greens may be dedicated to the public with consent of the City Engineer or may be privately owned in common by the owners of property served by the street, or by the Homeowners' Association. If the common green is not dedicated to the public, it must be in a tract.
  - d. Exception for temporary turnarounds. Temporary turnarounds may be in an easement.
4. Pedestrian connections.
  - a. Pedestrian connections that connect or are intended to eventually connect two through streets, must be dedicated to the public.
  - b. Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.
  - c. Pedestrian connections that are not dedicated to the public may be privately owned in common by the owners of the property within the land division site or the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.
5. Alleys. Alleys may be dedicated to the public or owned in common by the owners of property within the land division site, or the Homeowners' Association. If the alley is not dedicated to the public and it will serve more than 2 lots, it must be in a tract.
6. Public rights-of-way. All elements of public rights-of-way must be dedicated to the public, except as allowed by paragraph B.8., below.
7. Private rights-of-way. For rights-of-way held in common ownership or owned by the Homeowners' Association, all elements of the right-of-way must be in a tract, except as allowed by paragraph B.8., below. This standard does not apply to alleys serving one or two lots.

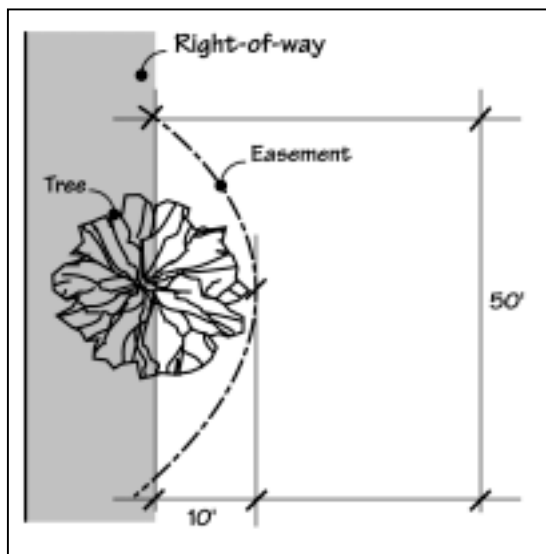
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## Commentary

8. Right-of-way elements in easements. Right-of-way elements may be in an easement if the following standards are met:
  - a. Temporary turnarounds. Temporary turnarounds allowed under this Chapter may be placed in easements that also include a public access easement that allows public access on all parts of the turnaround;
  - b. Street elements. Sidewalks and other street elements may be placed in easements adjacent to a right-of-way if the following standards are met:
    - (1) A tree, rock outcropping, or other natural feature within the right-of-way precludes construction of the sidewalk or other element within the right-of-way;
    - (2) The easement may be up to 50 feet long, measured along the right-of-way, and up to 10 feet wide. See Figure 654-1;
    - (3) The easement must also include a public access easement that allows public access on all parts of the easement; and
    - (4) The City Engineer has approved the use of an easement adjacent to a public street or the Office of Planning and Development Review has approved the use of an easement adjacent to a private street.

**Figure 654-1**  
**Street Elements in Easements**



- C. Maintenance.** If the right-of-way is privately owned, a maintenance agreement must be recorded that commits the owner to maintain all elements of the right-of-way.

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## Commentary

**.160** This section formalizes the City's process to classify street extensions and new streets created through land divisions. The Transportation Element of the Comprehensive Plan describes functional purposes of the City's street classifications in terms of the appropriate mix of vehicles, bicycles, and pedestrians.

Currently, the Office of Transportation is preparing citywide conceptual master street plans that will be recommending street designations for traffic streets only. The Transportation System Plan process and the 5-year updates will designate streets for other modes - transit, bicycles, pedestrians, freight, emergency response, and street design. Future legislative master street plans will designate streets for all classifications, not just traffic. The classifications will then be adopted through the Comprehensive Plan amendment process.



**D. Public use of right-of-way.**

1. Street tracts must include a public access easement that allows public access on all parts of the sidewalks;
2. Pedestrian connections must include a public access easement that allows public access on all parts of the connection; and
3. Public access easements must be recorded with the County Recorder.

**33.654.160 Street Classification**

- A. Purpose.** As streets are created or extended through the land division process, these streets should receive a classification in the Transportation Element of the Comprehensive Plan. The street classifications guide decisions on the design of streets and intersections, traffic operations, and the appropriate types of development along the street.
- B. New streets and street extensions.** New streets, street extensions, and pedestrian connections within the land division site will automatically be classified as local service streets for all modes unless the Transportation Element of the Comprehensive Plan designates them for other classifications.

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## Commentary

.110 Currently, all major land divisions are processed through a Type III procedure. The recommended land division code reassigns a few land divisions to a Type I, while most land divisions will be a Type IIX procedure. Some land divisions will still be assigned to the Type III procedure and require a public hearing before the Land Use Hearings Officer, who will make the decision.

This proposal also has some new early assistance features that will improve the communication flow before and during the Preliminary Plan review process: the Neighborhood Contact Requirement and pre-application conferences will be required for all Type IIX and Type III reviews.

.110.A The Type III procedure is assigned to proposals where a hearing is an appropriate forum on important policy issues and where there is a greater amount of discretion or potential impact.

.110.A.1 Larger sites are generally more complex, more difficult to evaluate, and have more significant impacts, and so warrant a public hearing.

.110.A.2 The City generally discourages new lots and development-related improvements (such as utilities and services) within landslide hazard areas. The public bears extra cost, disruption and potential loss of life when landslides occur.

.110.A.3 Land divisions involving environmental reviews are typically complex and involve greater discretion and potential environmental impacts. This paragraph does not apply to proposals that meet the Development Standards for Land Divisions in Chapter 33.430, Environmental Overlay Zones, they may be reviewed through the Type I or Type IIX procedure.

.110.A.4 Phased plans are allowed only on very large sites.

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

Sections:

General

- 33.660.010 Purpose
- 33.660.020 Where These Regulations Apply

Review of Preliminary Plan

- 33.660.110 Review Procedures
- 33.660.120 Approval Criteria

Review of Final Plat

- 33.660.210 Review Procedures
- 33.660.215 Voiding of Final Plat Application
- 33.660.220 Approval Standards
- 33.660.230 Staged Final Plat

Review of Changes to an Approved Preliminary Plan

- 33.660.300 When Review is Required
- 33.660.310 Review Procedures
- 33.660.320 Approval Criteria

Changes to Final Plat

- 33.660.610 Changes to Final Plat Before Recording
- 33.660.620 Changes to Final Plat After Recording

**General**

**33.660.010 Purpose**

These regulations assign each phase of a land division request to an appropriate procedure type for review, and establish criteria for each phase and each review.

**33.660.020 Where These Regulations Apply**

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

**Review of Preliminary Plan**

**33.660.110 Review Procedures**

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed. For the purposes of this section, the number of dwelling units will be calculated as follows: In the RF-R2.5 and IR zones, the number of dwelling units is the number of lots being proposed. In the R3-RX zones, the number of dwelling units is the minimum required density of the site.

**A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:

1. Eleven or more dwelling units, not including accessory dwelling units;
2. Four or more dwelling units, not including accessory dwelling units, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
3. Environmental review;
4. A phased land division, as described in Chapter 33.633, Phased and Staged Plans;
5. Any portion of the site is in an Open Space zone.

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## Commentary

**.110.B** Land divisions creating 4 to 10 lots will be processed through the Type IIx procedure. If any portion of the development is proposed within a Flood Hazard Area, the review is processed as a Type IIx. Further, if another Type I or Type II land use review is processed concurrently with the land division of any size, it is automatically assigned to a Type IIx procedure. For example, if an adjustment to a setback is requested with the land division, it will be assigned to a Type IIx procedure even if the proposal is for 2 to 3 units.

**.110.C** The Director recommends that only the very small land divisions involving 2-3 units and that do not require any other land use reviews (such as adjustments or environmental review), are not proposing a phased plan, and are not proposing any development within a Flood Hazard Area, be processed through the Type I procedure.

**B. Type IIx.** Except as provided in Subsection A, above, land division proposals that include any of the following elements are processed through a Type IIx procedure:

1. Four to ten dwelling units, not including accessory dwelling units;
2. Two or three dwellings units, not including accessory dwelling units, where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
3. Lots, utilities, or services are proposed within a Flood Hazard Area; or
4. The proposal includes a concurrent land use review assigned to a Type I, Type II, or Type IIx procedure except environmental review. If environmental review is required, then the application is processed through a Type III procedure.

**C. Type I.** All land divisions not assigned to a Type IIx or Type III, are processed through a Type I procedure.

### **33.660.120 Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A. Lots.** The standards and approval criteria of Chapters 33.605 through 33.612 must be met;
- B. Trees.** The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met;
- C. Flood Hazard Area.** If any portion of the site is shown as containing potential flood hazard area on Map 631-1, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;
- F. Required recreation area.** If 40 or more lots or dwelling units are proposed, the standards and approval criteria of Chapter 33.634, Required Recreation Areas, must be met;
- G. Clearing, grading, and land suitability.** The approval criteria of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- H. Tracts and easements.** The standards of Chapter 33.636, Tracts and Easements must be met;

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## Commentary

**.210** The current Final Plat process is discretionary, and relies on criteria such as "substantial compliance." An objective, Type I Final Plat review process is recommended here. If the Final Plat differs significantly from the approved Preliminary Plan, the applicant may request a Change to the Preliminary Plan (See Section 33.660.300, When Review is Required). However, if the final is in conformance with the Preliminary—variation is allowed within predetermined "tolerances"—review should be rapid and straightforward. The amount and type of variation allowed is listed in Subsection A.

**.220.A** This subsection lists the situations when variation from the Preliminary Plan is allowed, and what degree of variation is permitted. If the Final Plat varies more than allowed here, the applicant must either change their Final Plat to be consistent with their approved Preliminary Plan, or request a Change To An Approved Preliminary Plan. See Section 33.660.300.

The amount of variation allowed between the Preliminary Plan and Final Plat can be customized on a case-by-case basis. The amount of variation of a particular element may be increased or decreased, and will be specified in the Preliminary Plan approval. The variations listed here are used where the Preliminary Plan approval does not specify different amounts of variation.

Most of the elements and amounts selected for this list are those that can be changed without having a significant impact on the area, or the overall land division proposal. The elements on the list that do have the potential for significant impact are ones where the impact would be positive, such as an increase in the size of a tree preservation tract.

Since the proposed land division pattern is not actually surveyed until the Final Plat, it is common for lots, tracts, easements, etc. to require a small amount of adjustment to accommodate site specific elements such as topography, natural features, trees, and the like.

**.220.A.4** A specific percentage was not tied to this variation because a significant increase will trigger a significant change elsewhere in the plat, of the type that would require a new review.

- I. Solar access.** If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met;
- J. Streams, springs, and seeps.** The approval criteria of Chapter 33.640, Streams, Springs, and Seeps, must be met;
- K. Transportation impacts.** The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,
- L. Services and utilities.** The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

### **Review of Final Plat**

#### **33.660.210 Review Procedures**

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

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

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

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

#### **33.660.220 Approval Standards**

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

- A. Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:
  - 1. A decrease in the number of lots by one, if minimum density requirements continue to be met;
  - 2. A increase or decrease in the width or depth of any lot by less than 5 percent. Width is measured at the minimum front building setback line;
  - 3. A decrease in the area of any lot by less than 5 percent;
  - 4. An increase in the area of any lot;

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## Commentary

**.220.A.5** Allowed variations in these types of tracts or easements is limited to 5 percent because any more increase or decrease could affect the carrying capacity of the site (e.g., stormwater).

**.220.A.6** A larger increase in the area of a shared parking tract might have an effect upon the amount of impervious surface on the site.

**.220.A.7** An increase in the size of these tracts or easements would have either no impact, or a positive impact on the land division and the surrounding area.

**.220.A.8** This variation allows for adjustments of street alignment where approved by the Office of Transportation or OPDR. As with the items listed under 2-7 above, once the proposed land division layout is actually surveyed, minor adjustments are frequently needed to accommodate existing situations such as the location of tree roots, sight distance for traffic safety, and so on.

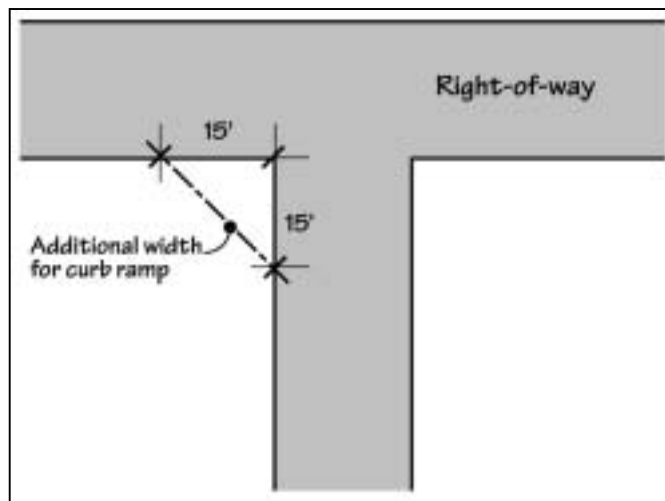
**.220.A.9** The decisions regarding stormwater facilities are technical decisions made by BES. However, whether or not a proposed system has adequate capacity to serve the land division site is a land use decision. If, in the preliminary plan decision, the proposed stormwater system was shown to be adequate, the applicant has the latitude to change the system in the final stages as long as BES approves the new system.

**.220.A.10-11** This variation allows for minor adjustments to the area proposed for clearing and grading.



5. An increase or decrease of up to 5 percent in the area of a stormwater tract;
6. An increase of up to 5 percent in the area of a shared parking tract;
7. An increase in the area of the following tracts or easements:
  - a. Environmental resource tracts;
  - b. Tree preservation tracts;
  - c. Flood hazard easements or tracts;
  - d. Landslide hazard easements or tracts; and
  - e. Recreation area tracts.
8. Moving a public or private right-of-way if approved by the appropriate service bureau;
9. Changes to a stormwater facility if approved by the appropriate service bureau;
10. An increase of up to 5 percent in the area approved for clearing and grading.
11. A decrease in the area approved for clearing and grading.
12. Increasing the width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 660-1.
13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and
14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

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



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## Commentary

**.220.E** The recommendation is to rely on service bureaus' requirements (now located within their regulations) for performance guarantees. The City should create a chapter within Title 3 to address this activity in a coordinated manner.

**.230** An applicant may choose to finalize and record the Final Plat of an approved Preliminary Plan in sections, or "stages". This paragraph states the requirement that each stage must be able to meet all the approval criteria.

**B. Conditions of approval.** The Final Plat must comply with all conditions of approval that apply to Final Plat approval. All other conditions of approval remain in effect;

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

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

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

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

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

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

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

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## Commentary

**.300** The section on Final Plat review allows some minor variations to the approved Preliminary Plan, typically needed because of final surveying results. However, sometimes these variations are great enough to cause a significant change to the Preliminary Plan. Also, sometimes the original proposal is altered in a way that significantly modifies the approved land division layout.

This section details a process to accommodate significant changes to the approved Preliminary Plan, allowing both the City and the public to review and evaluate these changes in light of the previous approval. Review will either be processed through the same procedure as was used for the original Preliminary review or through a Type I procedure.

**.310.A** The changes to the Preliminary Plan that are not listed in Subsection B, or allowed through Final Plat review (see section .220.A) will be processed through a Type I procedure.

**.310.B** This list is the changes that are significant enough to require the applicant to "start over" in the review process, because the changes are likely to have a significant impact on the surrounding area, or the overall land division proposal. Although it would be a new review and any aspect of the proposal could be revisited, in practice, attention will focus on the aspect being changed from the approved Preliminary Plan.

**.310.B.9** Conditions of approval are placed on a review for a specific reason. Deleting or modifying a condition should not be done without an analysis of how it affects the original approval, making sure the integrity of that original approval is still intact.

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

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

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.660.300 through 33.660.320. Some changes, listed in Section 33.660.220, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.660.220, and is not specifically allowed by the Preliminary Plan approval, review is required.

### **33.660.310 Review Procedures**

Procedures for review of changes to an approved Preliminary Plan vary with the type of change proposed.

- A. Type I.** Changes not listed in Subsection B, below, are processed through a Type I procedure.
- B. Same procedure as was used for Preliminary Plan.** The following proposals are processed through the same procedure type as was used for the Preliminary Plan approval:
  - 1. An increase in the site area of more than 5 percent;
  - 2. An increase in the number of lots;
  - 3. A decrease in the number of lots by more than one lot;
  - 4. A decrease in the area of any lot by more than 10 percent;
  - 5. A decrease in the width or depth of any lot by more than 10 percent. Width is measured at the front setback line;
  - 6. Changing a through street to a dead-end street;
  - 7. Changing a dead-end street to a through street;
  - 8. Deleting a street or pedestrian connection;
  - 9. Deleting or changing a condition of the Preliminary Plan approval;

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## Commentary

**.310.B.10** These tracts and easements are required to protect sensitive areas from development, to provide a necessary service, or to ensure that there is adequate service capacity and space on the site to support the development proposed. Changes to the purpose of a tract or easement, or deleting these elements may adversely affect the future livability and quality of development on both the site and the surrounding area.

10. Changing the purpose of, or deleting, the following tracts or easements:
  - a. Shared parking tracts;
  - b. Environmental resource tracts;
  - c. Stormwater tracts;
  - d. Flood hazard easements or tracts;
  - e. Tree preservation tracts;
  - f. Landslide hazard easements or tracts; or
  - g. Recreation area tracts;
11. Reducing the area or changing the location of the following tracts:
  - a. Environmental resource tract;
  - b. Flood hazard tract; or
  - c. Landslide hazard tract;
12. Decreasing the area of a recreation area tract by more than 10 percent;
13. Any change that the Director of OPDR determines:
  - a. Is a significant change from the Preliminary Plan; or
  - b. Will have a significant impact on the surrounding area.

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## Commentary

**.320** Since major changes to the Preliminary Plan listed under 33.660.310.B. require the same review process as the original request, the same approval criteria are used. Those changes going through a Type I review will use new criteria that ensure that the change requested does not alter the findings for the original approval.

**.620** The current regulations allow for two types of changes after a Final Plat is recorded. The first, Property Line Adjustments, will continue to be allowed through Chapter 33.667, Property Line Adjustments.

The second type of change, called replats, will be deleted. Replats offer an abbreviated way to change an existing plat but are processed as a Type III review. However, because this recommended code streamlines and simplifies many land division reviews, and many of the proposals reviewed through the replat process now will be reviewed through a Type I process, there is no need for an extra process. The complexity of an additional process was balanced against the relatively few replats reviewed in a typical year, and it was determined that the procedures already in place for new land divisions will be sufficient.



### **33.660.320 Approval Criteria**

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:

- A. Approval criteria for changes listed in Subsection 33.660.310.B.** Changes to the Preliminary Plan that are listed in Subsection 33.660.310.B must meet the approval criteria of Section 33.660.120, Approval Criteria.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
  - 1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
  - 2. The approval criteria addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

### **Changes to Final Plat**

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

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

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

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

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## Commentary

**.020.B** The recommendation is for a two-track system for large industrial sites. If the site is large enough, the applicant may choose to go through the standard land division process, or through a special process that is detailed Chapter 33.664. Under the standard process, most of the discretion and detail is in the Preliminary Plan phase, and the Final Plat phase is an objective check against the Preliminary Plan. The special large industrial site process allows a more general Preliminary Plan, with final details established during the Final Plat phase. See the commentary in Chapter 33.664 for more information.

The size thresholds set out in this section are based on the minimum site size needed to create 10 or more lots.

**THIS IS A NEW CHAPTER. FOR EASE OF READING IT IS NOT UNDERLINED**

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

Sections:

General

33.662.010 Purpose

33.662.020 Where These Regulations Apply

Review of Preliminary Plan

33.662.110 Review Procedures

33.662.120 Approval Criteria

Review of Final Plat

33.662.210 Review Procedure

33.662.215 Voiding of Final Plat Application

33.662.220 Approval Standards

33.662.230 Staged Final Plats

Review of Changes to an Approved Preliminary Plan

33.662.300 When Review is Required

33.662.310 Review Procedures

33.662.320 Approval Criteria

Changes to Final Plat

33.662.610 Changes to Final Plat Before Recording

33.662.620 Changes to Final Plat After Recording

**General**

**33.662.010 Purpose**

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

**33.662.020 Where These Regulations Apply**

- A. Generally.** The regulations of this chapter apply to proposals for land divisions on sites in commercial, employment, and industrial zones.
- B. Alternative process for large sites in I zones.** Sites in industrial zones that meet the minimum size requirements of this subsection are eligible to use the regulations and procedures of Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones, instead of the regulations and procedures of this chapter. The applicant may choose which chapter to use. The minimum size thresholds for this alternative process are:
1. IG1 zone. Sites in the IG1 zone that are at least 200,000 square feet in area; and
  2. IG2 and IH zones. Sites in the IG2 and IH zones that are at least 340,000 square feet in area.

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## Commentary

**.110** Currently, all major land divisions are processed through a Type III procedure, which requires a public hearing before the land use hearings officer, who will make the decision. This recommendation reassigns some land divisions to a Type I or Type IIx procedure.

While this recommendation has fewer opportunities for hearings than under the current code, some early assistance features have been added to improve the communication flow before and during the Preliminary Plan review process: the Neighborhood Contact Requirement and pre-application conferences will be required for all Type IIx and Type III reviews. See the commentary for Chapter 33.730, Quasi-Judicial Procedure, for more information.

**.110.A** The Type III procedure is assigned to proposals where there are greater amounts of discretion or potential impacts or where important policy issues need to be addressed.

**.110.A.1** Proposals with 11 or more lots are generally more complex, more difficult to evaluate, and have more significant impacts, and so warrant a public hearing.

**.110.A.2** The City generally discourages new lots and development-related improvements (such as utilities and services) within landslide hazard areas.

**.110.A.3** Land divisions involving environmental reviews are typically complex and involve greater discretion and potential environmental impacts. This paragraph does not apply to proposals that meet the Development Standards for Land Divisions in Chapter 33.430, Environmental Overlay Zones.

## **Review of Preliminary Plan**

### **33.662.110 Review Procedures**

Procedures for review of Preliminary Plans vary with the type of land division proposal being reviewed.

**A. Type III.** Land divisions that include any of the following elements are processed through a Type III procedure:

1. Eleven or more lots, regardless of zone;
2. Four or more lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area; or
3. Environmental review.

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## Commentary

**.110.B.4** If another Type I or Type II land use review is processed concurrently with the land division, it is assigned to a Type IIx procedure. For example, if an adjustment to reduce a setback requirement is requested with the land division, the review would be assigned to a Type IIx procedure.

**.110.C** Land divisions of up to 3 lots or dwelling units that do not require a higher level of review because of a particular element will be processed through the Type I procedure. Many small land divisions outside of environmental zones and flood and landslide hazard areas will be able to use this process.

- B. Type IIx.** Except as provided in Subsection A above, land divisions that include any of the following elements are processed through a Type IIx procedure:
1. Four to ten lots;
  2. Two or three lots where any portion of the lots, utilities, or services are proposed within a Potential Landslide Hazard Area;
  3. Lots, utilities or services are proposed within a Flood Hazard Area; or
  4. The proposal includes a concurrent land use review assigned to a Type I, Type II, or Type IIx procedure except environmental review. If environmental review is required, then the application is processed through a Type III procedure.
- C. Type I.** All land divisions not assigned to a Type IIx or Type III in Sections A and B above, are processed through a Type I procedure.

**33.662.120 Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A. Lots.** The standards and approval criteria of Chapters 33.613 through 33.615 must be met;
- B. Trees.** The standards of Chapter 33.630, Tree Preservation, must be met;
- C. Flood Hazard Area.** If any portion of the site is shown as containing potential flood hazard area on Map 631-1, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met;
- D. Potential Landslide Hazard Area.** If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met;
- E. Phased Plans and Staged Final Plat.** If the Preliminary Plan will be phased or if the Final Plat will be staged, the standards of Chapter 33.633, Phased Land Divisions and Staged Final Plat, must be met;
- F. Clearing, grading, and land suitability.** The approval criteria of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
- G. Tracts and easements.** The standards of Chapter 33.636, Tracts and Easements must be met;
- H. Solar access.** If single dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met; and
- I. Streams, springs, and seeps.** The approval criteria of Chapter 33.640, Streams, Springs and Seeps, must be met.
- J. Transportation Impacts.** The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and
- K. Services and utilities.** The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

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## Commentary

**.210** The current Final Plat process is discretionary, and relies on criteria such as "substantial compliance." The Final Plat process proposed here is an objective, Type I review. Where a Final Plat differs significantly from the approved Preliminary Plan, the applicant may request a change to the Preliminary Plan (See Section 33.662.300, When Review is Required). However, if the Final is similar to the Preliminary—variation is allowed within predetermined "tolerances"—review should be rapid and straightforward. The amount and type of variation allowed is listed here in Subsection A of 33.662.220.

**.220.A** This subsection lists the allowed variation from the Preliminary Plan, and what degree of variation is permitted. If the Final Plat varies more than allowed here, the applicant must either change their Final Plat, or request a Change To An Approved Preliminary Plan. See Section 33.662.300.

The amount of variation allowed between the Preliminary Plan and Final Plat can be customized on a case-by-case basis. The amount of variation of a particular element may be increased or decreased, and will be specified in the Preliminary Plan approval. The variations listed here are used where the Preliminary Plan approval does not specify certain amounts of variation.

This recommendation supports the notion that the elements on this list can be changed without having a significant impact on the area, or the overall land division proposal. Those elements on the list that do have the potential for significant impact are ones where it is felt that the impact will be positive, such as an increase in the size of a tree preservation tract.

See the Commentary for 33.660.220.A.2-8 for a discussion on elements 2-8 in this subsection.



## **Review of Final Plat**

### **33.662.210 Review Procedure**

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

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

An application for Final Plat review will be voided where:

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

### **33.662.220 Approval Standards**

The Final Plat for a land division will be approved if the Director of OPDR finds that the applicant has shown that all of the approval standards have been met. The approval standards are:

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

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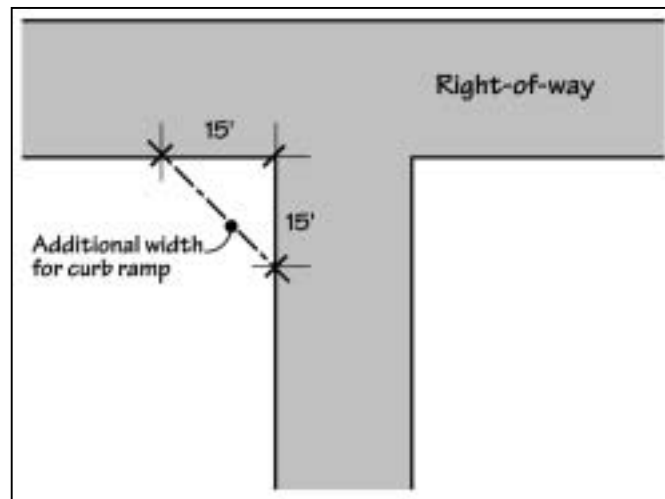
## Commentary

**220.E** This recommendation relies on the service bureaus' requirements (now located within their regulations) for performance guarantees. However, it is further recommended in the future that the City create a chapter within Title 3 to address this activity in a coordinated manner.

**.230** An applicant may choose to finalize and record the Final Plat of an approved Preliminary Plan in sections, or "stages". This paragraph states the requirement that each stage must be able to meet all the approval criteria.

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

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



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

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## Commentary

**.300** This section details a process to accommodate significant changes to the approved Preliminary Plan, allowing both the City and the public to review and evaluate these changes in light of the previous approval. Review will either be processed through the same procedure as was used for the original Preliminary review or through a Type I procedure.

**.310.B** Items on this list are significant enough to require the applicant to "start over" in the review process. In practice, it will not be a completely new review; attention will focus on the aspect being changed from the approved Preliminary Plan.

This recommendation supports the belief that the elements and amounts on this list are likely to have a significant impact on the area, or the overall land division proposal.

Those changes or amounts that are not on this list or allowed as part of the Final Plat review will be reviewed through the Type I procedure.

**.310.B.6** Conditions of approval are placed on a review for a specific reason. Deleting or modifying a condition should not be done without an analysis of how it affects the original approval, making sure the integrity of that original approval is still intact.

### **33.662.230 Staged Final Plat**

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

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

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

Changes to an approved Preliminary Plan may be considered under the provisions of Sections 33.662.300 through 33.662.320. Some changes, listed in Section 33.662.220, may be approved as part of the Final Plat review. In addition, a decision on a Preliminary Plan may include conditions that require a different level of review for changes.

If the Final Plat differs from the approved Preliminary Plan, and the change is not one that may be approved under Section 33.662.220, and is not specifically allowed by the Preliminary Plan approval, review is required.

### **33.662.310 Review Procedures**

Procedures for review of changes to an approved Preliminary Plan vary with the type of change proposed.

- A. Type I.** Changes not listed in Subsection B, below, are processed through a Type I procedure.
- B. Same procedure as was used for Preliminary Plan.** The following proposals are processed through the same procedure type as was used for the Preliminary Plan approval:
  - 1. An increase in the site area of more than 5 percent;
  - 2. A decrease in the area of any lot by more than 10 percent;
  - 3. Changing a through street to a dead-end street;
  - 4. Changing a dead-end street to a through street;
  - 5. Deleting a street or pedestrian connection;
  - 6. Deleting or changing a condition of the Preliminary Plan approval;
  - 7. Deleting any of the following:
    - a. Shared parking tracts;
    - b. Environmental resource tracts;
    - c. Stormwater tracts;
    - d. Flood hazard easements or tracts;
    - e. Tree preservation tracts; or
    - f. Landslide hazard easements or tracts;

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## Commentary

**.620** The current regulations allow for two types of changes after a Final Plat is recorded. The first, Property Line Adjustments, will continue to be allowed; see Chapter 33.667, Property Line Adjustments.

This recommendation deletes the second type of change called replats. Replats offer an abbreviated way to change an existing plat. However, because this recommended code streamlines and simplifies many land division reviews, and many of the proposals reviewed through the replat process now will be reviewed through a Type I, there did not seem to be a pressing need for an extra process. The complexity of an additional process was also balanced against the relatively few replats reviewed in a typical year, and it was determined that procedures already in place for new land divisions would be sufficient.

8. Reducing the area or changing the location of any of the following:
  - a. Environmental resource tract;
  - b. Flood hazard area tract; or
  - c. Landslide hazard area tract.
9. Any change that the Director of OPDR determines:
  - a. Is a significant change from the Preliminary Plan; or
  - b. Will have a significant impact on the surrounding area.

### **33.662.320 Approval Criteria**

Changes to an approved Preliminary Plan will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met:

- A. Approval criteria for changes listed in Subsection 33.662.310.B.** Changes to the Preliminary Plan that are listed under Section 33.662.310.B must meet the approval criteria of Section 33.662.120.
- B. Approval criteria for other changes.** All other changes to the Preliminary Plan must meet the following approval criteria:
  1. The proposed changes are not substantial enough, singly or in combination, to warrant a new review of the entire Preliminary Plan;
  2. The proposed changes continue to comply with the findings made for the approval of the Preliminary Plan; and
  3. The approval criteria addressed by the approval of the Preliminary Plan can still be met, with appropriate conditions of approval.

## **Changes to Final Plat**

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

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

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

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

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## Commentary

**.020** This section establishes a two-track system for large industrial sites. If the site is large enough, the applicant may choose to go through the standard process for most land divisions, or through a special process. The standard process for industrial sites is in Chapter 33.662. This chapter describes the special process.

Under the conventional process, the discretion and detail is in the Preliminary Plan phase, and the Final Plat phase is an objective check against the Preliminary Plan. Under the special process, there is less detail in the Preliminary Plan, with more specifics established during the Final Plat phase.

The size thresholds set out in this section are based on the minimum site size needed to create 10 or more lots.



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

Sections:

General

- 33.664.010 Purpose
- 33.664.020 Where These Regulations Apply

Review of Preliminary Plan

- 33.664.110 Review Procedures
- 33.664.120 Approval Criteria

Review of Final Plat

- 33.664.210 Review Procedures
- 33.664.215 Voiding of Final Plat Application
- 33.664.220 Approval Criteria

**General**

**33.664.010 Purpose**

These special land division review procedures accommodate the unique needs of industrial developments on large sites. Lot dimensions and service and utility needs may vary widely among different industrial users, and the needs of industrial users are often not known until the Final Plat phase of a land division. This chapter allows applicants with larger sites to set only the basic pattern of streets and blocks during the Preliminary Plan phase, and show that it is feasible to meet service, utility, and other requirements at Final Plat. Lot lines may be created at either the Preliminary Plan phase or Final Plat phase. The Final Plat may be reviewed and recorded in several phases, as individual lot lines are drawn.

**33.664.020 Where These Regulations Apply**

Sites in industrial zones that meet the minimum size thresholds of this section are eligible to use the regulations and procedures of this chapter. If the applicant chooses, the regulations and procedures of Chapter 33.662, Review Of Land Divisions In Commercial, Employment, and Industrial Zones, may be met instead of the regulations and procedures of this chapter. The applicant may choose which chapter to use. The minimum size thresholds for use of this chapter are:

- A. IG1 zone.** Sites in the IG1 zone that are at least 200,000 square feet in area; and
- B. IG2 and IH zones.** Sites in the IG2 and IH zones that are at least 340,000 square feet in area.

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## Commentary

**.110** Proposals taking advantage of this special review process will be processed through a Type III procedure.

**.120** As part of the application for Preliminary Plan review, the applicant will submit a block pattern, but will not be required to commit to any lot lines. However, the applicant will have to demonstrate that the lot requirements of Chapter 33.615 can reasonably be met at Final Plat using the proposed block pattern. In addition, the applicant will have to demonstrate that the requirements for landslide and flood hazard areas, trees, solar orientation (if single-dwelling development is proposed), and clearing and grading also can be met at Final Plat. Finally, the applicant will have to develop an approach to service and utility provision that demonstrates that all requirements of Chapter 33.651 through 33.654 can feasibly be met as the lot pattern is established.

At the pre-application conference, the applicant will be advised on what details to include in service plans for Preliminary Plan review. Service details that will be needed at Final Plat will also be discussed at the pre-application conference.

The service bureaus and the Office of Planning and Development Review will likely impose a number of conditions that will need to be met at the Final Plat phase. They will also establish which elements cannot be changed at the Final Plat phase, such as certain street locations or the boundaries of environmental resource tracts.

**.210** The special process allowed by this chapter leaves more decisions, such as lot lines and refinement of service and utility locations, to Final Plat than with a conventional land division. Because staff must exercise discretion to determine if lots and services first shown at Final Plat meet approval criteria, notice must be sent to neighboring property owners.

## **Review of Preliminary Plan**

### **33.664.110 Review Procedures**

Review of Preliminary Plans are processed through a Type III procedure.

### **33.664.120 Approval Criteria**

A Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A.** The applicant must show that the proposal can meet the following standards and approval criteria at the time of Final Plat. These standards and criteria do not have to be met as part of the Preliminary Plan, but the proposal must show that the standards and criteria can be met using the proposed configuration of blocks and the approaches included in the proposal:
  - 1. Lots. The standards of Chapter 33.615 can be met using the proposed configuration of blocks;
  - 2. Trees. The standards of Chapter 33.630, Tree Preservation, can be met by the proposal;
  - 3. Flood Hazard Area. If any portion of the site is shown as containing potential flood hazard area on Map 631-1, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, can be met by the proposal;
  - 4. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, can be met by the proposal;
  - 5. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, can be met by the proposal.
- B.** The following standards and criteria must be met as part of the Preliminary Plan:
  - 1. Clearing, grading, and land suitability. The approval criteria of Chapter 33.635, Clearing, Grading, and Land Suitability must be met;
  - 2. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements, must be met; and
  - 3. Streams, springs, and seeps. The approval criteria of Chapter 33.640, Streams, Springs, and Seeps, must be met.

## **Review of Final Plat**

### **33.664.210 Review Procedure**

Final Plats are reviewed through a Type I procedure.

### **33.664.215 Voiding of Final Plat Application**

An application for Final Plat review will be voided where:

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

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## Commentary

**.220.B** This approval criterion is used for other types of land divisions as an approval criterion at the Preliminary Plan phase. For this special process for large industrial land divisions, we instead apply it to new lots proposed at the Final Plat phase. In a sense, this special process combines elements of Preliminary Plan review with the Final Plat review so that lots can be created in a more flexible manner.

**.220.B.2** As each part of the site is submitted for Final Plat review, the applicant must show that the portion of the site not yet platted can still be divided so that it meets the approval criteria.

### **33.664.220 Approval Criteria**

The Final Plat for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A. Conformance with Preliminary Plan.** Each Final Plat must conform to the approved Preliminary Plan. Variations are allowed only as specified by the Preliminary Plan approval.
- B. Conformance with requirements of this Title.** Where lot lines are proposed as part of the Final Plat process:
  - 1. The following must be met for the portion of the site where lot lines are proposed:
    - a. Lots. The standards of Chapter 33.615, must be met;
    - b. Trees. The standards of Chapter 33.630, Tree Preservation, must be met;
    - c. Flood Hazard Area. If any portion of the site is on Map 631-1, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met;
    - d. Landslide Hazard Area. If any portion of the site is in an Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Landslide Hazard Areas, must be met;
    - e. Clearing and grading. The approval criteria of Chapter 33.635, Clearing and Grading, must be met;
    - f. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements, must be met;
    - g. Springs, streams, and seeps. The approval criterion of Chapter 33.640, Springs, Streams, and Seeps, must be met;
    - h. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and
    - i. Services and utilities. The regulations and criteria of Chapters 33.650 through 33.654, which address services and utilities, must be met.
  - 2. The approval criteria of Section 33.664.120 must be met for the balance of the site, where a Final Plat has not yet been approved.
- C. Conditions of approval.** All conditions of approval that apply to the Final Plat must be met. All other conditions of approval remain in effect;
- D. Services.** All services must meet the requirements of the City Code;

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## Commentary

**.220.E.** This paragraph addresses the technical requirements for dedications, easements, and the like.

**E. Dedications, Tracts, and Easements**

1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made before the Final Plat is recorded; and
2. Tracts and easements.
  - a. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met.
  - b. All environmental resource tracts, flood hazard tracts, and landslide hazard tracts for the entire site must be met with the first Final Plat.

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

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

**Changes to Final Plat**

**33.664.610 Changes to Final Plat Before Recording**

Before a Final Plat has been recorded with the County Recorder and Surveyor, changes may be processed as a new Final Plat review.

**33.664.620 Changes to Final Plat After Recording**

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

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## Commentary



**CHAPTER 33.665  
PLANNED DEVELOPMENT REVIEW**

Sections:

General

33.665.010 Purpose

Review of Preliminary Development Plan

33.665.200 Review Procedures

33.665.250 Supplemental Application Requirements

33.665.300 Approval Criteria in General

33.665.310 Approval Criteria for Planned Developments In All Zones Except the R2.5 Zone

33.665.315 Approval Criterion for Planned Developments in the R2.5 Zone

33.665.320 Additional Approval Criteria for Modifications of Development Standards

33.665.330 Commercial Uses in Residential Zones

33.665.340 Proposals Without a Land Division

Review of Final Development Plan

33.665.400 Where Review is Required

33.665.410 Review Procedure

33.665.420 Application Requirements

33.665.430 Approval Standards

Changes to an Approved Planned Development

33.665.500 Types of Changes

33.665.510 Review Procedure

33.665.520 Approval Criteria

**General**

**33.665.010 Purpose**

These regulations assign each phase of a Planned Development Review to an appropriate procedure type. The approval criteria ensure that innovative and creative development is encouraged when it is well-designed and integrated into the neighborhood.

**Review of Preliminary Development Plan**

**33.665.200 Review Procedures**

- A. Concurrent reviews required.** When land use reviews in addition to Planned Development Review are requested or required, all of the reviews must be processed concurrently.

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## Commentary

**.200.B and C** When a proposal for a Planned Development includes alternative housing types, the review will be processed as a Type III. For all other Planned Development proposals, the review procedure thresholds are basically the same as for land divisions.

**B. Review in conjunction with a land division.** When a Planned Development is requested in conjunction with a land division, the review will be processed as follows:

1. Type III review. The following are processed through a Type III procedure, but with the additional steps required under Subsection 33.730.035, Additional Steps Required For A Land Division:
  - a. Proposals in the RF through R5 zones that include attached houses, duplexes, attached duplexes, multi-dwelling structures, or multi-dwelling development; and
  - b. Proposals in the R2.5 zone that include duplexes, attached duplexes, multi-dwelling structures, or multi-dwelling development.
2. Type IIx review. All other proposals are processed through the Type IIx procedure.

**C. Review not in conjunction with a land division.** When a Planned Development is not in conjunction with a land division, the review will be processed as follows:

1. Type III. Planned developments that include any of the following elements are processed through a Type III procedure, but with the additional steps required under Subsection 33.730.035, Additional Steps Required For A Land Division:
  - a. Attached houses, duplexes, attached duplexes, multi-dwelling structures, or multi-dwelling development in the RF through R5 zones;
  - b. Duplexes, attached duplexes, multi-dwelling structures, or multi-dwelling development in the R2.5 zone;
  - c. Eleven or more units;
  - d. Four or more units where any building location, utility, or service is proposed within a Potential Landslide Hazard Area;
  - e. Environmental review;
  - f. Any portion of the site is in an Open Space zone.
2. Type IIx. All other proposals not assigned to a Type III in Paragraph C.1, above, are processed through a Type IIx procedure

### **33.665.250 Supplemental Application Requirements**

In addition to the application requirements of Section 33.730.060.D, the following information is required for a Planned Development application:

- A.** Proposed building elevations and locations with enough detail to show that all of the approval criteria are met; and,
- B.** Photographs that show the characteristics of surrounding neighborhood.

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## Commentary

**.310** These approval criteria are intended to ensure that the proposed development is designed so that it fits into the existing development pattern of the neighborhood. For example, if rowhouses are proposed in an R7 neighborhood that has only single-dwelling structures on large lots, then the rowhouses could be designed in groups of two so that they look like a single-dwelling structures on a large lot. In addition, any differences in appearance must be mitigated in ways that make the differences less obtrusive.

### **33.665.300 Approval Criteria in General**

The approval criteria for Planned Developments are stated below. Planned Developments in all zones, except the R2.5 zone, must meet the criteria in Section 33.665.310. Planned Developments in the R2.5 zone must meet the criteria in Section 33.665.315. Some proposals must also meet additional approval criteria, as follows:

- A.** Proposals to modify site-related development standards must meet the criteria in Section 33.665.320.
- B.** Proposals for commercial uses in residential zones must meet the criteria in Section 33.665.330.
- C.** Proposals that do not include a land division must meet the criteria in Section 33.665.340.

A request for a Planned Development will be approved if the review body finds that the applicant has shown that all of the approval criteria have been met.

### **33.665.310 Approval Criteria for Planned Developments in All Zones Except the R2.5 Zone**

- A.** Visually integrate the development into the surrounding area;
- B.** Include architectural features that complement positive characteristics of surrounding development, such as similar building scale and style, building materials, setbacks, and landscaping;
- C.** Mitigate differences in appearance through means such as setbacks, screening, landscaping, and other design features;
- D.** Minimize potential negative effects on surrounding residential uses;
- E.** Preserve any City-designated scenic resources; and
- F.** If the proposal is in the RF through R5 zones and includes attached houses, duplexes, attached duplexes, or multi-dwelling structures, adequate open space will be provided. Open space does not include vehicle areas.

### **33.665.315 Approval Criterion for Planned Developments in the R2.5 Zone**

Planned Developments in the R2.5 zone must comply with the adopted guidelines specific to the design district in which the proposal is located, as shown on maps 420-1 through 420-3. For all other areas, planned developments in the R2.5 zone must comply with the Community Design Guidelines.

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## Commentary

**.320.A.** If the proposal is for a modification to any of the "narrow lot design standards" (the standards that must be met in order for a lot to be narrower than the zone allows), then the design of the development must be integrated into the existing neighborhood pattern in addition to meeting the purposes of the narrow lot design standards. For example, if the proposal is for a structure that is taller than the height to width ratio allows, then architectural or landscape features must be included in the design to ensure the height of the house does not look out of scale with the width of the house.

### **33.665.320 Additional Approval Criteria for Modifications of Site-Related Development Standards**

**A. Modification of specified site-related development standards.** The approval criteria of this subsection apply to proposals to modify any of the following standards:

- 33.610.200.D, Minimum lot width;
- 33.611.200.C, Minimum lot width;
- 33.110.215.B.2;
- 33.110.230.D, Distance from grade;
- 33.110.240.C.1.d, Landscape standards;
- 33.110.240.C.2.d, Landscape standards;
- 33.110.250.E.4.a(2); or
- 33.110.275.A, Access to parking.

The design of the proposed development will:

1. Limit the amount of vehicle maneuvering, parking, and garage area that can be seen from the sidewalk or street so that the vehicle area and garage are not the dominant visual feature of the dwelling;
2. Through the use of landscaping, adequately mitigate and visually soften the appearance of the vehicle area and garage that is visible from the sidewalk or street;
3. Where the height-to-width ratio exceeds 1.2 to 1, use architectural or landscape features that minimize the visual impact of the height of the structure; and
4. Where the front door will not be within four feet of grade, employ architectural features that will ensure that the first floor of the structure is visually connected to the public realm.

**B. Modifications of other site-related development standards.** The following criteria apply to modifications of site-related development standards, including parking standards, except those listed in Subsection .A, above. These modifications are done as part of a Planned Development review and do not have to go through the adjustment process. The modification will be approved if the following approval criteria are met:

1. Better meets approval criteria. The resulting development will better meet the approval criteria of Section 33.665.310, above; and
2. Purpose of the standard. On balance, the proposal will be consistent with the purpose of the standards for which a modification is requested.

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## Commentary

**.340** If a proposal for a Planned Development does not include a land division then these approval criteria apply. They ensure that Planned Developments meet the service requirements that are necessary for development and that they meet other relevant regulations that should be taken into consideration as the development is being designed.



### **33.665.330 Commercial Uses in Residential Zones.**

The approval criteria of this section apply to proposals for commercial uses in Residential Zones. The approval criteria are:

- A.** The area surrounding the proposed location of the commercial uses is deficient in support commercial opportunities;
- B.** The proposed commercial development and uses will be primarily for the service and convenience of residents of the neighborhood; and
- C.** The proposed commercial development and uses must be consistent with the purpose and regulations of the CN1 zone.

### **33.665.340 Proposals Without a Land Division**

The approval criteria of this section apply to Planned Developments that do not include a land division. The approval criteria are:

#### **A. Services.**

- 1. The proposed use must be in conformance with the Arterial Streets Classifications and Policies of the Transportation Element of the Comprehensive Plan;
- 2. The approval criteria of Section 33.654.110, Connectivity and Location of Rights-of-Way, must be met;
- 3. The standards of Section 33.651.020, Water Service Standards, must be met;
- 4. The standard of Section 33.652.020, Sanitary Sewer Disposal Service Standard, must be met; and,
- 5. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

#### **B. Tree preservation.** The proposal must meet the requirements of Chapter 33.630, Tree Preservation.

#### **C. Flood hazard areas.**

- 1. RF through R2.5 zones. In the RF through R2.5 zones, all proposed building locations must be outside of the flood hazard area.
- 2. R1 through IR, C, E, and I zones. In the R1 through IR, C, E, and I zones, all proposed building locations must be outside of the flood hazard area where possible. Where it is not possible to have all building locations outside of the flood hazard area, all proposed building locations must be configured to reduce the impact of flooding and to provide the greatest protection for development from flooding. Proposed building locations must be clustered on the highest ground and near the highest point of access, and they must be configured in a manner that will minimize obstruction of floodwaters.

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## Commentary

- D. Landslide hazard areas.** Buildings, services and utilities should be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site, is reasonably limited.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Alternative development options including alternative housing types and reduced density may be required in order to limit the risk to a reasonable level.

**E. Clearing, grading, and land suitability.**

1. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
2. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
3. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
4. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete;
5. Soil stockpiles must be on the site and located in areas designated for clearing and grading, if practicable; and
6. Where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the site is suitable for the proposed development. The applicant may be required to make specific improvements in order to make the site suitable for the intended uses and the provision of services and utilities.

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## Commentary

#### **F. Streams, springs, and seeps.**

1. If there is a stream, spring, or seep outside of an Environmental Overlay Zone on the site, then the stream, spring, or seep must be preserved in an easement. The edges of the easement must be at least 15 feet from the edges of the stream, spring, or seep. The edges of a seep or spring are determined through a wetland delineation, performed by an environmental scientist, and approved by OPDR. If one or more wetland characteristics are absent from the resource, the delineation will be based on the wetland characteristics present. The edges of a stream are defined as the top-of-bank. Where the edge of the stream, spring, or seep is less than 15 feet from the edge of the site, the easement boundary will be located along the edge of the site.
2. The following development, improvements, and activities are allowed in the easement:
  - a. Disturbance associated with discharging stormwater to the stream channel, if BES has determined that the site's storm water cannot discharge to a storm sewer and OPDR has determined that on-site infiltration is not an option;
  - b. Removal of non-native invasive species with hand held equipment;
  - c. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;
  - d. Erosion control measures allowed by Title 10 of Portland City Code;
  - e. Construction of required driveway connections or required connections to services when there is no practicable alternative to locating the driveway or service connections within the easement; and
  - f. Maintenance and repair of existing utilities, services, and driveways;
3. Public or private rights of way may cross the seep, spring, or stream easement if the following approval criteria are met:
  - a. There is no reasonable alternative location for the right-of-way;
  - b. The applicant has demonstrated that it is possible to construct street improvements within the right-of-way that will meet all of the following:
    - (1) The street improvements will not impede the flow of the stream, spring, or seep;
    - (2) The street improvements will impact the slope, width, and depth of the stream channel, spring, or seep to the minimum extent practicable; and
    - (3) The street improvements will not impede fish passage in a stream, spring, or seep has been identified by the Oregon Department of Fish and Wildlife as fish-bearing.
4. Minimum density is waived in order to better meet the standards of paragraphs F.1-F.3, above.

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## Commentary

**.400** The Final Development Plan review is similar to the Final Plat process required for land divisions and ensures that the final plan for Planned Developments without land divisions complies with what was preliminarily approved. If the Final Development Plan is not in compliance with the preliminary approval, the applicant can request an amendment to the Preliminary Development Plan.

- G. Transportation impacts.** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and performance standards; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. A Traffic Impact Study may be required by the City Engineer in order to determine if the criterion is met. In addition, mitigation measures approved by the City Engineer may be included in the proposal as a way to meet this criterion.

### **Review of Final Development Plan**

#### **33.665.400 Where Review is Required**

Review of the Final Development Plan is required for all Planned Developments.

#### **33.665.410 Review Procedure**

Final development plans are reviewed through a Type I procedure.

#### **33.665.420 Application Requirements**

Unless stated elsewhere in this Title, a complete application for final development review must include the following:

- A.** All drawings, maps, and plans provided for the Preliminary Development Plan review. The drawings, maps, and plans must be drawn with enough specificity that the Director of OPDR can determine whether the approval standards are met;
- B.** All Performance Guarantees, maintenance agreements, and Conditions, Covenants and Restrictions (CC&Rs); and
- C.** Other materials required by the Director of OPDR to show that the approval standards are met.

#### **33.665.430 Approval Standards**

The Final Development Plan for a Planned Development will be approved if the Director of OPDR finds that the applicant has shown that all of the following approval standards are met:

- A.** The Final Development Plan must conform to the approved Preliminary Development Plan;
- B.** The Final Development Plan must comply with all conditions or approval that apply to the Final Development Plan. All other conditions of approval remain in effect;
- C.** All services must meet the requirements of the City Code;
- D.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to final development plan approval; and
- E.** All maintenance agreements and Conditions, Covenants and Restrictions must be reviewed and approved by the Office of Planning and Development Review and the City Attorney prior to final development plan approval, and must be submitted to the County Recorder to be recorded with the final development plan within 90 days of the final development plan approval.

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## Commentary



## **Changes to an Approved Planned Development**

### **33.665.500 Types of Changes**

There are two types of changes; major and minor. A major change is one that will have significant impacts on the development in the PD, or on the site surrounding the PD. Major changes include:

- A.** An increase in the site area of more than 5 percent;
- B.** An increase in density, including the number of housing units;
- C.** In residential zones, a change in the mix of single-dwelling and multi-dwelling structures;
- D.** An increase in the amount of land in nonresidential uses;
- E.** A reduction in the amount of open space;
- F.** Deleting or changing the purpose of flood hazard or landslide hazard easements;
- G.** Changes to the vehicular system which result in a significant change in the amount or location of streets and shared driveways, common parking areas, circulation patterns, and access to the PD; or
- H.** Changes within 50 feet of the perimeter of the PD where the perimeter abuts a residential zone.

### **33.665.510 Review Procedures**

Requests for changes to an approved PD are processed as follows:

- A. Major changes.** Major are processed as follows:
  - 1. If the original PD application was processed through a Type III procedure then the change is processed through a Type III procedure;
  - 2. If the original PD application was processed through a Type IIx procedure then the change is processed through a Type IIx procedure.
- B. Minor changes.** Minor are processed through a Type IIx procedure.

### **33.665.520 Approval Criteria**

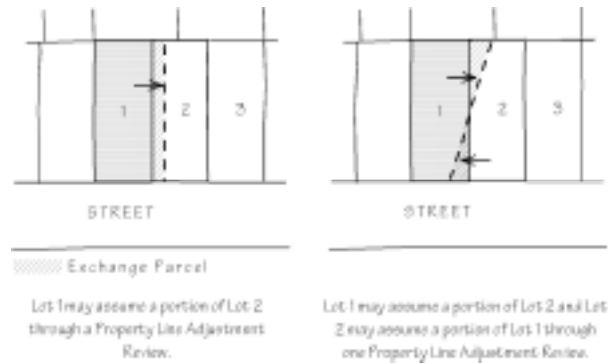
The approval criteria for changes to a Planned Development are those used for approval of a Preliminary Development Plan.

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## Commentary

A Property Line Adjustment (PLA) is the relocation of a single common property line between two abutting properties (see illustration below). Currently, the City has no formal review process for a property line adjustment. As a customer service, the Office of Planning and Development Review provides an informal review of property line adjustments using non-discretionary standards that include ensuring that the adjusted properties will not violate the standards of the zoning code.



It is recommended that a formal process for property line adjustments be written into the new Land Division Code, and that Property Line Adjustments be reviewed through a non-discretionary, administrative process.

**.050** The City does not currently require review of a Property Line Adjustment. This recommendation changes that policy and requires City approval of a Property Line Adjustment. It is in the interest of the City to ensure that the properties being adjusted are legal and do not create nonconforming situations.

**.200** The Property Line Adjustment is intended to provide a small amount of flexibility for changing one property line between two abutting properties. It is not intended as a process to allow significant changes to approved lot or platting patterns or to accomplish a replat. Therefore, it is recommended that the number of property line adjustments allowed per site per year be limited.

**.200.A** The application form must contain the original signatures of all property owners as this form is one of the several documents which will get recorded at the appropriate County Recorder's Office.

It should be noted that the "information for surveyors" that is currently listed on the application for a Property Line Adjustment will either remain on the application form or be included in the proposed Land Division Handbook.

**CHAPTER 33.667  
PROPERTY LINE ADJUSTMENT**

Sections:

- 33.667.010 Purpose
- 33.667.050 When these Regulations Apply
- 33.667.100 Method of Review
- 33.667.200 Application Requirements
- 33.667.300 Regulations
- 33.667.400 Recording an Approval

**33.667.010 Purpose**

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

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

**33.667.050 When These Regulations Apply**

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

**33.667.100 Method of Review**

Property Line Adjustments are reviewed through a non-discretionary, administrative procedure. The decision of the Director of OPDR is final.

**33.667.200 Application Requirements**

No more than three property line adjustments may be requested on a site within one calendar year. The application must contain the following:

**A. Application form.** Two copies of the completed application form bearing an accurate legal description, tax account numbers and location of the property. The application must include the name, address, telephone number, and original signatures of the applicant and all property owners and the nature of the applicant's interest in the property.

**B. Surveys.**

1. Four paper copies of a property line survey. The survey must be prepared, stamped and signed by a registered land surveyor to meet ORS 92.050. The survey must show all existing and proposed property lines and all existing lot lines. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet; and

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## Commentary

**.200.B.2** To avoid potential conflicts and ensure that existing improvements on a property are accurately shown, a "statement of accuracy" should be signed by the surveyor, attesting to the accuracy of location, dimensions and setbacks of all the existing improvements. Although not codified, this is common practice now with minor partitions and minor and major subdivisions.

**.200.C** The exchange parcel is the area of land to be conveyed from one property to another through a property line adjustment. A single property line adjustment may involve more than one exchange parcel.

**.300.A.1** This regulation will ensure that the adjusted properties do not create additional nonconforming situations. It is consistent with existing City policy regarding nonconforming situations.

**.300.A.2-3** Typically, a proposal to create a flag lot or to create street frontage for a land locked parcel requires more review and discretion than a property line adjustment can provide. These types of proposals are more appropriately reviewed through a standard land division process.

**.300.A.4** This regulation will ensure that the resource area of an environmental zone is protected and that a PLA is not used to circumvent an environmental review process.

**.300.B** Changing the availability of a service (does the lot have frontage on a public ROW where a public water or sewer main exists?) also requires more discretion than is provided by a Property Line Adjustment. A proposal that includes the extension of services should be reviewed through a standard land division process.

**.300.C** This regulation will ensure that all previous conditions of approval continue to be met.

**.400** A Property Line Adjustment must be recorded with the County Recorder's office to ensure that the adjustment shows up during a title search. It is recommended that the approved application form, survey, legal descriptions, and the deed for the exchange parcel be recorded with the County, as is the practice now.

2. One paper copy of a survey of the proposed PLA prepared, stamped, signed, and attested to for accuracy by a registered land surveyor, showing the location, dimensions and setbacks of all improvements on the site. This survey map must be drawn to a scale at least 1 inch = 200 feet.

**C. Legal description.** Two copies of the legal description for each adjusted property and each exchange parcel. The legal descriptions must be prepared and signed by a registered land surveyor.

### **33.667.300 Regulations**

A request for a Property Line Adjustment will be approved if all of the following are met:

**A. Properties.**

1. The Property Line Adjustment will not cause either property or development on either property to move out of conformance with any of the regulations of this Title. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation;
2. The Property Line Adjustment will not result in the creation of a flag lot;
3. The Property Line Adjustment will not result in the creation of street frontage for a land-locked property;
4. If any portion of the site is within an environmental overlay zone, the Property Line Adjustment may not create a situation where either property cannot meet the development standards of Section 33.430.140, General Development Standards. If this requirement cannot be met, an Environmental Review as described in Sections 33.430.210 through 33.430.280 must be completed before the Property Line Adjustment is requested; and
5. The Property Line Adjustment will not result in the creation of a lot that is in more than one base zone.

**B. Services.** The availability of services to the properties may not change.

**C. Conditions of previous land use reviews.** All conditions of previous land use reviews must be met.

### **33.667.400 Recording an Approval**

The Property Line Adjustment application, survey, legal descriptions, and the deed for the exchange parcel must be recorded with the County Recorder and Surveyor within 90 days of the final decision.

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## Commentary

**33.668** This chapter is being added to the zoning code to clarify what procedure type and approval criteria apply to amendments to Planned Unit Developments.

**CHAPTER 33.668  
REVIEW OF CHANGES TO AN APPROVED PLANNED UNIT DEVELOPMENT**

Sections:

- 33.668.010 Purpose
- 33.668.050 Types of Changes
- 33.668.100 Review Procedure
- 33.668.150 Application Requirements
- 33.668.200 Approval Criteria

**33.668.010 Purpose**

This chapter provides a process and criteria to evaluate proposed changes to Planned Unit Developments (PUD) initially approved under regulations that may no longer be in effect. The approval criteria ensure that the PUD continues to be in conformance with the purpose of the regulations in place when the PUD was approved, and also conforms to the purposes of regulations that have been approved since the PUD was approved.

**33.668.050 Types of Changes**

There are two types of changes; major and minor. A major change is one that will have significant impacts on the development in the PUD, or on the site surrounding the PUD. Major changes include:

- A.** An increase in the site area of more than 5 percent;
- B.** An increase in density, including the number of housing units;
- C.** In residential zones, a change in the mix of single-dwelling and multi-dwelling structures;
- D.** An increase in the amount of land in nonresidential uses;
- E.** A reduction in the amount of open area;
- F.** Deleting or changing the purpose of flood hazard or landslide hazard easements;
- G.** Changes to the vehicular system which result in a significant change in the amount or location of streets and shared driveways, common parking areas, circulation patterns, and access to the PUD; or
- H.** Changes within 50 feet of the perimeter of the PUD where the perimeter abuts a residential zone.

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## Commentary



### **33.668.100 Review Procedure**

Requests for changes to an approved PUD will be processed as follows:

**A. Major changes.** Major are processed as follows:

1. If the original PUD application was processed through a Type III procedure then the change is processed through a Type III procedure;
2. If the original PUD application was processed through a Type II procedure then the change is processed through a Type IIx procedure.

**B. Minor changes.** Minor are processed through a Type IIx procedure.

### **33.668.150 Application Requirements**

The application for a change to an approved PUD must contain all of the information listed in Paragraph 33.730.060.D.1; however the Director of OPDR may waive items that are not applicable to a specific proposal.

### **33.668.200 Approval Criteria**

Requests for changes to an approved PUD will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

**A.** On balance, compared to the approved PUD, the change will equally or better meet the following:

1. Promote an attractive and safe living environment in residential zones;
2. Provide for efficient use of services and improvements;
3. Minimize site grading;
4. Provide energy efficient development;
5. Allow for conservation of natural features;
6. Provide an opportunity for innovative and creative development;
7. Be integrated into the neighborhood; and
8. Where the PUD includes commercial uses, promote attractive and functional business environments in nonresidential zones which are compatible with the development intended for the zone and neighborhood; and

**B.** Any significant adverse impacts caused by the change are mitigated.

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## Commentary

This chapter is being added to the zoning code to clarify what procedure type and approval criteria apply to amendments to Industrial Parks.

**.200** In order to meet this approval criterion, the applicant will have to show that the proposed change would have been approved if it had been part of the original proposal and that the change is consistent with the conditions of approval placed on the original Industrial Park.

**CHAPTER 33.669**  
**REVIEW OF CHANGES TO AN APPROVED INDUSTRIAL PARK**

Sections:

- 33.669.010 Purpose
- 33.669.100 Review Procedure
- 33.669.200 Approval Criterion

**33.669.010 Purpose**

This chapter provides a process and criteria to evaluate proposed changes to an Industrial Park initially approved under regulations that are no longer in effect. The approval criterion ensures that the Industrial Park continues to be in conformance with the purpose of the regulations in place when the Industrial Park was approved, and the conditions of approval.

**33.669.100 Review Procedure**

Requests for changes to an approved Industrial Park will be processed through a Type II procedure.

**33.669.200 Approval Criterion**

Requests for changes to an approved Industrial Park will be approved if the review body finds that the applicant has shown that the requirements in place at the time the Industrial Park was approved continue to be met and that the intent of all conditions of approval continue to be met.

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## Commentary

# **Part IV:**

## **Related Amendments to the Zoning Code**

### **Amend, delete, or add the following chapters:**

	How to Use This Document
Chapter 33.10	Legal Framework and Relationships
Chapter 33.110	Single-Dwelling Residential Zones
Chapter 33.120	Multi-Dwelling Residential Zones
Chapter 33.130	Commercial Zones
Chapter 33.140	Employment and Industrial Zones
Chapter 33.205	Accessory Dwelling Units
Chapter 33.216	Cluster Housing
Chapter 33.218	Community Design Standards
Chapter 33.269	Planned Unit Developments
Chapter 33.277	Residential Flag Lots
Chapter 33.291	Substandard Residential Lots
Chapter 33.405	Alternative Design Density Overlay Zone
Chapter 33.430	Environmental Overlay Zone
Chapter 33.480	Scenic Resource Overlay Zone
Chapter 33.515	Columbia South Shore Plan District
Chapter 33.530	Glendoveer Plan District
Chapter 33.535	Johnson Creek Basin Plan District
Chapter 33.570	Rocky Butte Plan District
Chapter 33.575	Northwest Hills Plan District
Chapter 33.700	Administration and Enforcement
Chapter 33.720	Review Bodies
Chapter 33.730	Quasi-Judicial Procedures
Chapter 33.805	Adjustments
Chapter 33.825	Design Review
Chapter 33.830	Excavations and Fills
Chapter 33.835	Goal, Policy, and Regulation Amendments
Chapter 33.846	Historic Reviews
Chapter 33.853	Tree Review
Chapter 33.854	Validation Review
Chapter 33.910	Definitions
Chapter 33.930	Measurements

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## Commentary

### Introduction

Many of the land division recommendations in Part III of this report affect other regulations in the zoning code. As a result, the following chapters need to be amended to be consistent with recommendations in Part III. In addition, some of the recommended changes ensure that the City complies with the METRO Urban Growth Management Functional Plan (UGMFP).

## HOW TO USE THIS DOCUMENT

### ***Organization of Title 33***

**General layout.** The zoning code is organized as a reference document. It is not intended to be read from cover to cover. Instead, it is organized so you may look up only the parts you need. The list of chapters in the table of contents is, therefore, very important, as are the section listings at the beginning of each chapter. Later portions of this introduction explain two different methods to use the code for commonly asked questions. There are many other ways to use this code, depending on your objectives.

Chapters that cover related information have been grouped together. There are ~~eight~~ nine groups, or series of chapters. The first series, called the Introduction, contains some basic information on the legal framework of the code and ~~a~~ this guide on how to use the code. The ~~seven~~ eight remaining series are summarized below.

This code is used in conjunction with other City Titles; many service and technical requirements are contained in other Titles.

**The Base Zones (100 series).** The 100 series contains the base zone chapters. These chapters state which uses are allowed in each zone. They also state which uses are allowed in limited situations, which are conditional uses, and which are prohibited. The general development standards for each base zone are also included. The development standards include requirements such as maximum heights and required setbacks.

**Additional Use and Development Regulations (200 series).** The 200 series contains regulations for specific uses and development types that apply in many base zones. The chapters in this series also state the development standards that apply across many zones such as the parking and landscaping regulations. This grouping provides consolidated information and less repetition in code language. There are references in the base zones to the requirements in the 200 series, when applicable. The regulations in the 200s generally supplement the regulations in the base zones.

**Overlay Zones (400 series) and Plan Districts (500 series).** Overlay zones consist of regulations that address specific subjects that may be applicable in a variety of areas in the City. Plan districts consist of regulations that have been tailored to a specific area of the City. Both overlay zones and plan districts are applied in conjunction with a base zone and modify the regulations of the base zone. The Official Zoning Maps identify overlay zones and plan districts as well as the base zones and other information.

**Land Divisions and Planned Developments (600 series).** The 600 series contains the regulations for dividing land and for Planned Developments. Within this series are four groups of chapters:

Chapters 33.605 through 33.615 address lot dimensions for all zones, and density for the single-dwelling zones and for the multi-dwelling zones when single-dwelling development is proposed.

Chapters 33.630 through 33.641 contain special regulations for lands subject to flood or landslide; the regulations for tree preservation, solar access, clearing and grading, off-street parking, phased plans and staged Final Plats, required recreation area, seeps and springs, traffic impact studies, and tracts and easements.

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## Commentary



Chapters 33.651 through 33.654 are the regulations for services and utilities. These chapters are intended to tie together all of the requirements for services and utilities, many of which are found in other City Titles, manuals, and guides.

Chapters 33.660 through 33.664 include the information on reviews of each phase of a Land Division, including the procedure types and approval criteria. Chapter 33.665 addresses review of Planned Developments, Chapter 33.667 contains the regulations for Property Line Adjustments and Chapter 33.668 contains the regulations for amending an approved PUD.

**Administration and Procedures (700 series).** The 700 series provides information on the City's administrative framework and procedures that relate to land use. Information on application requirements, staff-level processing, review bodies, public hearings, and appeals is included along with other provisions on administering the zoning code.

**Land Use Reviews (800 series).** The 800 series describes most of the various land use reviews. Some reviews may be applied for at the discretion of the applicant, such as a conditional use or adjustment request. Other reviews are mandatory in certain situations such as design review or hazardous substance review. The 800 series contains the thresholds that state when a review is required, and the approval criteria for the land use review.

**General Terms (900 series).** The 900 series contains the description of the use categories, which include all the uses regulated by the zoning code. The series also contains the definitions chapter and a chapter on methods of measurement.

**Reserved Series (300s and 600s).** The 300 and 600 series of chapters ~~have~~ has been reserved for future amendments or additions to Title 33.

### ***Determining the Zoning Regulations for a Specific Site***

To determine the zoning regulations applicable to a site, you must first find the site on the Official Zoning Maps. The appropriate map will show the base zone that is applied to the site. It will also show if the site is subject to any overlay zones or plan districts, and if the site contains a historical landmark or recreational trail. You then look up all the corresponding regulations. Start with the base zones (the 100 series of chapters). The base zones state whether a use is allowed by right, allowed with limitations, a conditional use, or prohibited. The base zones also contain most of the development standards that apply to the uses that are allowed or limited. The base zones will indicate if certain reviews are necessary, such as hazardous substances review. In these cases look up the appropriate chapter.

Some uses and types of development have specific regulations stated in the 200 series of chapters. Although such instances are referenced in the base zones, it is a good idea to check over the 200 series to confirm if any of the chapters apply to your situation. Next, look up any overlay zones or plan districts that may apply to your site. These are listed in the 400 and 500 series of chapters. Finally, if the Official Zoning Maps indicate that the site has a historic landmark or recreational trail designation, look up those chapters for the corresponding regulations.

Chapters 33.910, Definitions and 33.930, Measurements may be helpful in understanding how to apply the regulations to a specific site.

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## Commentary

### ***Determining Where a Specific Use May Locate***

To determine in what zones a specific use may be located, you must first determine what land use category it is in. Use Chapter 33.920, Descriptions of the Use Categories, to classify the specific use. Then look at the primary use tables in the base zone chapters to see the status of that category. Categories are either allowed, allowed with special limitations, may be allowed through a conditional use review, or are prohibited. You should

also check the list of the 200s chapters, because some uses are subject to additional regulations. Finally, although a base zone might allow a use, a specific site may be subject to additional regulations from an overlay zone or plan district. The regulations of the overlay zone or plan district supercede the regulations of the base zone and may affect the status of the use, so those regulations should be considered.

### ***Determining the Land Division Regulations for a Specific Site***

To determine the Land Division regulations applicable to a site, you must first find the site on the Official Zoning Maps. The appropriate map will show the base zone that is applied to the site. This will tell you which chapters to look at in this Title; the 100s and 600s are organized by zone. The Zoning Map will also show if the site is subject to any overlay zones or plan districts, and if the site contains a historical landmark or recreational trail. You then look up all the corresponding regulations. All of these regulations will tell you what uses are allowed, what housing types may be considered, and what development regulations affect your site. Some of these development regulations will help you determine how to design your Land Division.

In the 600 series of chapters, you should first look in Chapters 33.605 through 33.615 for the zone of your site; these chapters contain the regulations on density and lot dimensions. Then review Chapters 33.630 through 33.641: Chapters 33.630, Tree Preservation, 33.635, Clearing and Grading, 33.636, Tracts and Easements, and 33.640, Seeps and Springs apply to all Land Divisions. Chapter 33.639, Solar Access applies to land divisions where single-dwelling detached development is proposed. Chapters 33.631 and 33.632 apply only to sites that may be subject to flood or landslide; City maps can help you determine if your land may be subject to these hazards. Chapters 33.633, Phased Plans and Staged Final Plats, apply to proposals that include those elements, while Chapter 33.634 only applies to sites where a recreation area is required. Additional off-street parking may be required if thresholds in Chapter 33.637 are not met and a traffic impact study may be required as per 33.641. Chapter 33.638 includes the regulations for Planned Developments.

Chapters 33.651 through 33.654 contain the regulations for services that apply to land divisions. Finally, Chapters 33.660 through 33.667 will tell you what reviews are needed for your Land Division, Planned Development, or Property Line Adjustment, and what standards and approval criteria must be met for your request to be approved.

Chapters 33.910, Definitions and 33.930, Measurements may be helpful in understanding how to apply the land division regulations to a specific site.

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## Commentary

### ***Format of Title 33***

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

**33.XXX**  
**NAME OF CHAPTER**

**33.XXX.XXX Section**

**A. Subsection**

1. Paragraph

a. Subparagraph

(1) Subsubparagraph

**Referencing.** Within Title 33, references are made as follows:

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

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

## Terms

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

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## Commentary

.030 This amendment would update a reference.

## AMEND CHAPTER 33.10, LEGAL FRAMEWORK AND RELATIONSHIPS

### CHAPTER 33.10 LEGAL FRAMEWORK AND RELATIONSHIPS

#### 33.10.030 When the Zoning Code Applies

- D. Private rights-of-way.** The creation of private rights-of-way is regulated by Title 34, ~~Subdivision and Partitioning Regulations~~ 33, Planning and Zoning. ~~However,~~ ~~s~~Street improvements in private rights-of-way are allowed by right in all zones.

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## Commentary



**CHAPTER 33.110  
SINGLE-DWELLING ZONES**

Sections:

General

- 33.110.010 Purpose
- 33.110.020 List of the Single-Dwelling Zones
- 33.110.030 Other Zoning Regulations

Use Regulations

- 33.110.100 Primary Uses
- 33.110.110 Accessory Uses
- 33.110.120 Nuisance-Related Impacts

Development Standards

- 33.110.200 Housing Types Allowed
- 33.110.205 Density
- ~~33.110.210 Lot Size~~
- 33.110.212 Validation of Lots and Lots of Record
- 33.110.215 Height
- 33.110.220 Setbacks
- 33.110.225 Building Coverage
- 33.110.230 Main Entrances in R10 through R2.5 Zones
- 33.110.232 Street-Facing Facades in R10 through R2.5 Zones
- 33.110.235 Required Outdoor Areas ~~in R5 and R2.5 Zones~~
- 33.110.240 Alternative Development Options
- 33.110.245 Institutional Development Standards
- 33.110.250 Accessory Structures
- 33.110.255 Fences
- 33.110.260 Demolitions
- 33.110.265 Excavations and Fills
- 33.110.270 Nonconforming Development
- 33.110.275 Parking and Loading
- 33.110.280 Signs
- 33.110.282 Trees
- 33.110.285 Street Trees

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## Commentary

**Table 110-2** Currently, attached duplexes are allowed through a PUD. They will continue to be allowed only through a Planned Development and are being added to this chart for clarity.

**.205.A** The last sentence of this purpose statement has been changed for purposes of clarity and to remove a reference to PUDs.

<p style="text-align: center;"><b>Table 110-2</b> <b>Housing Types Allowed In The Single-Dwelling Zones</b></p>						
<b>Housing Type</b>	<b>RF</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5</b>	<b>R2.5</b>
House	Yes	Yes	Yes	Yes	Yes	Yes
Attached house (See 33.110.240.C and F)	No	Yes	Yes	Yes	Yes	Yes
Accessory dwelling unit (See 33.205)	Yes	Yes	Yes	Yes	Yes	Yes
Duplexes:						
On corners (See 33.110.240.F)	No	Yes	Yes	Yes	Yes	Yes
On transitional lots (See 33.110.240.I)	No	Yes	Yes	Yes	Yes	Yes
Other situations (See 33.110.240.D)	No	No	No	No	No	Yes
Manufactured home (See Chapter 33.251)	Yes	Yes	Yes	Yes	Yes	Yes
Mobile home park	No	No	No	No	No	No
Houseboat (See Chapter 33.236)	Yes	Yes	Yes	Yes	Yes	Yes
Single Room Occupancy (SRO) units	No	No	No	No	No	No
Attached Duplexes	Only in Planned Developments, See Chapter 33.638.					
Group structure	Only when in conjunction with an approved conditional use.					
Multi-dwelling structure	Only in Planned Unit Developments, See Chapter 33.269-33.638.					

Yes = allowed; No = prohibited.

### 33.110.205 Density

- A. Purpose.** Density standards serve several purposes. They match housing density with the availability of public services and with the carrying capacity of the land. For example, more housing can be allowed on flat areas than on steep, slide-prone lands. At the same time, the density standards promote development opportunities for housing and promote urban densities in less developed areas. The density regulations are a tool to judge equivalent density when comparing standard and nonstandard land divisions (such as PUDs) used during a land division or Planned Development Review.
- B.** [No change]
- C. Minimum density.** The minimum density standards for the RF through R5 zones are in Section 33.610.100, Density Standards. The minimum density standards for the R2.5 zone are in Section 33.611.100, Density Standards.

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## Commentary

### Table 110-3

Maximum density: In order to be consistent with the recommended density formula, density is expressed in lots per square foot rather than units per acre. Table 110-3 has been changed to reflect that recommendation. There is no change to the substance of this regulation; it is just expressed differently.

Minimum lot size: The lot size standards for the single-dwelling zones are moving with the other land division regulations to the 33.600 series of chapters.

Garage setbacks (note [4]): The recommendation is that the side and rear setbacks for garages and the garage entrance setback be reduced to zero when they abut an alley. The purpose is to encourage alleys, which are either dedicated to the public or in a tract, rather than allowing vehicle access via an easement at the rear of a lot. Currently, there are many such accessways—they look like alleys, but are actually multiple easements. Often the easement is in the side or rear setbacks of the lots. This is an acceptable situation because vehicle access along side and rear lot lines must be at least 10-12 feet wide which is enough width to satisfy both the driveway and setback requirements.

These driveways will now be provided via an alley tract rather than via an easement. An alley tract has its own lot lines, which means that if side and rear setbacks are not reduced, an additional 5 to 10 feet of setback area will be required along the alley. The setback requirement severely limits the area left for the creation of lots and is a disincentive to providing vehicle access at the rear of lots rather than at the front.

Maximum building coverage: A different approach to maximum building coverage than in the current code is being recommended. See commentary with Section 33.110.225.

Required outdoor area: The recommendation is that all development in single-dwelling zones meet a Required Outdoor Area standard. See commentary with Section 33.110.235. Currently, this is required only in the R5 through R1 zones.

<p align="center"><b>Table 110-3</b> <b>Development Standards In Single-Dwelling Zones [1]</b></p>							
<b>Standard</b>	<b>RF</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5</b>	<b>R2.5</b> detached    attached	
Maximum Density (See 33.110.205)	<del>0.5 units</del> per acre <u>1 unit per</u> <u>87,120 sq.</u> ft. [2]	<del>2.2 units</del> per acre <u>1 unit per</u> <u>20,000 sq.</u> ft. [2]	<del>4.4 units</del> per acre <u>1 unit per</u> <u>10,000 sq.</u> ft. [2]	<del>6.2 units</del> per acre <u>1 unit per</u> <u>7,000 sq.</u> ft. [2]	<del>8.7 units</del> per acre <u>1 unit per</u> <u>5,000 sq.</u> ft. [2]	<del>8.7 units</del> per acre <u>1 unit per</u> <u>5,000 sq.</u> ft. [2]	<del>17.4 units</del> per acre <u>1 unit per</u> <u>2,500 sq.</u> ft. [2]
<del>Minimum Lot Size</del> —Min. lot area	<del>2 acres</del>	<del>20,000</del> sq. ft.,	<del>10,000</del> sq. ft.,	<del>7,000</del> sq. ft.,	<del>5,000</del> sq. ft., [3]	<del>5,000</del> sq. ft., [3]	<del>1,600</del> sq. ft., [4]
—Min. lot width	100 ft.,	80 ft.,	70 ft.,	60 ft.,	50 ft.,	50 ft.,	16 ft.,
—Min. lot depth (See 33.110.210)	150 ft.,	120 ft.,	100 ft.,	90 ft.,	80 ft.,	80 ft.,	40 ft.,
Maximum Height (See 33.110.215)	30 ft. [3]	30 ft. [3]	30 ft. [3]	30 ft. [3]	30 ft. [3]	35 ft. [3]	35 ft. [3]
Minimum Setbacks							
- Front building setback	20 ft.	20 ft.	20 ft.	15 ft.	10 ft.	10 ft.	10 ft.
- Side building setback [4] [5] [9] [10]	10 ft.	10 ft.	10 ft.	5 ft.	5 ft.	5 ft.	5 ft. [6]
- Rear building setback [4] [9] [10]	10 ft.	10 ft.	10 ft.	5 ft.	5 ft.	5 ft.	5 ft.
- Garage entrance setback [4] [7] (See 33.110.220)	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.
Maximum Building Coverage (See 33.110.225)	10% of site area	25% of site area	30% of site area	35% of site area	45% of site area	45% of site area	50% of site area [8]
Required Outdoor Area							
- Minimum area	<u>250 sq. ft.</u>	<u>250 sq. ft.</u>	<u>250 sq. ft.</u>	<u>250 sq. ft.</u>	250 sq. ft.	250 sq. ft.	200 sq. ft.
- Minimum dimension [98] (See 33.110.235)	<u>12 ft. x</u> <u>12 ft.</u>	<u>12 ft. x</u> <u>12 ft.</u>	<u>12 ft. x</u> <u>12 ft.</u>	<u>12 ft. x</u> <u>12 ft.</u>	12 ft. x 12 ft.	12 ft. x 12 ft.	10 ft. x 10 ft.

Notes:

- [1] These standards may be superceded by the regulations of an overlay zone or plan district.
- [2] ~~Does not include area devoted to streets~~ See 33.610 and 33.611 for more information on calculating maximum density.
- [3] ~~Lots smaller than 5,000 sq. ft. may be allowed. See 33.110.210.~~
- [4] ~~Average lot size for attached unit development must be at least 2,500 sq.ft. per lot.~~
- [3] ~~Some lots may be subject to a different height standard. See 33.110.215.B.~~
- [4] ~~No setback is required from a lot line abutting an alley.~~
- [5] The side setback for lots in front of flag lots may be reduced to 3 feet. See 33.110.220.D.2.
- [6] Applies only to the perimeter of the attached unit development. See 33.110.240 C. for more information.
- [7] The walls of the garage structure are subject to the applicable front, side, or rear building setbacks.
- [8] ~~Applies to the entire attached housing project. The maximum building coverage for an individual lot is 60%.~~
- [98] The shape of the outdoor area must be such that a square of the stated dimension will fit entirely in the outdoor area.
- [10 9] No setbacks are required from an internal lot line that is also a zoning line on sites with split zoning. See 33.110.220.D.6.

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## Commentary

**.210** As a result of the "de-coupling" of the lot size and density standards, density will be based on gross site area and lot size requirements will allow some of the flexibility that is currently allowed through PUDs and cluster subdivisions.

In order to be consistent with these proposed changes, the lot size standards move with the other land division regulations into the 33.600 series of chapters.

### **33.110.210 Lot Size**

**A. Purpose.** ~~In standard land divisions, lot size limits help to preserve the overall character of developed neighborhoods by assuring that new houses will generally have the same size lots as the surrounding built-up area. They also assure that development on a lot will, in most cases, be able to comply with all applicable development standards.~~

**B. Land divisions.**

1. ~~Generally. All new lots created must comply with the lot size standards of Table 110-3 except as stated in paragraph 2 below. For sites which are proposed to be developed with detached houses, an ownership made up of several lots may not be separated into different ownerships if any of the resulting ownerships do not comply with the Type A substandard lot standards stated in Chapter 33.291, Substandard Residential Lots. See Title 34 for additional regulations that apply to land divisions.~~

2. ~~Exceptions.~~

a. ~~Lots in the R5 and R2.5 zones. New lots in the R5 and R2.5 zones that are between 4,000 and 5,000 square feet in area can be created. These new lots have no minimum lot depth requirement; however, they must be at least 40 feet wide and meet all of the following:~~

(1) ~~The lots will be developed with detached houses;~~

(2) ~~The average lot size is 5,000 square feet; and~~

(3) ~~The development standards of Subsection D, below, are met.~~

b. ~~Flag lots. The requirements for flag lots are stated in Chapter 33.277, Residential Flag Lots.~~

c. ~~Institutional uses. The minimum lot size for institutional uses is stated in 33.110.245, Institutional Development Standards.~~

**C. New development on standard lots.** ~~New development on lots that comply with the lot size standards in Table 110-3 is allowed by right subject to the development standards.~~

**D. New development on substandard lots.** ~~New development on lots which do not conform to the lot size standards in Table 110-3 are subject to the regulations of Chapter 33.291, Substandard Residential Lots.~~

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## Commentary

**.212** This is a new section to address whether a lot is “buildable.” It will replace rules now in Chapter 33.291, Substandard Residential Lots.

Currently, it is possible to determine whether a lot is legal, and therefore buildable, solely by looking at the size of the lot. Because lot sizes will be flexible, this will no longer be possible, and the concept of substandard lots is no longer meaningful.

Under this recommendation, whether a lot is buildable will be based on when it was created, by what method (land division etc.), how big it is, and whether the lot has been owned in common with adjacent property. Generally, if the lot was created legally, it is considered buildable.

Under the current regulations, lots of record that did not go through the land division process, but would have met the dimensional requirements at the time, can be considered buildable. A change in policy of a practical nature is recommended: because lots of record are, by definition, ones that were created before July 26, 1979, all such lots are now at least 20 years old. The records of what regulations for new lots were on a certain date are more and more difficult to locate with the passage of time. As a result, lots of record that meet the size thresholds of Table 110-4 will be considered buildable, and only those that are too small will be subject to the analysis of whether they met regulations when they were created.

The outcomes under this approach will generally be the same as under current regulations: Lots that are determined to be buildable now will still be considered buildable; most lots that are subject to additional land use review will still be subject to additional review; and most lots that are determined to be unbuildable now will still be considered unbuildable. While this approach is significantly different from the current approach, the results will be similar.

Note: The definitions of “Lot” and “Lot of Record” have also been revised to read:

**Lot.** A lot is a legally defined piece of land that is the result of a land division. This definition includes the State definition of both lot (result of subdividing) and parcel (result of partitioning). See also, Ownership and Site.

**Lot of Record.** A lot of record is a plot of land:

- Which was not created through an approved subdivision or partition;
- Which was created and recorded before July 26, 1979; and
- For which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.



### **33.110.212 Validation of Lots and Lots of Record**

**A. Purpose.** The regulations of this section allow for development on lots and lots of record, but do not legitimize plots which were divided after subdivision and partitioning regulations were established. The regulations also allow development on lots which were large enough in the past, but were reduced by condemnation for right-of-way.

**B. Lots.** The regulations of this subsection apply to lots.

1. Lots created on or after July 26, 1979. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, created on or after July 26, 1979.

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## Commentary

**Table 110-4** This table is currently in Chapter 33.291, Substandard Residential Lots, as Table 291-1.

**Table 110-5** This table reflects current policy and practice in West Portland Park.

2. Lots created before July 26, 1979. The following regulations apply to lots created before July 26, 1979:
  - a. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, that meet the minimum size requirements of Table 110-4, except in the West Portland Park subdivision. Development may be allowed on lots that do not meet the minimum size requirements of Table 110-4 through Validation Review; see Chapter 33.854.
  - b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots, or combinations of lots, that meet the minimum size requirements of Table 110-5. Development may be allowed on lots that do not meet the minimum size requirements of Table 110-5 through Validation Review; see Chapter 33.854.
3. Lots reduced by condemnation.
  - a. Development that meets the regulations of this Title is allowed on lots, or combinations of lots, that did meet the minimum size requirements of Table 110-4 in the past, but were reduced below one or more of those requirements solely because of condemnation by a public agency for right-of-way, except in the West Portland Park subdivision.
  - b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots, or combinations of lots, that did meet the minimum size requirements of Table 110-5 in the past, but were reduced below one or more of those requirements solely because of condemnation by a public agency for right-of-way.

<b>Table 110-4</b> <b>Minimum Dimensions for Valid Lots and Lots of Record</b>					
<b>Standard</b>	<b>RF</b>	<b>R20</b>	<b>R10</b>	<b>R7</b>	<b>R5 &amp; R2.5</b>
<u>Lot Area</u>	<u>1 acre</u>	<u>14,000 sq. ft.</u>	<u>7,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>No Minimum</u>
<u>Lot Width</u>	<u>80 ft.</u>	<u>70 ft.</u>	<u>60 ft.</u>	<u>50 ft.</u>	<u>No Minimum</u>
<u>Lot Depth</u>	<u>120 ft.</u>	<u>100 ft.</u>	<u>80 ft.</u>	<u>70 ft.</u>	<u>No Minimum</u>

<b>Table 110-5</b> <b>Minimum Dimensions for Valid Lots and Lots of Record in West Portland Park</b>			
<b>Standard</b>	<b>RF through R10</b>	<b>R7</b>	<b>R5</b>
<u>Lot Area</u>	<u>Same requirements as Table 110-4</u>	<u>7,000 sq. ft.</u>	<u>5,000 sq. ft.</u>
<u>Lot Width</u>		<u>No Minimum</u>	<u>No Minimum</u>
<u>Lot Depth</u>		<u>No Minimum</u>	<u>No Minimum</u>

**C. Lots of record.** The regulations of this Subsection apply to lots of record.

1. Development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that meet the minimum size requirements of Table 110-4, except in the West Portland Park subdivision. Development may be allowed on lots of record that do not meet the minimum size requirements of Table 110-4 through Validation Review; see Chapter 33.854.

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## Commentary

**.212.D** Plot is defined in Chapter 33.910 as a piece of land created by partition, subdivision, deed, or other instrument recorded with the appropriate county recorder. This includes a lot, a lot of record, a tract, or a piece of land created through other methods.

**.215.B** Generally, maximum height is stated in Table 110-3. However, narrow lots will have a different height limitation based on the width of the building on the lot. The Director's discussion group determined that a 2-1/2 to 3 story house on a narrow lot is not desirable and that a height-to-width ratio should control height on these lots. The discussion group determined that a ratio of 1.2 to 1 is appropriate for lots that are narrower than the minimum lot width standard stated in Table 610-1.

2. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that meet the minimum size requirements of Table 110-5. Development may be allowed on lots of record that do not meet the minimum size requirements of Table 110-5 through Validation Review, see 33.854.

3. Lots of record reduced by condemnation.

a. Development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that did meet the minimum size requirements of Table 110-4 in the past, but were reduced below one or more of those requirements solely because of condemnation by a public agency for right-of-way, except in the West Portland Park subdivision.

b. In the West Portland Park subdivision, development that meets the regulations of this Title is allowed on lots of record, or combinations of lots of record, that did meet the minimum size requirements of Table 110-5 in the past, but were reduced below one or more of those requirements solely because of condemnation by a public agency for right-of-way.

**D. Plots.** Development is prohibited on plots that are not lots, lots of record, or tracts.

### **33.110.215 Height**

**A.** [No change]

**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.

2. Exception. The maximum height allowed for all structures is 1.2 times the width of the structure in the following situations:

a. On lots in the R10 through R5 zones that do not meet the minimum lot width requirement of 33.610.200.D.1, and were created by a land division submitted after July 1, 2002; and

b. On lots in the R2.5 zones that do not meet the minimum lot width requirement of 33.611.200.C.1, and were created by a land division submitted after July 1, 2002.

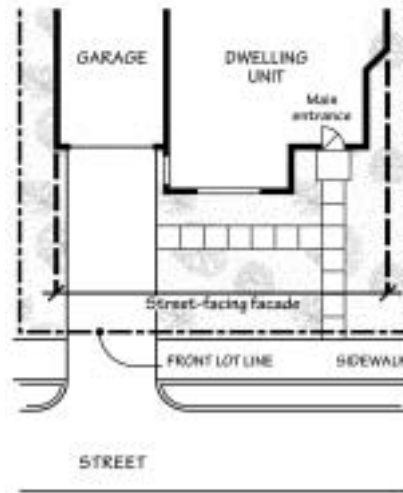
For the purposes of this Paragraph, width is the length of the street-facing façade of the dwelling unit. See Figure 110-1. Modifications are allowed through Planned Development Review, see Chapter 33.638, Planned Development. Adjustments to this paragraph are prohibited.

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## Commentary

**Figure 110-1**  
**Width of Street-Facing Façade**



**C. – D.** [No change]

### **33.110.220 Setbacks**

**A. – C.** [No change]

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

1. - 3. [No change]
4. Steeply sloping lots. This provision applies to lots which slope **up** or **down** from the street with an average slope of 20 percent or greater. See Chapter 33.930, Measurements, for more information on how to measure average slope.
  - a. In the RF, R20, R10, and R7 zones, the front building setback for the dwelling may be reduced to 10 feet. However, the height limitations of subparagraph c. below apply. See Figures 110-~~42~~ and 110-~~23~~.
  - b. In all single-dwelling residential zones, the front building setback for the garage wall and/or the garage entrance setback may be reduced to five feet. However, the height limitations of c. below apply. See Figures 110-~~42~~ and 110-~~23~~.
  - c. Height limitation. The height limit in the area of the reduced setback is lowered one foot for every foot of reduced setback. See Figures 110-~~42~~ and 110-~~23~~.

**Figure 110-1 2**  
**Exceptions to Front Building Setback**  
**And Garage Entrance Setback—Downhill**

**Figure 110-2-3**  
**Exceptions To Front Building Setback**  
**And Garage Entrance Setback—Uphill**

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## Commentary

**.225** Currently, building coverage is regulated by zone. For example, in the R5 zone, you can cover no more than 45 percent of the lot with structures, regardless of the size of the lot. In the R5 zone, you can cover 2,250 sq. ft. on a 5,000 sq. ft. lot, 3,150 sq. ft. on a 7,000 sq. ft. lot, and so on.

Because a flexible approach to lot sizes is recommended, building coverage will also be regulated by lot size rather than zone. This new approach does not change the maximum allowed building coverage; it is simply a modified expression of the existing standards. What this modified approach achieves is the flexibility to create varying size lots while also ensuring that each lot is buildable, and that the area covered by building on the entire site is the same (or less) as under the current approach.

**.225.B** The current building coverage standards that are stated in Table 110-3 will be replaced with Table 110-6.

**.230.B** This subsection is being reformatted for clarity.



5. Established building lines. The front, side, or rear building setback 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 within the required setback is at least 60 percent of the width of the respective facade of the existing structure. The building line created by the nonconforming wall serves as the reduced setback line. However, side or rear setbacks may not be reduced to less than 3 feet in depth. See Figure 110-34. 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.
6. [No Change]

**Figure 110-34**  
**Established Building Lines**

### **33.110.225 Building Coverage**

- A. Purpose.** The building coverage standards, together with the height and setback standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. Additionally, the standards help define the character of the different zones by limiting the amount of buildings allowed on a site. ~~They work in conjunction with the lot size standards to determine how built-up a neighborhood appears.~~
- B. Building coverage standards.** The maximum combined building coverage allowed on a site for all covered structures is stated in Table 110-36.

<b>Table 110-6</b> <b>Maximum Building Coverage Allowed in the RF through R2.5 Zones</b>	
<b>Lot Size</b>	<b>Maximum Building Coverage</b>
<u>Less than 2,500 sq. ft.</u>	<u>50% of lot area</u>
<u>2,500 sq. ft. or more but less than 5,000 sq. ft.</u>	<u>1,250 sq. ft. + 40.04% of lot area over 2,500 sq. ft.</u>
<u>5,000 sq. ft. or more but less than 7,000 sq. ft.</u>	<u>2,250 sq. ft. + 6.67% of lot area over 5,000 sq. ft.</u>
<u>7,000 sq. ft. or more but less than 10,000 sq. ft.</u>	<u>2,450 sq. ft. + 18.33% of lot area over 7,000 sq. ft.</u>
<u>10,000 sq. ft. or more but less than 20,000 sq. ft.</u>	<u>3,000 sq. ft. + 20% of lot area over 10,000 sq. ft.</u>
<u>20,000 sq. ft. or more but less than 87,120 sq. ft.</u>	<u>5,000 sq. ft. + 5.53% of lot area over 20,000 sq. ft.</u>
<u>87,120 sq. ft. or more</u>	<u>8,712 sq. ft. + 10% of lot area over 87,120 sq. ft.</u>

### **33.110.230 Main Entrances in R10 through R2.5 Zones**

- A.** [No change]
- B. Where these standards apply.**
  1. The standards of this Subsection C apply to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones;
  2. The standard of Subsection D applies to the following:

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## Commentary

- a. Attached houses on lots in the R10 through R5 zones that do not meet the minimum lot width requirement of 33.610.200.D.1, and were created by a land division submitted after July 1, 2002; and
  - b. Attached houses on lots in the R2.5 zone that do not meet the minimum lot width requirement of 33.611.200.C.1, and were created by a land division submitted after July 1, 2002.
3. Where a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added;
4. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards; and
5. ~~In addition,~~ Subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from these standards.

**C. Location.** At least one main entrance for each structure must:

1. [No change]
2. Either:
  - a. Face the street. See Figure 110-45;
  - b. [No change]
  - c. Open onto a porch. See Figure 110-56. The porch must:
    - (1)-(3) [No change];

**Figure 110-45**  
**Main Entrance Facing the Street**

**Figure 110-56**  
**Main Entrance Opening onto a Porch**

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## Commentary

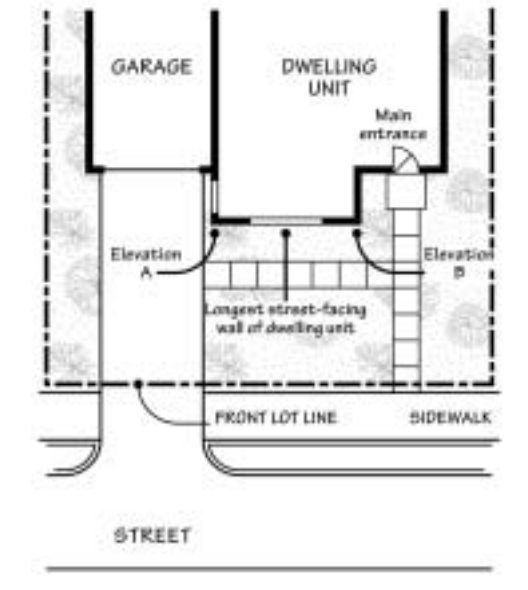
**.230.D** In addition to being oriented toward the street, main entrances to houses on narrow lots must also be at or near grade. The Director's discussion group recommends that the main entrance be within 4 feet of grade. This will ensure that the front door is connected to the public realm.

**.235** The requirement for outdoor area is currently applied only in the R5 and R2.5 zones. As a result of community interest, this requirement is being added to the RF through R7 zones. This will ensure that all lots in single-dwelling zones have at least a small private outdoor area.

**.240.C.1.a** As mentioned, the lot size requirements for new lots are moving to the 33.600 series of chapters. As a result, this subparagraph will be amended to state that each attached house taking advantage of this provision must be on a lot that complies with the lot dimension regulations for each zone listed in Chapter 33.610, Lots in RF through R5 Zones.

**D. Distance from grade.** The main entrance that meets Subsection .C, above, must be within 4 feet of grade. For the purposes of this Subsection, grade is the average grade measured along the foundation of the longest street-facing wall of the dwelling unit. See Figure 110-7. Modifications to this standard are allowed through Planned Development Review. See Chapter 33.638, Planned Development. Adjustments are prohibited.

**Figure 110-7**  
**Calculation of Grade:**  
**(Elevation A + Elevation B) / 2**



### 33.110.235 Required Outdoor Areas in R5 and R2.5 Zones

**A. Purpose.** The required outdoor areas standards assure opportunities in the denser single-dwelling zones for outdoor relaxation or recreation. The standards work with the maximum building coverage standards to assure ensure that some of the land not covered by buildings is of an adequate size and shape to be usable for outdoor recreation or relaxation. The location requirements provide options for private or semiprivate areas. The requirement of a required outdoor area serves in lieu of a large rear setback requirement and is an important aspect in addressing the livability of a residential structure.

**B. – C.** [No change]

### 33.110.240 Alternative Development Options

**A. – B.** [No change]

**C. Attached housing.** Attached housing allows for more efficient use of land and for energy-conserving housing.

1. R20 through R5 zones.

a. Lot ~~size~~dimensions. Each attached house must be on a lot that complies with the lot dimension standards ~~size standard~~ for new lots ~~of~~in the base zone stated in Chapter 33.610, Lots in RF through R5 Zones.

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## Commentary

**.240.C.1.d** The existing standard is being deleted because the length of the street facing garage wall standard (33.110.250.E.4) more strictly limits the amount of garage that is seen from the street.

**.240.C.1.d** The new standard will require lots that do not meet the minimum lot width standard of Table 610-1 to provide foundation and front yard landscaping. The Director's discussion group determined that some amount of landscaping in the front yards of these narrow lots help soften the appearance of the narrow houses on the lots.

**.240.C.2.a** This subparagraph is amended to refer to the lot dimension regulations in the 33.600's.

- b. Building setbacks.
  - (1) [No change]
  - (2) Corner lots. On corner lots either the rear setback or nonstreet side setback may be reduced to zero. However, the remaining nonstreet setback must comply with the requirements for a standard rear setback. See Figure 110-68.
- c. Number of units. Two attached houses may have a common wall. Structures made up of three or more attached houses are prohibited unless approved as a ~~PUD~~Planned Development.
- ~~d. Appearance. The intent of this standard is to prevent garages and blank walls from being the dominant front visual feature. The front facade of an attached house may not include more than 40 percent of garage wall area. For measurement information, see Chapter 33.930, Measurements.~~
- d. Landscape standards. The following landscape standards must be met on lots in the R10 through R5 zones that do not meet the minimum lot width standard of 33.610.200.D.1, and were created by a land division submitted after July 1, 2002. Modification of these standards is allowed through Planned Development Review. See Chapter 33.638, Planned Development. Adjustments are prohibited.
  - (1) All street-facing facades must have landscaping along the foundation. There must be at least one three-gallon shrub for every 3 lineal feet of foundation; and
  - (2) Sixty percent of the area between the front lot line and the front building line must be landscaped. At a minimum, the required landscaped area must be planted with ground cover. Up to one-third of the required landscaped area may be for recreational use, or for use by pedestrians. Examples include walkways, play areas, or patios.

2. R2.5 zone.

- a. Density and lot size. The density ~~and lot size~~ requirements of the base zone and the minimum lot dimension standard stated in Chapter 33.611, Lots in the R2.5 Zone, apply. ~~Commonly owned areas, including commonly owned open space, driveway, or parking areas apply toward the overall density standard and the average lot size standard.~~
- b. [No change]
- c. Building setbacks.
  - (1) - (2) [No change]
  - (3) Corner lots. On corner lots either the rear setback or nonstreet side setback may be reduced to zero. However, the remaining nonstreet setback must comply with the requirements for a standard rear setback. See Figure 110-68.
- ~~d. Appearance. The intent of these standards is to make each housing unit distinctive and to prevent garages and blank walls from being the dominant front visual feature.~~

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## Commentary

**.240.C.2.d(1)** This standard is being deleted because the length of the street facing garage wall standard (33.110.250.E.4) more strictly limits the amount of garage that is seen from the street.

**.240.C.2.d(2)** The requirement that the roof of each attached house be distinct from the others is being deleted in order to provide more flexibility to design attached house developments. Too often this requirement limits the creativity of architects and designers to design attractive and compatible structures.

**.240.C.2.d** Lots that do not meet the minimum lot width standard for new lots in the R2.5 zone will be required to provide foundation and front yard landscaping. The Director's discussion group determined that some amount of landscaping in the front yards of these narrow lots will help soften the appearance of the narrow houses on the lots.

**.240.C.2.e** The flexible approach to lot size that is recommended for land divisions will encourage the creation of common areas in all situations. As a result this subparagraph can be deleted.

**.240.C.2.f** This subparagraph is being deleted for two reasons. First, as a change to the land division regulations common access will be required to be an alley (public or private) and not an easement. Second, other requirements of Title 33 adequately regulate landscaping.

**.240.D.1** For clarity purposes, the last sentence of this paragraph which says, "Construction of a new duplex is prohibited" is being deleted. When Chapter 33.205, Accessory Dwelling Units, was amended in February 1998, subsection 33.110.240.F was also amended to allow new duplexes on corners. The last sentence of this paragraph was inadvertently left in the code.

**.240.E** As a result of other recommendations for Title 33 and the land division regulations, Chapter 33.216, Cluster Housing, will be deleted. Therefore this reference can also be deleted.

**.240.F** The regulations for both creation of and development on flag lots are currently in Chapter 33.277, Residential Flag Lots. The regulations related to creation of flag lots are moving to the 33.600s series of chapters with the other land division regulations (see Chapter 33.610) and the development standards for flag lots will move to this section.



- ~~(1) The front facade of an attached house may not include more than 40 percent of garage wall area. For measurement information, see Chapter 930, Measurements.~~
- ~~(2) The roof of each attached house must be distinct from the other through either separation of roof pitches or direction, or other variation in roof design.~~
- d. Landscape standards. The following landscape standards must be met on lots in the R2.5 zone that do not meet the minimum lot width standard of 33.611.200.C.1, and were created by a land division submitted after July 1, 2002. Modification of these standards is allowed through Planned Development Review. See Chapter 33.638, Planned Development. Adjustments are prohibited:
  - (1) All street-facing facades must have landscaping along the foundation. There must be at least one three-gallon shrub for every 3 lineal feet of foundation; and
  - (2) Sixty percent of the area between the front lot line and the front building line must be landscaped. At a minimum, the required landscaped area must be planted with ground cover. Up to one-third of the required landscaped area may be for recreational use, or for use by pedestrians. Examples include walkways, play areas, or patios.
- e. ~~Commonly owned areas. Up to 20 percent of the project may be in commonly owned open space, access drives, and parking area and is included in the overall density and setback calculations.~~
- f. ~~Common access. A common access to the rear of the lots for common or individual parking is allowed and may take the form of an easement. Common access drives must be at least 12 feet wide. When the access drive is abutting property that is not part of the project, it must be buffered by a 3 feet deep, L3 landscaped area.~~

**Figure 110-68**  
**Side and Rear Setbacks on Corner Lots—Attached Houses**

**D. Conversion to duplex in R2.5 zone.** Conversion of existing houses allows the density of the R2.5 zone to be obtained without the demolition of existing structures and with minimal impact on the physical character of the surrounding neighborhood.

- 1. Qualifying situations. The lot must be in an R2.5 zone, and must have an existing house which will be converted into a duplex. The house must be at least 5 years old. ~~Construction of a new duplex structure is prohibited.~~
- 2.-7. [No change]

~~**E. Cluster housing.** See Chapter 33.216, Cluster Housing.~~

~~**FE.** [No change]~~

~~**GF. Flag lot development standards.** See Chapter 33.277, Residential Flag Lots. The following standards apply to development on flag lots:~~

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## Commentary

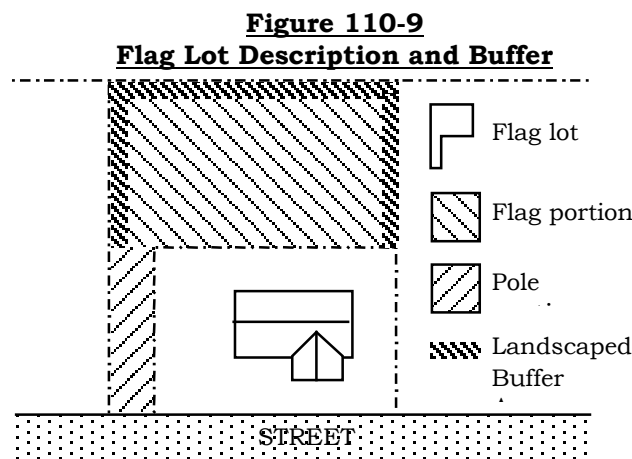
**.240.G** Chapter 33.269, Planned Unit Developments, will be replaced with a new chapter, 33.638, Planned Developments. This subsection will be amended to refer to the new chapter.

**.240.H.3** This paragraph has been amended to refer to the lot size standards in the 33.600's.

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

<u>Zone</u>	<u>Setback</u>
RF, R20, R10	15 feet
R7, R5	10 feet

2. Landscaped buffer area. In the R7 through R5 zones, on lots that are 10,000 square feet or less in area, a landscaped area is required around the perimeter of the flag lot to buffer the flag portion from surrounding lots. The pole and the lot line that separates the flag lot and the lot from which it was divided, are exempt from this requirement. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard. See Figure 110-9.



**HG. Planned unit development.** See Chapter 33.269638, Planned Unit Developments.

**IH. Transitional sites.** The transitional site standards allow for a transition of development intensities between nonresidential and single-dwelling zones. A stepped increase in density is allowed on single-dwelling zoned lots that are adjacent to most commercial, employment or industrial zones. The transition site provisions promote additional housing opportunities in a way that has minimal impacts on built-up single-dwelling neighborhoods.

1-2. [No change]

3. Lot size dimensions. Lots must comply with the lot size dimension standard for new lots in the base zone listed in Chapters 33.610 and 33.611. ~~the base zone except for lots in attached housing projects which may be reduced to accommodate the extra dwelling unit.~~

4 - 5. [No change]

**JL. Zero lot line.** A zero lot line development is where houses in a development on a common street frontage are shifted to one side of their lot. See Figure 110-710. This provides for greater usable yard space on each lot. These developments require that the planning for all of the house locations be done at the same time. Because the exact location of each house is predetermined, greater flexibility in site

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## Commentary

development standards are possible while assuring that the single-dwelling character is maintained.

1. – 4. [No change]

**Figure 110-710**  
**Zero Lot Line Development**

**33.110.245 Institutional Development Standards**

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

**C. The standards.**

1. The development standards are stated in Table 110-58. If not addressed in this section, the regular base zone development standards apply.
2. - 5. [No change]
6. Electrical substations. In addition to the standards in Table 110-58, the entire perimeter of electrical substations, including the street lot line (except for the access point), must be landscaped to the L3 standards stated in Chapter 33.248. This landscaping must be planted on the outside of any security fence.
7. [No change]

**Table 110-57, Institutional Development Standards**

**33.110.250 Accessory Structures**

**A. – D.** [No change]

**E. Special standards for garages.**

1. – 3. [No change]
4. ~~Length of street facing garage wall.~~
  - a. ~~Where this standard applies. The standard of this paragraph applies to garages that are accessory to houses, manufactured homes, and duplexes in the R10 through R2.5 zones. Where a proposal is for an alteration or addition to existing development, the standard applies only to the portion being altered or added. Garages that are accessory to attached houses, development on flag lots, or development on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from this standard. In addition, subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.~~
  - b. ~~Generally. The length of the garage wall facing the street may be up to 50 percent of the length of the street facing building façade. See Figure 110-8. On corner lots, only one street facing garage wall must meet this standard.~~

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## Commentary

**.250.E.4** Currently, attached houses are exempt from the 50 percent garage limitation standard. As a result of the Director's discussion group process, this standard is now being applied to attached houses on narrow lots. However, the exception, which allows at least a 12 foot wide garage on every dwelling unit, will not be extended to development on narrow lots. The discussion group believes that development on narrow lots should address the location of the car and parking areas in ways other than always locating it in the front yard. This standard and the curb preservation standard in the 33.600s work together to ensure that the vehicle areas are limited in front yards and driveway cuts across the sidewalk are minimized.

~~e. Exception. Where the street facing façade of the building is less than 24 feet long, the garage wall facing the street may be up to 12 feet long if there is one of the following. See Figure 110-9.~~

~~(1) Interior living area above the garage. The living area must be set back no more than 4 feet from the street-facing garage wall; or~~

~~(2) A covered balcony above the garage that is:~~

- ~~• At least the same length as the street-facing garage wall;~~
- ~~• At least 6 feet deep; and~~
- ~~• Accessible from the interior living area of the dwelling unit.~~

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

##### a. Where these regulations apply.

(1) Generally. Unless exempted by Subparagraph E.4.b, below, the regulations of this Paragraph apply to garages accessory to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones.

(2) The standard of Subsubparagraph E.4.c(1), below, applies to garages on lots that were created by a land division submitted after July 1, 2002, and:

- Are in the R10 through R5 zone and do not meet the minimum lot width standard of 33.610.200.D.1; or
- Are in the R2.5 zone and do not meet the minimum lot width standard of 33.611.200.C.1.

For these lots, modifications to the standards of this paragraph are allowed through Planned Development Review. See Chapter 33.638, Planned Development. Adjustments are prohibited.

(3) The standards of Subsubparagraph E.4.c(1) and (2), below, apply to garages on all lots other than those described in E.4.a(2), above.

##### b. Exemptions.

(1) Garages that are accessory to development on flag lots, or development on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from the standards of this paragraph.

(2) Garages in subdivisions and PUDs that received Preliminary Plan approval between September 9, 1990, and September 9, 1995, are exempt from the standards of this paragraph.

(3) On corner lots, only one street-facing garage wall must meet the standards of this paragraph.

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## Commentary



c. Standards.

- (1) Generally. The length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building façade. See Figure 110-11. For attached houses on lots described in E.4.a(2), above, this standard applies to the combined length of the street-facing façades of each unit. For all other lots and structures, the standards apply to the street-facing façade of each unit.
- (2) Exception. Where the street-facing façade of the building is less than 24 feet long, the garage wall facing the street may be up to 12 feet long if there is one of the following. See Figure 110-12.
  - Interior living area above the garage. The living area must be set back no more than 4 feet from the street-facing garage wall; or
  - A covered balcony above the garage that is at least the same length as the street facing garage wall, at least 6 feet deep, and accessible from the interior living area of the dwelling unit.

**Figure 110-811**  
**Length of Street Facing Garage Wall**

**Figure 110-912**  
**Length of Street Facing Garage Wall Exception**

5. Street lot line setbacks.

- a. [No change]
- b. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 110-~~10~~13. Where a lot has more than one street lot line, and there is an existing dwelling unit on the lot, this standard must be met only on the street-facing façade on which the main entrance is located.
- c. Exception. A street-facing garage wall may be up to 6 feet in front of the longest street-facing wall of the dwelling unit, if:
  - (1) [No change]
  - (2) There is a porch at the main entrance. The garage wall may not be closer to the street lot line than the front of the porch. See Figure 110-~~11~~14. The porch must meet the following:
    - The porch must be at least 48 square feet in area and have minimum dimensions of 6 feet by 6 feet;
    - The porch must have a solid roof; and
    - The roof may not be more than 12 feet above the floor of the porch.

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## Commentary

**.255** Currently, fence heights are limited in required setbacks. Fences in front setbacks are limited to 3-1/2 feet in height and fences in side and rear setbacks are limited to 8 feet in height. The 3-1/2 foot height limit is being extended to side and rear setbacks when the side or rear lot line abuts a pedestrian connection. This limitation will help keep pedestrian paths safe and visually accessible.

**.275** When a narrow lot abuts an alley, vehicle access is limited to the alley. This will ensure that the front of the lots are not dominated by vehicle access and parking.

**Figure 110-1013  
Street Lot Line Setback**

**Figure 110-1114  
Garage Front Setback Exception**

**33.110.255 Fences**

**A. – B.** [No change]

**C. Location.**

1. Front building setbacks. Fences up to 3-1/2 feet high are allowed in required front building setbacks.
2. Side and rear building setbacks. Fences up to 8 feet high are allowed in required side or rear building setbacks, except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.
3. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

**D.** [No change]

**33.110.275 Parking and Loading**

**A. Access to parking.** Vehicle access to a lot must be from an alley under the following conditions. Modifications to this standard are allowed through Planned Development Review. See Chapter 33.638, Planned Development. Adjustments are prohibited.

1. The lot abuts an alley;
2. The lot was created by a land division submitted after July 1, 2002; and
3. The lot is either:
  - a. The lot is in the R10 through R5 zones and does not meet the minimum lot width standard of 33.610.200.D.1; or
  - b. The lot is in the R2.5 zone and does not meet the minimum lot width standard of 33.611.200.C.1.

**B. Parking and loading.** For all other parking and loading regulations, see Chapter 33.266, Parking and Loading.

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## Commentary

**Table 120-2** Existing code allows attached duplexes as an alternative development option. The reference to the housing type is being added to this table for clarity purposes.

**.205.C** This is current staff practice. This language is being added for clarification.

## AMEND CHAPTER 33.120, MULTI-DWELLING ZONES

<b>Table 120-2</b> <b>Housing Types Allowed In The Multi-Dwelling Zones</b>						
<b>Housing Type</b>	<b>R3</b>	<b>R2</b>	<b>R1</b>	<b>RH</b>	<b>RX</b>	<b>IR</b>
House	Yes	Yes	Yes	Yes	Yes	Yes
Attached House (See 33.120.270 C.)	Yes	Yes	Yes	Yes	Yes	Yes
Accessory dwelling unit (See 33.205)	Yes	Yes	Yes	Yes	Yes	Yes
Duplex	Yes	Yes	Yes	Yes	Yes	Yes
Attached Duplex (See 33.120.270.D)	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Multi-Dwelling Structure	Yes [1]	Yes	Yes	Yes	Yes	Yes
Multi-Dwelling Development	Yes	Yes	Yes	Yes	Yes	Yes
Manufactured Home (See Chapter 33.251)	Yes	Yes	Yes	Yes	Yes	Yes
Mobile Home Park (See Chapter 33.251)	Yes	Yes	No	No	No	No
Houseboat (See Chapter 33.236)	Yes	Yes	Yes	Yes	Yes	Yes
Single Room Occupancy (SRO) units	No	No	Yes	Yes	Yes	Yes
Group Structures	Only when in conjunction with an approved conditional use. See also Chapter 33.239.					

Yes = allowed; No = prohibited.

Notes:

[1] Multi-dwelling development is limited to no more than eight units per building.

### 33.120.205 Density

**A. – B.** [No change]

**C. Minimum density.** The minimum density requirements for the multi-dwelling zones are stated in Table 120-3. Land within an Environmental zone may be subtracted from the calculation of minimum density. A site that is nonconforming in minimum density may not move further out of conformance with the minimum density standard. However, units may be added to the site which bring the site closer to conformance without coming all the way into conformance.

**D. – E.** [No change]

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## Commentary

### Table 120-3

Minimum density: Title 1, Section 2 of the Urban Growth Management Functional Plan requires minimum densities in all zones that allow residential uses. To comply with this requirement minimum densities are being added to the R3 and R2 zones. The recommended minimum density in R3 and R2 is 80 percent of maximum. The minimums serve two purposes: One, in order to meet the City's housing goals, all of the land zoned for multi-dwelling development should be developed at close to its full potential. Currently, there is quite a bit of single-dwelling construction in the R3 zone; and two, the minimums allow the City to comply with the UGMFP.

Currently, the minimum density in the R1 zone is 21 units per acre (50 percent of maximum). The UGMFP requires that minimum density in R1 be at least 20 units per acre. The minimum lot size in R1 is 10,000 square feet. However, there are existing lots that do not meet this minimum. The development standards in R1 (building coverage, landscaping, parking, setbacks, etc.) make development at the existing minimum difficult on small sites. Therefore, minimum density remains at 21 units per acre for sites that are less than 10,000 square feet in area and that minimum density increase to 30 units per acre (1 unit per 1,450 square feet) on sites that are 10,000 square feet or larger.

Minimum lot size: The lot size regulations are moving to Chapter 33.612, Lots in Multi-Dwelling Zones.

<p align="center"><b>Table 120-3</b> <b>Development Standards in Multi-Dwelling Zones [1]</b></p>						
<b>Standard</b>	<b>R3</b>	<b>R2</b>	<b>R1</b>	<b>RH</b>	<b>RX</b>	<b>IR</b>
Maximum Density (See 33.120.205)	1 unit per 3,000 sq. ft. of site area [2,3]	1 unit per 2,000 sq. ft. of site area [2,3]	1 unit per 1,000 sq. ft. of site area [2,3]	FAR of 2 to 1 [3,4]	FAR of 4 to 1	FAR of 2 to 1 [3,4, <del>12</del> 14]
Minimum Density (See 33.120.205)	<del>none</del> 1 unit per 3,750 sq. ft. of site area [5,7]	<del>none</del> 1 unit per 2,500 sq. ft. of site area [5,7]	1 unit per <del>2,000</del> 1,450 sq. ft. of site area [5,6,7]	1 unit per 1,000 sq. ft. of site area [57]	1 unit per 500 sq. ft. of site area [57]	none
Minimum Lot Size — Min. lot area — Min. lot width — Min. lot depth (See 33.120.210)	4,000 sq. ft. 40 ft. 80 ft.	4,000 sq. ft. 40 ft. 80 ft.	10,000 sq. ft. 70 ft. 100 ft.	10,000 sq. ft. 70 ft. 100 ft.	<del>none</del> <del>none</del> <del>none</del>	10,000 sq. ft.
Maximum Height (See 33.120.215)	35 ft.	40 ft.	25/45 ft. [68]	25/65 ft. [4,1315]	100 ft.	75 ft. [4]
Minimum Setbacks - Front building setback - Street building setback - Side and rear building setback [16, 18] - Garage entrance setback [810] (See 33.120.220)	10 ft. - - - [1416] 5-14 ft. [79] 18 ft.	10 ft. - - - [1416] 5-14 ft. [79] 18 ft.	3 ft. - - - [1416] 5-14 ft. [79] 5/18 ft. [911]	0 ft. 0 ft. [1416] 5-14 ft. [79] 5/18 ft. [911]	0 ft. 0 ft. [1416] 0 ft. 5/18 ft. [911]	1 ft. for every 2 ft. of bldg. height, but in no case less than 10 ft.
Maximum Setbacks (See 33.120.220) Transit Street or Pedestrian District	25 ft. [1517]	25 ft. [1517]	25 ft. [1517]	25 ft. [1517]	25 ft. [1517]	25 ft. [1517]
Max. Building Coverage (See 33.120.225)	45% of site area	50% of site area	60% of site area	85% of site area	100% of site area	70% of site area
Max. Building Length (See 33.120.230)	none	100 ft. [1012]	100 ft. [1012]	none	none	none
Min. Landscaped Area (See 33.120.235)	35% of site area	30% of site area	20% of site area	15% of site area	none	20% of site area
Required Outdoor Area Individual areas: - Minimum area - Minimum dimension [1113] Combined areas: - Minimum area - Minimum dimension [1113] (See 33.120.240)	48 sq. ft. 6 ft. x 6 ft. 500 sq. ft. 15 ft. x 15 ft.	48 sq. ft. 6 ft. x 6 ft. 500 sq. ft. 15 ft. x 15 ft.	48 sq. ft. 6 ft. x 6 ft. 500 sq. ft. 15 ft. x 15 ft.	none none none none	none none none none	none none none none

Notes:

- [1] These standards may be superseded by the regulations of an overlay zone or plan district.
- [2] The density may be increased if allowed by the amenity bonus regulations in 33.120.265.
- [3] The density may be increased if allowed by the regulations in Chapter 33.229, Elderly and Disabled High Density Housing.
- [4] The maximum FAR is 4 to 1 in the areas shown on Maps 120-2 through 120-28. In the areas where the FAR is 4 to 1, the maximum height is 75 feet, except on sites within 1,000 ft. of a light rail station or stop, where the maximum height is 100 ft.
- [5] If maximum density is two units then minimum density is two units. If maximum density is one unit, minimum density is one unit.
- [6] If the site is less than 10,000 sq. ft. in area, the minimum density is 1 unit per 2,000 sq. ft.
- [57] The minimum density standards do not apply to conversions of existing residential structures.

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## Commentary

**.210** As explained in the commentary for Chapter 33.110, Single-Dwelling Zones, minimum lot size standards for new lots are moving to the 33.600s series of chapters.



- [68] The 25 foot height limit applies only to the portion of a structure within 10 feet of a front property line.
- [79] See Table 120-4.
- [810] The walls of the garage structure are subject to 33.110.280.E and the applicable front, side, or rear building setbacks. This setback also applies to structured parking that does not allow exiting in a forward motion.
- [911] The garage entrance must be either 5 feet or closer to the street property line, or 18 feet or farther from the street property line. If the garage entrance is located within 5 feet of the front property line, it may not be closer to the property line than the front facade of the residential portion of the building.
- [1012] The 100 ft. limit applies only to buildings located within 30 feet of a street property line.
- [1113] The shape of the outdoor area must be such that a square of the stated dimension will fit entirely in the outdoor area.
- [1214] In the IR zone, residential development within 150 feet of another residential zone has the same maximum density permitted in that zone. Where two or more residential zones are within 150 feet of a site, the maximum residential density is that of the lower density residential zone.
- [1315] The 25 foot height limit applies only to sites where the FAR is 2:1. On those sites, the 25 foot height limit applies only to the portion of a structure within 10 feet of a front property line.
- [1416] Where no street building setback is indicated, the front, side, and rear setbacks apply. Where a street setback is indicated, it supersedes front, side, and rear setbacks if the front, side, or rear lot line is also a street lot line.
- [1517] Setbacks from Transit Streets and streets in Pedestrian Districts are measured from the curb. See 33.120.220.
- [1618] No setbacks are required from an internal lot line that is also a zoning line on sites with split zoning. See 33.120.220.B.1.c.

### 33.120.210 Lot Size

- A. [No change]
- B. **Land divisions.** All **new lots** created must comply with the lot size standards for the base zone of Table 120-3 listed in Chapter 33.612, Lots in Multi-Dwelling Zones. The existence of lots larger than the minimum is not a hardship, and does not justify their division into lots which are smaller than the minimum size allowed. See Title 34 for additional regulations that apply to land divisions. The minimum lot size for attached housing is stated in 33.120.270.C., below. The minimum lot size for institutional uses is stated in 33.120.275, Development Standards for Institutions, below.
- C. **Ownership of multiple lots.** Where more than one abutting lot or lot of record is in the same ownership, the ownership may be separated as follows:
1. [No change]
  2. If one or more of the lots or lots of record is substandard does not meet the lot size standards in Chapter 33.612, Lots in Multi-Dwelling Zones, the ownership may be separated if all requirements of this paragraph are met. This separation is allowed even if the lots or lots of record do not meet the minimum lot size standards of (Table 120-3). Such lots and lots of record are legal, substandard lots.
    - a. – b. [No change]
- D. **New development on standard lots.** New development on lots that comply with the lot size standards in Table 120-3 Chapter 33.612, Lots in Multi-Dwelling Zones, is allowed by right subject to the development standards.

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## Commentary

**.270.C.2** This standard will not change. However, it will move to 33.612 and be incorporated into the minimum lot dimensions for new lots in multi-dwelling zones.

**.270.C.6.b** The requirement that the roof of each attached house be distinct from the others is being deleted in order to provide more flexibility to design attached house developments. Too often this requirement limits the creativity that architects and designers have to design attractive and compatible structures.

**.270.C.8** This paragraph encourages attached houses with vehicular access from a common tract at the rear of the site. This paragraph is being amended to require the common access to be in the form of an alley rather than an easement. The width and landscaping requirements are also being amended because other requirements of the zoning code adequately regulate landscaping.

**.270.F** The reference to Planned Unit Developments will change to refer to recommended Chapter 33.638, Planned Development.

**E. New development on substandard lots.** New development is allowed on lots and lots of record which do not conform to the lot size standards in ~~Table 120-3~~Chapter 33.612, Lots in Multi-Dwelling Zones, if both of the following are met:

1. The development is proposed for a lot or lot of record. Development on ~~tracts~~plots that are not lots or lots of record is prohibited; and
2. [No change]

### **33.120.270 Alternative Development Options**

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

**C. Attached houses.** The development standards for attached housing are:

1. [No change]
2. Lot size. See 33.612, Lots in Multi-Dwelling Zones, for lot size information. ~~The minimum lot area in the R3 and R2 zones is 1,600 square feet. The minimum lot area in the R1 and RH zones is 800 square feet. There are no minimum lot width or depth requirements.~~
3. - 5. [No change]
6. Appearance. The intent of ~~these~~ this standards is to ~~make each housing unit distinctive and to~~ prevent garages and blank walls from being the dominant front visual feature.
  - a. ~~The front facade of an attached house may not include more than 40 percent of garage wall area. For measurement information, see Chapter 33.930, Measurements.~~
  - b. ~~The roofs of each attached house must be distinct from the other through either separation of roof pitches or direction, or some other variation in roof design.~~
7. [No change]
8. ~~Common access. A common access to the rear of the lots for common or individual parking and may take the form of an easement. Common access drives must be at least 12 feet wide. When the access drive is abutting property that is not part of the project, it must be buffered by a 3-foot deep, L3 landscaped area.~~

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

**F. Planned unit development.** See Chapter ~~33.269~~33.638, Planned Unit Developments.

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## Commentary

**.285.C** Currently, fence heights are limited in required setbacks. Fences in front setbacks are limited to 3-1/2 feet in height and fences in side and rear setbacks are limited to 8 feet in height. The 3-1/2 foot height limit is being extended to side and rear setbacks when the side or rear lot line abuts a pedestrian connection. This limitation will help keep pedestrian paths safe and visually accessible.

### **33.120.285 Fences**

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

**C. Location.**

1. Front building setbacks. Fences up to 3-1/2 feet high are allowed in required front building setbacks.
2. Side and rear building setbacks. Fences up to 8 feet high are allowed in required side or rear building setbacks- except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.
3. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

**D.** [No change]

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## Commentary

**.270.C** Currently, fence heights are limited in required setbacks. Fences in front setbacks are limited to 3-1/2 feet in height and fences in side and rear setbacks are limited to 8 feet in height. The 3-1/2 foot height limit is being extended to side and rear setbacks when the side or rear lot line abuts a pedestrian connection. This limitation will help keep pedestrian paths safe and visually accessible.

## AMEND CHAPTER 33.130, COMMERCIAL ZONES

### 33.130.200 Lot Size

There is no required minimum lot size for development of land or for the creation of new lots in commercial zones. Creation of new lots is subject to the regulations of ~~Title 34, Subdivisions and Partitions~~ Chapter 33.613, Lots in Commercial Zones.

### 33.130.270 Fences

A. - B. [No change]

#### C. Location and heights.

1. Front building setbacks. Fences up to 3-1/2 feet high are allowed in required front building setbacks.
2. Side and rear building setbacks. Fences up to 8 feet high are allowed in required side or rear building setbacks- except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.
3. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

D. [No change]

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## Commentary



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

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

#### Sections:

##### General

- 33.140.010 General Purpose of the Zones
- 33.140.020 List of the Employment and Industrial Zones
- 33.140.030 Characteristics of the Zones
- 33.140.040 Other Zoning Regulations

##### Use Regulations

- 33.140.100 Primary Uses
- 33.140.110 Accessory Uses
- 33.140.120 Hazardous Substances
- 33.140.130 Nuisance-Related Impacts
- 33.140.140 On-Site Waste Disposal

##### Site Development Standards

- 33.140.200 Lot Size
- 33.140.205 Floor Area Ratio
- 33.140.210 Height
- 33.140.215 Setbacks
- 33.140.220 Building Coverage
- 33.140.225 Landscaped Areas
- 33.140.230 Ground Floor Windows in the EX Zones
- 33.140.235 Screening
- 33.140.240 Pedestrian Standards
- 33.140.242 Transit Street Main Entrance
- 33.140.245 Exterior Display, Storage, and Work Activities
- 33.140.250 Trucks and Equipment
- 33.140.255 Drive-Through Facilities
- 33.140.260 Wastewater and Stormwater Disposal
- 33.140.265 Residential Development
- 33.140.270 Detached Accessory Structures
- 33.140.275 Fences
- 33.140.280 Demolitions
- 33.140.285 Excavations and Fills
- 33.140.290 Nonconforming Development
- 33.140.295 Parking and Loading
- 33.140.300 Signs
- 33.140.305 Street Trees
- 33.140.310 Superblock Requirements

##### ~~Industrial Park Development~~

- ~~33.140.400 Purpose~~
- ~~33.140.410 Description of an Industrial Park~~
- ~~33.140.420 When the Industrial Park Regulations Apply~~
- ~~33.140.430 Minimum Size~~
- ~~33.140.440 Commercial Uses Allowed~~
- ~~33.140.450 Development Standards~~
- ~~33.140.460 Required Master Plans~~
- ~~33.140.470 Approval Procedure and Application Requirements~~
- ~~33.140.480 Existing Industrial Parks~~

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## Commentary

**.200** The minimum size and shape standards for new lots in Employment and Industrial Zones is moving to the 33.600s series of chapters with the other land division regulations.

### 33.140.200 Lot Size

Lot size regulations are in Chapters 33.614 and 33.615.

- A. Purpose.** The lot size standards promote new lots with sizes and shapes that are practical to assemble and develop, now and in the future. The standards are intended to prevent the creation of small lots which are difficult to develop or to aggregate with other lots. The standards also discourage narrow lots which increase demand for curb cuts.
- B. Existing lots that are not in conformance with the lot size standards.** Existing lots that are not in conformance with the lot size standards of Subsection C. below are subject to the following regulations. Development on all existing lots of record as of January 1, 1991 is allowed. Development is prohibited on a lot of record created after January 1, 1991 which did not comply with the zoning regulations when it was recorded.
- C. Minimum size and shape for new lots.**
1. All zones. Creation of new lots is also subject to the regulations and standards of Title 34, Subdivisions and Partitions.
  2. EG1 and IG1 zones. All new lots must meet Standard C stated in Table 140-3.
  3. EG2 zone.
    - a. For subdivisions of 10 or more lots, at least 80 percent of the lots must meet Standard B stated in Table 140-3 and the remainder must meet Standard C.
    - b. In land divisions of less than 10 lots, all but one lot must meet Standard B stated in Table 140-3. One lot may meet Standard C. The lots that meet standard B may not be redivided unless they continue to meet Standard B.
  4. EX zone. There is no required minimum lot size for new lots in the EX zone.
  5. IG2 and IH zones.
    - a. For subdivisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 140-3 and the remainder must meet Standard C.
    - b. In land divisions of less than 10 lots, all but one lot must meet Standard A stated in Table 140-3. One lot may meet Standard C. The lots that meet standard A may not be redivided unless they continue to meet Standard A.

<b>Table 140-3</b> <b>Industrial Zone New Lot Standards</b>		
	Minimum Lot Area	Minimum Dimension
Standard A	40,000 sq. ft.	150 ft. x 150 ft.
Standard B	20,000 sq. ft.	100 ft. x 100 ft.
Standard C	10,000 sq. ft.	75 ft. x 75 ft.

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## Commentary

**D. ~~Division of developed lots.~~** In all zones, land under existing buildings may be divided when the ownership of the existing building is also being divided. There are no minimum lot sizes in these cases. However, all development standards must be met.

**E. ~~Exempt lots.~~** Lots or tracts created for the purposes of providing a right of way or dedicated open space are exempt from the lot size and shape standards of this section.

<b>Table 140-43</b> <b>Development Standards [1]</b>						
Standard	<b>EG1</b>	<b>EG2</b>	<b>EX</b>	<b>IG1</b>	<b>IG2</b>	<b>IH</b>
Maximum FAR (see 33.140.205)	3 to 1	3 to 1	3 to 1	no limit	no limit	no limit
Maximum Height (see 33.140.210)	45 ft.	no limit	65 ft	no limit	no limit	no limit
Min. Building Setbacks (see 33.140.215) - Street lot line[4]	5 ft. [4]	25 ft.	0 [4]	0	25 ft.	5 ft.
- Lot line abutting an OS, C, E, or I zoned lot	0	0	0	0	0	0
- Lot line abutting an R zoned lot [5]	0 to 14 ft. [2]	15 ft.	0 to 14 ft. [2]	0 to 14 ft. [2]	15 ft.	15 ft.
Maximum Building Coverage (see 33.140.220)	85% of site area	85% of site area	100% of site area	100% of site area	85% of site area	100% of site area
Min. Landscaped Area (see 140.225)	15% of site area	15% of site area	None	None	15% of site area	None
Ground Floor Window Standards apply (see 33.140.230)	No	No	Yes	No	No	No
Pedestrian Standards Apply (see 33.140.240)	Yes	Yes	Yes	No	No	No
Min. Landscaping Abutting an R zoned lot (see 33.140.215.B.)	5 ft. @ L3 [3]	10 ft. @ L3	5 ft. @ L3 [3]	5 ft. @ L3 [3]	10 ft. @ L3	10 ft. @ L3

Notes:

[1] Plan district regulations may supersede these standards.

[2] See Table 140-54.

[3] For building setbacks of 5 feet or less, landscaping is required for the entire depth of the setback. However, no landscaping is required when buildings abut a lot line.

[4] In the EG1 and EX zones, minimum and maximum setbacks from Transit Streets or streets in Pedestrian Districts are stated in Table 140-65

[5] No setbacks are required from an internal lot line that is also a zoning line on sites with split zoning. See 33.140.215.B.3.b.

**Table 140-54, Minimum Building Setbacks From Residential Zone Lot Lines**

<b>Table 140-65</b> <b>Street Setbacks from Transit Streets and Streets in Pedestrian Districts in the EG1 and EX zones [1]</b>	
Minimum Setback	15 ft. [2]
Maximum Setback	25 ft. [2]

Notes:

[1] Setbacks in this table apply only in EG1 and EX zones. Refer to Table 140-4 3 for setback requirements in other zones.

[2] Setbacks in this table are measured from the curb. See 33.140.215.

**Table 140-76, Exterior Development Setbacks and Landscaping**

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## Commentary

**.275** Currently, fence heights are limited in required setbacks. Fences in front setbacks are limited to 3-½ feet in height and fences in side and rear setbacks are limited to 8 feet in height. The 3-½ foot height limit is being extended to side and rear setbacks when the side or rear lot line abuts a pedestrian path. This limitation will help keep pedestrian paths safe and visually accessible.

**.400-.480** The sections related to Industrial Parks are being deleted for two reasons. First, most of the flexibility they offer will be allowed either through flexibility in the land division regulations, or through the proposed new Chapter 33.638, Planned Developments. Second, Title 4 of the Urban Growth Management Functional Plan limits the amount of retail allowed in an industrial sanctuary to a much smaller amount than allowed by these provisions.

### **33.140.275 Fences**

**A. – B.** [No change]

**C. Location and heights.**

1. Front building setbacks. Fences up to 3-1/2 feet high are allowed in required front building setbacks.
2. Side and rear building setbacks. Fences up to 8 feet high are allowed in required side or rear building setbacks- except when the side or rear setback abuts a pedestrian connection. When the side or rear setback abuts a pedestrian connection, fences are limited to 3-1/2 feet in height.
3. Not in building setbacks. The height for fences that are not in required building setbacks is the same as the regular height limits of the zone.

**D.** [No change]

### **~~Industrial Park Developments~~**

**[Delete Sections 33.140.400 - 33.140.480]**

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## Commentary

**.040** This change is being made to clarify that Accessory Dwelling Units do not count toward minimum or maximum density.

**Chapter 33.216.** The purpose of Chapter 33.216 is to provide flexible development options where standard lots are not practical, and to promote the preservation of open and natural areas while allowing the density of the base zone to be met. This flexible approach is being folded into the land division regulations in the 33.600's as the standard approach for all land divisions. As a result, this chapter can be deleted.



## **AMEND CHAPTER 33.205, ACCESSORY DWELLING UNITS**

Sections:

33.205.010 Purpose

33.205.020 Where These Regulations Apply

33.205.030 Design Standards

33.205.040 Density

### **33.205.040 Density**

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

## **DELETE CHAPTER 33.216, CLUSTER HOUSING**

### **~~CHAPTER 33.216~~** **~~CLUSTER HOUSING~~**

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## Commentary

**.015.C** The neighborhood contact requirement currently appears in two places in the zoning code. This requirement is being added to some land division applications. Rather than have the specifics of the neighborhood contact requirement in three different places, the specific language will move to Chapter 33.730, Quasi-Judicial Procedure. This is a housekeeping measure that will somewhat simplify the code and standardize this requirement. There are no content changes.

## AMEND CHAPTER 33.218, COMMUNITY DESIGN STANDARDS

### 33.218.015 Procedure

**A. – B.** [No change]

**C. Neighborhood contact requirement.** ~~Proposals listed in Paragraph C.1, below, must complete the steps in Paragraph C.2 before a building permit is requested. The following proposals are subject to the neighborhood contact requirement as specified in Section 33.730.045, Neighborhood Contact Requirement. All of the steps in 33.730.045 must be completed before a building permit is requested.~~

~~1. Proposals subject to the neighborhood contact requirement. The following proposals are subject to the neighborhood contact requirement, as specified in Paragraph C.2, below:~~

~~a1.~~ Proposals that create more than three new dwelling units. Dwelling units are created:

~~(1)a.~~ As part of new development;

~~(2)b.~~ By adding net building area to existing development that increases the number of dwelling units;

~~(3)c.~~ By conversion of existing net building area from non-residential to residential uses; and

~~(4)d.~~ By increasing the number of units within existing net building area already in residential use, for example, by converting a duplex to a five-plex;

~~b2.~~ Proposals that create more than 10,000 square feet of gross building area for uses in the Commercial or Industrial use categories; or

~~e3.~~ Proposals in the IR zone where the site is not covered by an Impact Mitigation Plan or Conditional Use Master Plan.

~~2. Steps. The steps are:~~

~~a. The applicant must contact the neighborhood association for the area, by registered or certified mail, to request a meeting. The neighborhood association should reply to the contact within 14 days and hold a meeting within 30 days of the date of the initial contact. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 30 days, the applicant may apply for a building permit without further delay. The neighborhood may schedule the meeting with its board, the general membership or a committee.~~

~~— The purpose of the meeting is to allow neighborhood residents and the developer to discuss concerns about the design of the proposal. The focus of the meeting should be the design of the proposal and not whether the proposal will be built. The discussion at the meeting is advisory only and is not binding on the applicant.~~

~~b. After the meeting and before applying for a building permit, the applicant must send a letter to the neighborhood association. The letter will explain changes, if any, the applicant is making to the proposal's design.~~

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## Commentary

**D. Permit application requirements.** The following information must be submitted as part of an application for a building or development permit:

1.-2. [No change]

3. Neighborhood contact letters. For proposals ~~required~~subject to comply with the ~~steps for~~ neighborhood contact, as required by Paragraph C.2, above, set out in Paragraph C.2, above, a copy of both letters required by ~~Subparagraphs C.2.a and b~~ Subsection 33.730.045.B must be submitted.

## CHAPTER 33.266, PARKING AND LOADING

### 33.266.100 General Regulations

**A. – D.** [No change]

**E. Proximity of parking to use.** Required parking spaces for residential uses must be located on the site of the use or within a tract owned in common by all the owners of the properties that will use the tract. Required parking spaces for nonresidential uses must be located on the site of the use or in parking areas whose closest point is within 300 feet of the site.

**F. – G.** [No change]

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## Commentary

**Chapter 33.269** A new chapter to replace some of the elements of Chapter 33.269, Planned Unit Developments is recommended. Most of the provisions of Chapter 33.269 are incorporated into the new land division regulations. However, several of the provisions will remain in the zoning code in recommended Chapter 33.638, Planned Development. See Part III of this report for the details of this new chapter.

**DELETE CHAPTER 33.269, PLANNED UNIT DEVELOPMENTS**

**~~CHAPTER 33.269~~**  
**~~PLANNED UNIT DEVELOPMENTS~~**

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## Commentary

**Chapter 33.277.** For purposes of consistency, the regulations related to creation of flag lots move to the 33.600 series of chapters with the other land division regulations and the development standards move to Section 33.110.240, Alternative Development Options. As a result, this chapter will be deleted. (See 33.610.400.B.2 and 33.610.500.)



**DELETE CHAPTER 33.277, RESIDENTIAL FLAG LOTS**

**~~CHAPTER 33.277~~**  
**~~RESIDENTIAL FLAG LOTS~~**

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## Commentary

**Chapter 33.291** This chapter is being deleted because most of the regulations have been replaced by the recommended new Section 33.110.212, Validation of Lots and Lots of Record or by the Base Zone Design Standards.

**DELETE CHAPTER 33.291, SUBSTANDARD RESIDENTIAL LOTS**

**CHAPTER 33.291**  
**SUBSTANDARD RESIDENTIAL LOTS**

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## Commentary

**Chapter 33.405** The Director and the discussion group started to address the issues related to the "a" overlay. There are many issues surrounding the "a" overlay and the effects the zone's provisions have on established neighborhoods. Most of the problems with the "a" overlay will be examined during a future project which will examine the design of development on infill lots citywide. However, the discussion group agreed to make one amendment to the "a" overlay that would help to make new development in this zone more compatible with surrounding development patterns: when the developer will be taking advantage of the "a" overlay, they will be required to meet the Community Design Standards at the land division stage or, alternately, go through design review at the land division stage. This will ensure that the design of the structures will be considered when the lots are being platted and vice versa.

**.060.B.4.d.** This amendment would clarify the process for proposing changes to the design of the buildings after the land division is approved. The amendment would require design review or meeting the community design standards to change the approved design, but would not require revision of the approved land division. Design review will still look at the design of the structure in the context of the entire site.

## AMEND CHAPTER 33.405, ALTERNATIVE DESIGN DENSITY OVERLAY ZONE

### 33.405.050 Bonus Density for Design Review

A. – B. [No change]

- C. **Bonus density.** Fifty percent more dwelling units than allowed by the base zone is granted for projects that voluntarily go through a Type III design review process. If a land division is required or requested, the design review process must be concurrent with the land division. Design review must be approved in order for the land division to be approved. The development will be judged against the guidelines for design review applicable to the district. Where no district design guidelines exist, the Community Design Guidelines will be used.

### 33.405.060 Attached Residential Infill on Vacant Lots.

A. [No change]

- B. **Attached residential infill.** Attached residential development is allowed if all of the following are met. Adjustments to Paragraphs B.1 through B.4, below, are prohibited:

1. - 2. [No change]

~~3. A land division creating an individual lot for each attached housing unit is recorded;~~

~~4~~3. Attached residential development in the R20, R10, R7 and R5 zones must meet the following development standards:

a. - b. [No change]

~~5~~4. Design review required:

a.- b. [No change]

c. Land Division. If the proposal requires, or the applicant requests, a land division, the application for the land division must show how the Community Design Standards are met. If the Community Design Standards cannot be met or the applicant chooses not to meet the Community Design Standards, design review is required. When design review is required, the design review process must be concurrent with the land division. The Community Design Standards must be met or design review must be approved in order for the land division to be approved.

d. Changes to a design approved concurrently with a land division. If the design of the proposed development was reviewed concurrently with the land division through design review, changes to the design of the proposed development after final plat approval must be reviewed through design review. If the proposed development met the Community Design Standards concurrently with the land division, changes to the design of the proposal after final plat approval must continue to meet the Community Design Standards, or must be reviewed through design review. Concurrent land division review is not required to change the design of the proposed development after final plat approval.

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## Commentary

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

**A. – B.** [No change]

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

1. The standards of Subsection 33.110.240.F, Flag lot development standards and aAll base zone regulations must be met, unless otherwise stated in this section or in Chapter 33.277, Residential Flag Lots. In the case of a conflict between the provisions of this section and the provisions of Section 33.277, the provisions of this section control;

2.—4. [No change]

**D. Detached houses on lots averaging 2,500 square feet.** A site in an R2 or R2.5 zoned area may be developed with detached dwellings on individual lots that average 2,500 square feet or more, when all of the following requirements are met:

1. – 2. [No change]

3. Minimum lot width is 16 feet, minimum front lot line is 16 feet, and minimum lot depth is 40 feet.

**E. Design review required.**

1. - 2. [No change]

3. Land Division. If the proposal requires, or the applicant requests, a land division, the application for the land division must show how the Community Design Standards are met. If the Community Design Standards cannot be met or the applicant chooses not to meet the Community Design Standards, design review is required. When design review is required, the design review process must be concurrent with the land division. The Community Design Standards must be met or design review must be approved in order for the land division to be approved.

4. Changes to a design approved concurrently with a land division. If the design of the proposed development was reviewed concurrently with the land division through design review, changes to the design of the proposed development after final plat approval must be reviewed through design review. If the proposed development met the Community Design Standards concurrently with the land division, changes to the design of the proposal after final plat approval must continue to meet the Community Design Standards, or must be reviewed through design review. Concurrent land division review is not required to change the design of the proposed development after final plat approval.

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## Commentary

**Chapter 33.430** The changes proposed for this chapter are, for the most part, changes to terminology, and reflect proposed changes in land division regulations. For example, Planned Developments will replace some elements of Planned Unit Developments (PUDs), while other elements of PUDs and Cluster Subdivision will be incorporated into the land division general regulations. As a result, these terms are dropped from this chapter.

**140.A** The text describing the standard and the Table have been re-written for better clarity and understanding.

**.160.B** We are proposing that the name of the tract be changed from "common open space tract" to "environmental resource tract."

**.160.C and .D** The information in Subsections C and D has been redistributed into proposed Subsections C, D, E and F.



## AMEND CHAPTER 33.430, ENVIRONMENTAL ZONES

### 33.430.140 General Development Standards

[No change]

- A.** ~~New development within a resource area on the site, except utilities subject to Section 33.430.150, does not exceed the disturbance area limitations of Table 430-1. The maximum disturbance area allowed within the resource area on the site is determined by subtracting all portions of the site outside the resource area from the number listed in Table 430-1.~~

**B. – P.** [no change]

### 33.430.160 Standards for Land Divisions, PUDs, and Planned Developments cluster Housing Subdivisions

The following standards apply to land divisions, PUDs, and Planned Developments cluster housing subdivisions in the environmental overlay zones. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

**A.** [No change]

- B.** Resource areas of the environmental protection zone are located entirely within common open space tracts environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization; and

**C.** ~~Land divisions which are not also PUDs or cluster housing subdivisions:~~

- ~~1. All lots proposed within the environmental conservation zone have designated building sites that meet standards A through C and G through P of Section 33.430.140; and~~
- ~~2. No streets or alleys are created in the resource area of the environmental conservation zone.~~

**D.** ~~PUDs and cluster housing subdivisions: The standards of subsections 33.430.140.B, C, and H through P must be met. The standards of this subsection also must be met:~~

- ~~1. The total amount of disturbance area allowed within the resource area of the environmental conservation zone is 50 percent of the base zone building coverage or 1 acre, whichever is less, minus the amount of area outside the resource area; and~~
- ~~2. Native trees may be removed within 10 feet of any proposed structures, or within 5 feet of roads, driveways, and parking areas. In no case will the combined total diameter of all the 6-inch or greater trees cut exceed 225 inches per dwelling unit proposed. Trees listed on the Portland Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed.~~

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## Commentary

**.160.C** Standard *C* is replaced by a table similar to that of .140.A. The table is necessary because the way that the base zone building coverage is calculated has changed and the standard as it is written today would not work with the new building coverage. The result is essentially the same with the proposed change. The table provides disturbance areas that are nearly equivalent with those that are allowed under the current standard.

**.160.E** The information in Subsection F was previously the information in Paragraph .D.2. While the content of the regulation is the same, the Planning Commission recommends slight rewording so that it reads more clearly.

- C.** The total amount of disturbance area allowed within the resource area of the environmental conservation zone is either the amount listed in Table 430-3 or 1 acre, whichever is less, minus the amount of area outside the resource area;

<b>Table 430-3</b> <b>Maximum Disturbance Area for a Land Division Allowed Within the Resource Area</b>						
	<b><u>OS and RF Zone</u></b>	<b><u>R20 Zone</u></b>	<b><u>R10 Zone</u></b>	<b><u>R7 Zone</u></b>	<b><u>R5 Zone</u></b>	<b><u>All Other Zones</u></b>
<b><u>Maximum Disturbance Area</u></b>	<u>5% of site area</u>	<u>12% of site area</u>	<u>15% of site area</u>	<u>17% of site area</u>	<u>22% of site area</u>	<u>50% of the base zone building coverage</u>

- D.** Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization;
- E.** The combined total diameter of trees cut may not exceed 225 inches per dwelling unit. Trees that are less than 6 inches in diameter and trees listed on the Portland Nuisance Plant List or the Prohibited Plant List are exempt from this standard and may be removed.
- F.** The standards of Subsections 33.430.140.B, C, and H through P must be met.
- EG.** Streets, alleys, walkways, and stormwater facilities are not created within 50 feet of an identified wetland or water body. The standard does not apply to recreational trails identified by the Comprehensive Plan;

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## Commentary

**Table 430-4** Standards currently included in Figure 1 of Title 34 are being moved to this section for clarity purposes. In addition, the width requirements are slightly changed in order to simplify the table and to limit impervious surface in environmental zones. In general, the width requirements correspond to the requirements that would apply today to streets with parking on one side.

**.250** The term "PUD" is replaced with "Planned Development" throughout this section.

**.250.A.4.c** This has been rewritten to increase clarity; the content remains essentially the same although it is more clear now that alternative housing types and/or the number of units are negotiable when determining resource impact.

**FH.** Right-of-way and roadway widths may not exceed the ~~maximums~~minimum standards ~~allowed for each zone as listed in Table 430-4~~Figure 1 of Title 34, Subdivision and Partitioning Regulations; and

**GI.** Utility construction must ~~meets~~ the standards of Section 33.430.150.

<b>Table 430-4</b> <b>Maximum Right-of-way and Roadway Widths</b>			
<b>Base Zone</b>	<b>Type of Street</b>	<b>Right-of Way Width</b>	<b>Roadway Width</b>
<u>OS and RF – R7</u>	<u>Through</u>	<u>35 feet</u>	<u>20 feet</u>
<u>R5</u>	<u>Through</u>	<u>40 feet</u>	<u>20 feet</u>
<u>R2.5 – IR and C, E and I</u>	<u>Through</u>	<u>40 feet</u>	<u>28 feet</u>
<u>OS and RF – R5</u>	<u>Dead-end</u>	<u>35 feet</u>	<u>20 feet</u>
<u>R2.5 – IR and C, E and I</u>	<u>Dead-end</u>	<u>40 feet</u>	<u>28 feet</u>

### 33.430.250 Approval Criteria

- A. Public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, and planned unit developments (PUDs).** Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met:
1. General criteria for public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, and Planned Developments PUDs;
    - a. - e. [no change]
  2. - 3. [no change]
  4. Land divisions and Planned Developments PUDs:
    - a. Proposed uses and development must be outside the resource area of the Environmental Protection zone except as provided under Paragraph A.3 above. Other resource areas of Environmental Protection zones ~~in PUDs and Cluster Subdivisions~~ must be in ~~common open space~~ environmental resource tracts;
    - b. There are no practicable arrangements for the proposed lots, tracts, roads, or parcels within the same site, that would allow for the ~~designation provision~~ of significantly more of the building sites, vehicular access, utility service areas, and other development on lands outside resource areas of a conservation zone; and
    - ~~c. All areas to be developed that are within resource areas of a conservation zone, must designate areas for building sites, vehicular access, and utility service that are less detrimental to identified resources and functional values than other practicable and significantly different alternatives.~~

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## Commentary

**Chapter 33.480.** These regulations have been moved to a new chapter 33.853, Tree Review.

**Chapter 33.515** There are four changes proposed for this chapter. First, some terms will change to reflect proposed changes in the land division regulations. For example, land division will replace subdivision, and Planned Development Review will replace some elements of Planned Unit Development (PUD) review. Second, references to industrial parks will be deleted, because industrial park provisions are being deleted from the zoning code. Third, the reference to lot size standards will be amended to identify their new location in the 33.600 series of chapters. And, fourth, open space requirements currently in the PUD chapter will be moved to this chapter.

- c. Development, including building sites, vehicular access and utilities, within the resource area of a conservation zone must have the least amount of detrimental impact on identified resources and functional values as is practicable. Significantly different but practicable development alternatives, including alternative housing types or a reduction in the number of proposed or required units or lots, may be required if the alternative will have less impact on the identified resources and functional values than the proposed development.

## **AMEND CHAPTER 33.480, SCENIC RESOURCE ZONE**

### **33.480.050 Tree Removal Review**

- A. Purpose.** ~~The purpose of the tree removal review is to allow trees to be removed when they meet the purpose of this Chapter and when removal will enhance a view from a public right of way or from public property.~~
- B. Scope of tree removal review.** ~~Trees that do not qualify for removal under Subsection 33.480.040.B.2.g. and h. above, may be removed if approved through tree removal review as provided in Chapter 33.853, Tree Review. this Section. Tree removal in areas with an Environmental Overlay Zone is subject to environmental review rather than tree removal review.~~
- C. Procedure.** ~~Tree removal review is processed through a Type II procedure.~~
- D. Approval criteria.** ~~The request to remove trees will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:~~
- ~~1. The removal is to create or enhance a public view from public property or from a public right of way;~~
  - ~~2. Mitigation is provided on site by replacing removed trees with approved vegetation listed in the Scenic Resources Protection Plan appendix, after consultation with the City Forester; and~~
  - ~~3. The removal is consistent with any applicable Environmental zone regulations.~~

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

### **33.515.225 Transfer of Floor Area**

As part of a ~~subdivision or industrial park land division or Planned Development~~, a transfer of floor area within and between lots in the ~~subdivision or industrial park land division or Planned Development~~ is allowed as long as the overall floor area potential of the entire site is maintained. The proposed maximum floor area for each lot must be stated on the land use application. Maximum floor area allowances must be recorded on the deed or record. Any subsequent changes to the floor area allocation must also be noted on the deed and a copy of the deed ~~be~~ submitted to the ~~Bureau Office~~ of Planning and Development Review to ensure consistency with the overall floor area limits.

### **33.515.272 Item Subject to These Regulations**

Unless exempted in Section 33.515.274, the following are subject to the regulations of Sections 33.515.265 through 33.515.280:

- H.** Land divisions ~~as regulated by Title 34, Subdivision and Partitioning Regulations.~~

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## Commentary

**Chapter 33.530** The Glendoveer Plan District continues the development pattern established by in this area before it was annexed to the City. It is sometimes called "Ascot zoning."

**.030** This section requires that lots in the Glendoveer plan district be a minimum of 7,500 square feet in area and a minimum of 70 feet wide. For purposes of consistency with land division regulations, the Planning Commission recommends that this section be amended to clarify that the maximum density is 1 unit per 7,500 square feet of site area.

The density and lot size regulations will supercede the density and minimum lot dimension standards in the land division regulations.

**Chapter 33.535.** All references to PUDs and cluster subdivisions throughout this chapter are being amended to refer to the recommended Chapter 33.638, Planned Development.

**.010** Class I and II lands are those that are within the FEMA floodway and/or lands with slopes greater than 20 percent. Other regulations in Title 33, including the Environmental Overlay Zones chapter and the flood- and landslide-hazard area chapters, better achieve the goals to conserve significant natural areas and preserve existing vegetation by reducing maximum density, eliminating minimum density requirements, and requiring clustering along with open space tracts. Because these regulations better meet the purpose, this sentence is being removed from the purpose statement.



### **33.515.278 Development Standards**

**A.** [No change]

**B.** Land uses, land divisions, and activities within an environmental zone must meet the following standards:

1. - 11. [No change]

12. In Employment and Industrial zones, new lots completely within the environmental protection zone are exempt from minimum lot size and shape requirements of ~~Section 33.140.200, Lot Size~~ Chapter 33.614 and Chapter 33.615. All other new lots must meet the minimum size and shape requirements of ~~Section 33.140.200, Lot Size~~ Chapter 33.614 and Chapter 33.615, outside of land zoned environmental protection.

13.- 17. [No change]

18. Land divisions. The following standards apply to land divisions where at least half of the site is within an environmental zone:

a. In residential zones, at least 40 percent of the land division site not in streets must be devoted to open areas;

b. In nonresidential zones, at least 20 percent of the land division site not in streets must be devoted to open areas; and

c. In all zones, at least half of the open area must be in common ownership.

### **AMEND CHAPTER 33.530, GLENDOVEER PLAN DISTRICT**

#### **33.530.030 Minimum Lot Size and Maximum Density**

The minimum lot area is 7,500 square feet. The minimum lot width is 70 feet. Maximum density is 1 unit per 7,500 square feet of site area.

### **AMEND CHAPTER 33.535, JOHNSON CREEK BASIN PLAN DISTRICT**

#### **33.535.010 Purpose**

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. ~~Class I and II lands are given priority for designation as common open space in PUDs and cluster subdivisions, and preservation of existing vegetation on Class I, II, and III lands is encouraged.~~ In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

This plan district is intended to be used in conjunction with environmental zoning placed on significant resources and functional values in the Johnson Creek basin, to protect resources and functional values in conformance with Goal 8 of the Comprehensive Plan and Statewide Planning Goal 5.

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## Commentary

### 33.535.110 Transfer of Development Rights

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

**B. Regulations.** Transfer of development rights between sites in the plan district is allowed as follows. "Development rights" are the number of potential dwelling units that would be allowed on the site. Bonus density is not transferable.

1. [No change]
2. Receiving sites. All sites within the Johnson Creek plan district may receive development rights from sending sites except:
  - a. - b. [No change]
  - c. Portions of a receiving site in Land Class I or II within the South subdistrict. Land Class I and II are defined in Section 33.535.210, Maximum Density for PUDs and Cluster Subdivisions Land Divisions and Planned Developments.
3. [no change]
4. Transfer procedure. Transfer of development rights is allowed as follows:
  - a. ~~Planned Unit Development (PUD)~~ required. The receiving site must be approved for development as a PUD. The purpose of the PUD review is to ensure that the extra density is developed appropriately on the receiving site according to the requirements and approval criteria of this Subsection and the approval criteria in Chapter 33.269.665, Planned Unit Developments Review.
  - b. Sending site included. The sending site must be a part of the application for PUD review on the receiving site. The purpose of this requirement is to allow the City to track the reduced development potential on sending sites.
  - c. Covenant required. The owner of the sending site must execute a covenant with the City that reflects the reduced development potential on the sending site. The covenant must meet the requirements of 33.700.060. The covenant must be recorded before approval of the final plan, or if the PUD includes a land division, before the Director's of OPDR's approval of the final plat.
5. Approval Criteria. In addition to the PUD approval criteria in ~~33.269.310.C~~ Chapter 33.665, Planned Development Review, the transfer will be approved when the review body finds that all the following approval criteria have been met:
  - a. A PUD proposed for the site that includes the transferred density has been approved; and
  - b. The ~~Owner~~ owner of the sending site has executed a covenant with the City that reflects the reduction in potential density for the sending site.
6. [No change]

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## Commentary

**.200, .210** For purposes of consistency, the information in this section is being folded into Section 33.535.210, Maximum Density, which regulates the density of land subject to classification in the South Subdistrict of the Johnson Creek Basin Plan District.

### **33.535.120 Bonus Density**

- A.** [no change]
- B. Qualifying situations.** Density bonuses are allowed except where prohibited. Density bonuses are prohibited on portions of a site:
  - 1. - 2. [no change]
  - 3. In Land Class I or II within the South subdistrict. Land Class I and II are defined in Section 33.535.210, Maximum Density for ~~PUDs and Cluster Subdivisions~~ Land Divisions and Planned Developments.
- C.** [no change]
- D. Requirements.** Proposals to use density bonuses must meet the following:
  - 1. [No Change]
  - 2. Planned ~~Unit~~ Development (PUD) required. The proposal must be approved for development as a Planned ~~Unit~~ Development (~~PUD~~). In addition to the PUD approval criteria in ~~33.269.310.C Chapter 33.665, Planned Development Review~~, the following standards must be met:
    - a. - c. [No Change]

### **~~33.535.200 Land Classifications~~**

~~All land in the South subdistrict is divided into three land classifications, Classes I through III. Class I lands are generally the steepest sites having the greatest amount of natural hazards while Class III lands are generally flat without natural hazards. This land classification system is the basis for many of the regulations of this chapter.~~

### **33.535.210 Maximum Density for ~~PUDs and Cluster Subdivisions~~ Land Divisions and Planned Developments**

The maximum allowed density of development for ~~PUDs and cluster subdivisions~~ Land Divisions and Planned Developments is determined by calculating the number of acres in each land classification and multiplying those figures by the following fractions in Table 535-1, below.

All land in the South subdistrict is divided into three land classifications, Classes I through III. Class I lands are generally the steepest sites having the greatest amount of natural hazards while Class III lands are generally flat without natural hazards. This land classification system is the basis for many of the regulations of this chapter.

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## Commentary

**.220** The purpose of this section is to limit development on constrained lands (environmental zones, flood- and landslide-hazard areas) by requiring larger lot sizes. Other regulations in this plan district and other chapters of Title 33 better achieve this goal by reducing maximum density, eliminating minimum density requirements, and requiring clustering in combination with requiring open space tracts. Because these other regulations better meet this purpose, this section is being deleted.

**.230** The purpose of this section is to conserve significant natural areas, decrease the potential of erosion, decrease the amount of surface water runoff and stabilize landslide prone lands as part of a PUD or cluster subdivision. Other regulations in Title 33 including the environmental zone regulations, and the flood and landslide hazard area regulations and tree preservation regulations better achieve these goals and afford the same or greater level of protection of resources as this section. Because these regulations better address the purpose, this section is being deleted.

**.240** This section defines a process for contesting a land classification. The process requires that a qualified engineering geologist determine the accuracy of the classification.

Recommended changes to the land division regulations include adding regulations for landslide hazard areas. Potential landslide hazard areas have been identified and mapped by Portland State University. This map includes land in the Johnson Creek Basin Plan District this is classified I, II or III. When a land division is proposed and the site is on the map, a site specific study prepared by a Certified Engineering Geologist will be required. The study will identify the actual landslide hazard area and development within the identified landslide hazard area will be required to limit the risk of causing or being affected by a landslide.

This new process eliminates the need for the existing Type III process for contesting land classifications. Therefore, this section is being deleted.

### **~~33.535.220 Minimum Lot Sizes for Subdivisions and Major Partitions~~**

~~The following minimum lot sizes apply to all subdivisions and major partitions, excluding PUDs, and cluster subdivisions. Minor partitions must meet the minimum lot sizes of the base zone.~~

- ~~A. Up to 50 percent Class I and II. If up to 50 percent of the site area is classified as Class I and II lands, the minimum lot size is the minimum lot size of the base zone.~~
- ~~B. More than 50 percent Class I and II. If more than 50 percent of the site area is classified as Class I and II lands, the following minimum lot sizes apply.~~
  - ~~1. If less than 20 percent of the site area is classified as Class I land, the minimum lot size is two times the minimum lot size of the base zone.~~
  - ~~2. If 20 percent to 50 percent of the site area is classified as Class I land, the minimum lot size is three times the minimum lot size of the base zone.~~
  - ~~3. If more than 50 percent of the site area is classified as Class I land, the minimum lot size is four times the minimum lot size of the base zone.~~

### **~~33.535.230 Conservation of Class I and II Lands~~**

~~When designing PUDs and cluster subdivisions, Class I lands must be given first priority for designation as common open space and are to be maintained in a natural state. Existing non-nuisance and non-prohibited plants, as listed in the Portland Plant List, on Class I and II lands should be preserved where practical. The purpose of these requirements is to conserve significant natural areas, decrease the potential for erosion, decrease the amount of surface water runoff, and help stabilize areas prone to landslides.~~

### **~~33.535.240 Contesting the Land Classification Designation~~**

~~The land classification for a property shown in the Land Classification for the Johnson Creek Basin Protection Plan may be contested through a Type III procedure. The landowner must include supporting materials prepared by a qualified engineering geologist, proving that the land classifications shown in the Development Manual for that property are incorrect. The pre-application conference is waived in these instances.~~

### **33.535.320 Land Divisions and PUDs**

Land divisions and PUDs within the Johnson Creek Flood Risk Area, as indicated on Map 535-1, are prohibited.

## **AMEND CHAPTER 33.570, ROCKY BUTTE PLAN DISTRICT**

### **33.570.040 Tree Removal**

- A. [No Change]
- B. **Tree removal review.** Trees in the Rocky Butte plan district that do not qualify for removal under Subsection C, below, may be removed if approved through tree review as provided in Chapter 33.480.050 of the Scenic Resource zone 33.853, Tree Review. Tree removal in areas with an Environmental Overlay Zone is subject to environmental review rather than tree review.
- C. [No Change]

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## Commentary

**Chapter 33.575.** In 1982 City Council directed the Bureau of Planning to undertake a comprehensive study of the Northwest Hills area and recommend an appropriate land use plan. The purpose of the study was to determine the potential for, and appropriateness of, various levels of future development in the Northwest Hills. The study resulted in policy recommendations and updated Comprehensive Plan and Zoning designations. City Council adopted the Northwest Hills Study in November 1985 as Ordinance No. 158017.

Along with adoption of the study and ordinance, City Council adopted 11 administrative and land use policies. Policy #8 specifically directed the Bureau of Planning to place conditions on all future subdivisions, planned unit developments and zone changes within the study area that would assure adequate public services exist to support proposed development. The services that were determined to be most lacking in the Northwest Hills are sewer, water, and transportation.

The language of the ordinance and policy #8 has been determined to be mandatory approval criteria that must be applied to all subdivisions, planned unit developments and zone changes within the study area. However, even though the language is mandatory, the approval criteria have never been implemented through the zoning code. Since November 1985, subdivisions, planned unit developments and zone changes in the study area have been subject to these approval criteria but only because staff members know that the approval criteria exist and can be found in the Northwest Hills Study document. In order to ensure that policy #8 continues to be implemented, these regulations are merging with the existing Skyline plan district. The boundaries of the new plan district will be enlarged to incorporate all of the Northwest Hills study area and a new subdistrict will be implemented. The regulations that currently govern the Skyline plan district and subdistricts will not be altered, other than the name changes.

**.010** The purpose of the Skyline subdistrict is to assure that development in the Northwest Hills study area can be adequately served by public sewers, water and transportation.



## AMEND CHAPTER 33.575, SKYLINE PLAN DISTRICT

### CHAPTER 33.575563 SKYLINE NORTHWEST HILLS PLAN DISTRICT

#### Sections:

##### General

- 33.575563.010 Purpose
- 33.575563.020 Where the Regulations Apply
- 33.575563.030 Transfer of Development Rights

##### Balch Creek Subdistrict

- 33.575563.100 Prohibitions
- 33.575563.110 Additional Development Standards
- 33.575563.120 Additional Approval Criterion

##### ~~Northwest Hills~~Forest Park Subdistrict

- 33.575563.200 Prohibition
- 33.575563.210 Additional Approval Criteria
- ~~33.575.300 Transfer of Development Rights~~

##### Skyline Subdistrict

- 33.575563.400 Zoning Map Amendments
- 33.575563.410 Land Divisions and Planned Developments

Map 575563-1 ~~Skyline~~ Northwest Hills Plan District

#### **33.575563.010 Purpose**

The ~~Skyline~~Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the ~~Northwest Hills~~ Forest Park Subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. The plan district also promotes the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development. These regulations provide the higher level of protection necessary for these plan district areas. The transfer of development rights option reduces development pressure on protected sites while containing safeguards to protect receiving sites.

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## Commentary

**.020** The map at the end of the chapter indicates the boundaries of the Skyline subdistrict in addition to the boundaries of the other subdistricts.

**.030** This section is being moved from the end of the chapter (Section 33.575.300) to the beginning of the chapter. The regulations within this section remain the same. However, the area of the plan district is increasing. Sites in the RF zone are eligible to receive transferred development rights. There is one site zoned RF in the area to be included in the new plan district boundary; the site is part of the Catholic cemetery just north of NW Burnside near the intersection with NW Barnes Road and is owned by the Archdiocese of Oregon. The Director does not believe this increase in area is significant.

### **33.575563.020 Where the Regulations Apply**

The regulations of this chapter apply to the ~~Skyline~~Northwest Hills plan district and subdistricts as shown on Map ~~575563~~-1 at the end of this chapter, and on the Official Zoning Maps. The regulations of Section 33.563.030 apply to the entire plan district. The regulations of Sections ~~33.575563~~.100 through .120 apply only to the Balch Creek subdistrict. The regulations of Sections ~~33.563~~.200 through .210 apply only to the ~~Northwest Hills~~Forest Park subdistrict. The regulations of Sections 33.575.300 apply throughout the plan district. The regulations of Sections 33.563.400 through .410 apply only to the Skyline subdistrict.

### **33.563.030 Transfer of Development Rights**

Transfer of development rights between sites in the Northwest Hills plan district is allowed as follows. Development rights are the number of potential dwelling units that would be allowed on the site. Adjustments to the provisions of this Section are prohibited.

- A. Sending sites.** Sites in the single-dwelling zones that are entirely within the Environmental Protection overlay zone may transfer development rights.
- B. Receiving sites.** Sites in the RF zone inside the Urban Growth Boundary may receive development rights from sending sites. Dwelling units resulting from the transfer may not be placed within an environmental zone.
- C. Maximum density.** The density of the receiving site may not exceed 0.75 units per acre, except that when the following standards are met, total density may be increased to 1 unit per acre:

  - 1. For every unit transferred to the receiving site, there is one acre of land with slopes of less than 10 percent; and
  - 2. Approval for on-site septic disposal has been granted by the Office of Planning and Development Review or sanitary sewer is available to all lots proposed as part of a land division.
- D. Procedure.** Transfer of development rights is allowed as follows:

  - 1. Planned Development required. The receiving site must be approved for development as a Planned Development. The purpose of the Planned Development Review is to ensure that the extra density is developed

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## Commentary

**.200** In order to limit confusion, the name of this subdistrict is changing.

**.300** The regulations of this section have been moved to the beginning of the chapter (33.575.030).

appropriately on the receiving site according to the requirements and approval criteria in Chapter 33.638 Planned Developments.

2. Sending site included. The sending site must be a part of the application for Planned Development Review on the receiving site. The purpose of this requirement is to allow the City to track the reduced development potential on sending sites.
3. Covenant required. The owner of the sending site must execute a covenant with the City that reflects the reduced development potential on the sending site. The covenant must meet the requirements of 33.700.060. The covenant must be recorded before approval of the Planned Development or if the Planned Development includes a land division, before the approval of the Final Plat.

**E. Adjustments prohibited.** Adjustments to the provisions of this section are prohibited.

#### **Balch Creek Subdistrict**

##### **33.575563.110 Additional Development Standards**

All development must meet the following standards. Adjustment of these standards or modification of these standards through environmental review is prohibited. The development standards of this Section apply in addition to the standards of Sections 33.430.110 through .170.

**A. – C.** [no change]

**D. Land divisions.** All required closed canopy forest areas in ~~planned unit developments and cluster subdivisions~~ land divisions and planned developments must be within ~~the common open space~~ an environmental resource tract.

#### **Northwest HillsForest Park Subdistrict**

##### **33.575563.200 Prohibition**

Within environmental zones in the ~~Northwest Hills~~Forest Park subdistrict, activities which expose soil to direct contact with stormwater between October 1 and April 30 are prohibited. An exception to this prohibition is planting of native plants with hand-held equipment, and emergency repair of existing structures.

##### **~~33.575.300 Transfer of Development Rights~~**

~~Transfer of development rights between sites in the Skyline plan district is allowed as follows. Development rights are the number of potential dwelling units that would be allowed on the site.~~

**~~A. Sending sites.~~** ~~Sites in the single dwelling zones that are entirely within the Environmental Protection overlay zone may transfer development rights.~~

**~~B. Receiving sites.~~** ~~Sites in the RF zone inside the Urban Growth Boundary may receive development rights from sending sites. Dwelling units resulting from the transfer may not be placed within an environmental zone.~~

**~~C. Maximum density.~~** ~~The density of the receiving site may not exceed 0.75 units per acre, except that when the following standards are met, total density may be increased to 1 unit per acre.~~

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## Commentary

**.400.A-B** According to the commentary in the Northwest Hills Study document, these regulations encourage a planned development pattern and are necessary for assessing a site's impact on the transportation system.

**.410** The regulations of this section will apply to land divisions resulting in four or more lots and Planned Developments. Policy #8 and the implementing ordinance specifically exempt development on single lots and land divisions of 2 or 3 lots from the regulations.

**.410.A** Sites that are five acres or larger in size are required to submit a transportation analysis indicating how the proposed development will affect the street system and what might be done to reduce the project's impact through ridesharing and transit incentives. If the proposal is large—20 acres or more—the analysis must factor in the impacts of previously approved, but as yet undeveloped, proposals.

1. ~~For every unit transferred to the receiving site, there is one acre of land with slopes of less than 10 percent; and~~
2. ~~Approval for on-site septic disposal has been granted by the Bureau of Buildings or sanitary sewer is available to all lots proposed as part of a Planned Unit Development.~~

**~~D. Procedure.~~** Transfer of development rights is allowed as follows:

1. ~~Planned Unit Development (PUD) required. The receiving site must be approved for development as a PUD. The purpose of the PUD review is to ensure that the extra density is developed appropriately on the receiving site according to the requirements and approval criteria in Chapter 33.269 Planned Unit Developments.~~
2. ~~Sending site included. The sending site must be a part of the application for PUD review on the receiving site. The purpose of this requirement is to allow the City to track the reduced development potential on sending sites.~~
3. ~~Covenant required. The owner of the sending site must execute a covenant with the City that reflects the reduced development potential on the sending site. The covenant must meet the requirements of 33.700.060. The covenant must be recorded before approval of the final plan, or if the PUD includes a land division, before the Director's approval of the final plat.~~

**~~E. Adjustments prohibited.~~** Adjustments to the provisions of this section are prohibited.

### **Skyline Subdistrict**

#### **33.563.400 Zoning Map Amendments**

All requests for quasi-judicial Zoning Map Amendments within the Skyline subdistrict must meet the following:

- A. Zoning Map Amendments may only be requested in conjunction with a land division or Planned Development. Application and review of the Zoning Map Amendment and the land division or Planned Development may be concurrent; and**
- B. The entire site must be included in the request for a Zoning Map Amendment except when there is more than one Comprehensive Plan Map designation on the site.**

#### **33.563.410 Land Divisions and Planned Developments.**

The following regulations apply to land divisions that will create four or more lots and to all Planned Developments within the Skyline subdistrict. Adjustments are prohibited.

- A. Supplemental application requirements.** The following supplemental application requirements apply to proposals for land divisions or Planned Developments on sites of 5 acres or larger:
  1. Sites of 5 acres or larger. Applications for a land division or Planned Development on sites of 5 acres or larger must include a transportation analysis with the following information:
    - a. The potential daily and peak hour traffic volumes that will be generated by the site;
    - b. Distribution on the street system of the traffic that will be generated by the site;

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## Commentary

**.410.B.1** This requirement specifies that public sewer and water service must be provided to the site in order for the land division or Planned Development to be approved. If public sewer and water is not available to the site, then the proposal cannot be approved. The purpose of this requirement is to avoid private sewer and water systems because they have been health and pollution hazards in the past.

**.410.B.2** This requirement mirrors a condition of approval that was placed on the Forest Heights PUD and subsequent subdivisions and PUDs in the Northwest Hills study area. The requirement was originally proposed by the Office of Transportation with encouragement from the Land Use Hearings Officer.



c. The extent to which ridesharing and transit incentive programs might reduce the vehicle trips generated by the site; and,

d. Current traffic volumes on the principal roadways relative to the site; and

2. Sites of more than 20 acres. Applications for a land division or Planned Development on sites of more than 20 acres must expand the transportation analysis required in Paragraph A.1, above, to include the projected traffic volumes on the principal roadways relative to the site should the proposed development and other approved, but undeveloped proposals, be fully developed.

**B. Additional requirements for approval.** In order to be approved, proposed land divisions and Planned Developments must meet the following requirements:

1. Public sewer and water service must be available to the site; and

2. The applicant must either:

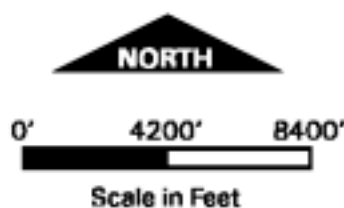
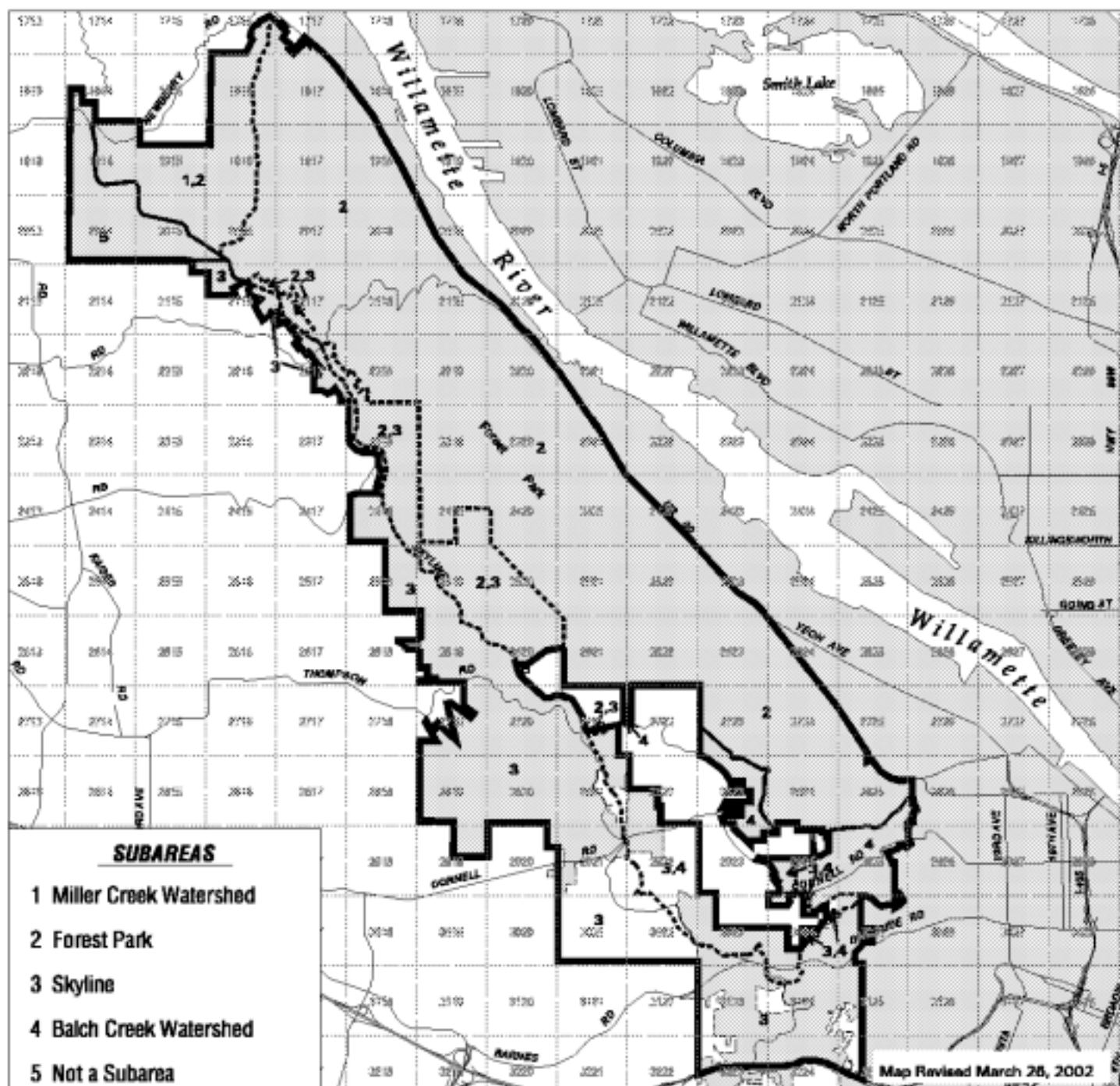
a. Show that the existing public transportation is adequate; or

b. Participate in or subsidize a private transportation service.

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## Commentary

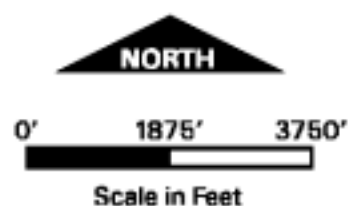
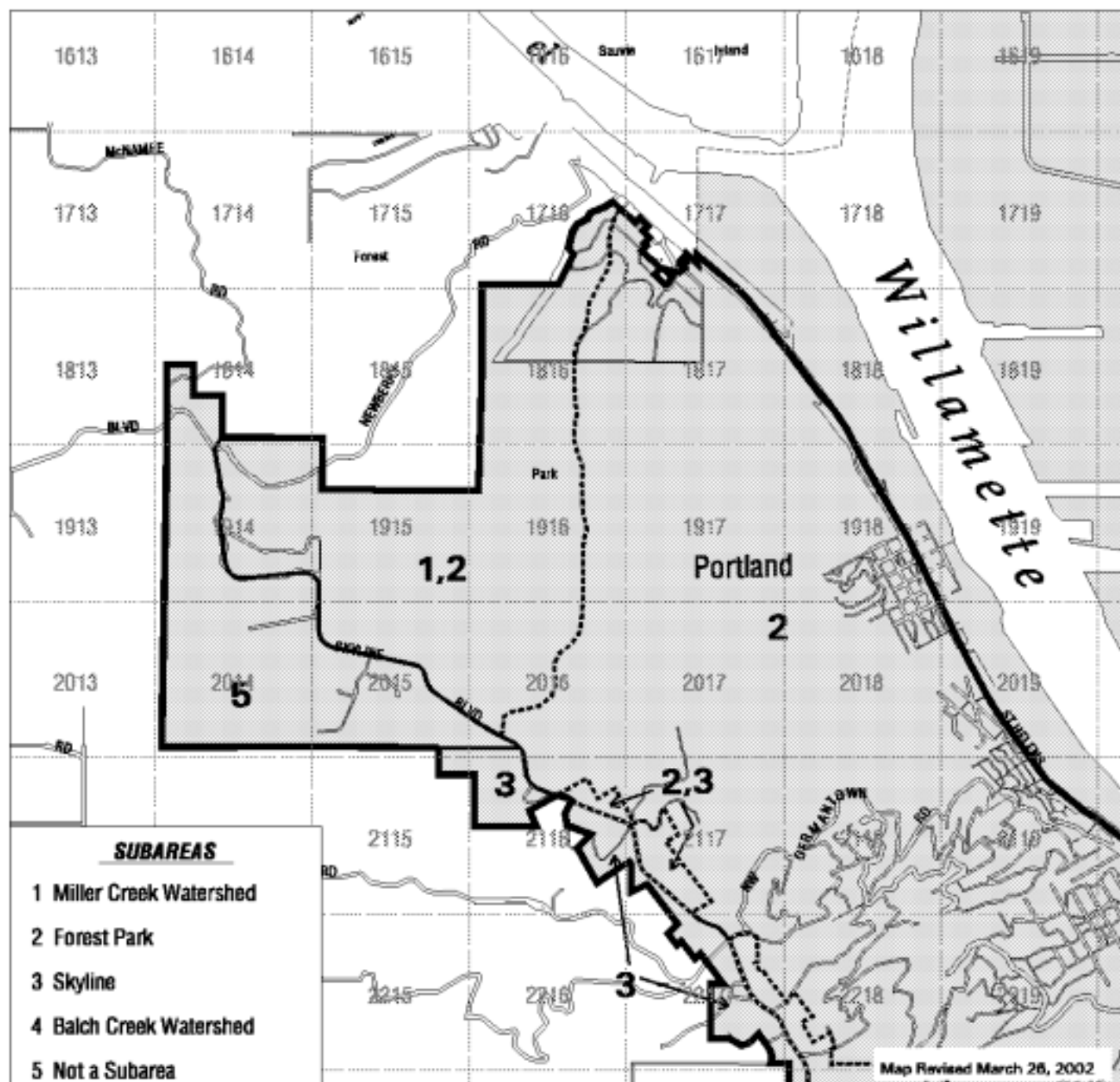


- Plan District Boundary
- Subarea Boundary
- Shared Subarea Boundary
- Quarter Sections (with #)
- City of Portland

## Map 563-1

# Northwest Hills Plan District and Subareas

## Map 1 of 5 (Index)

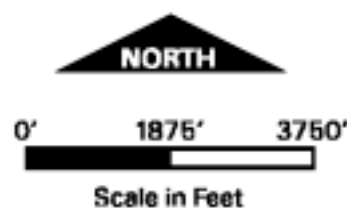
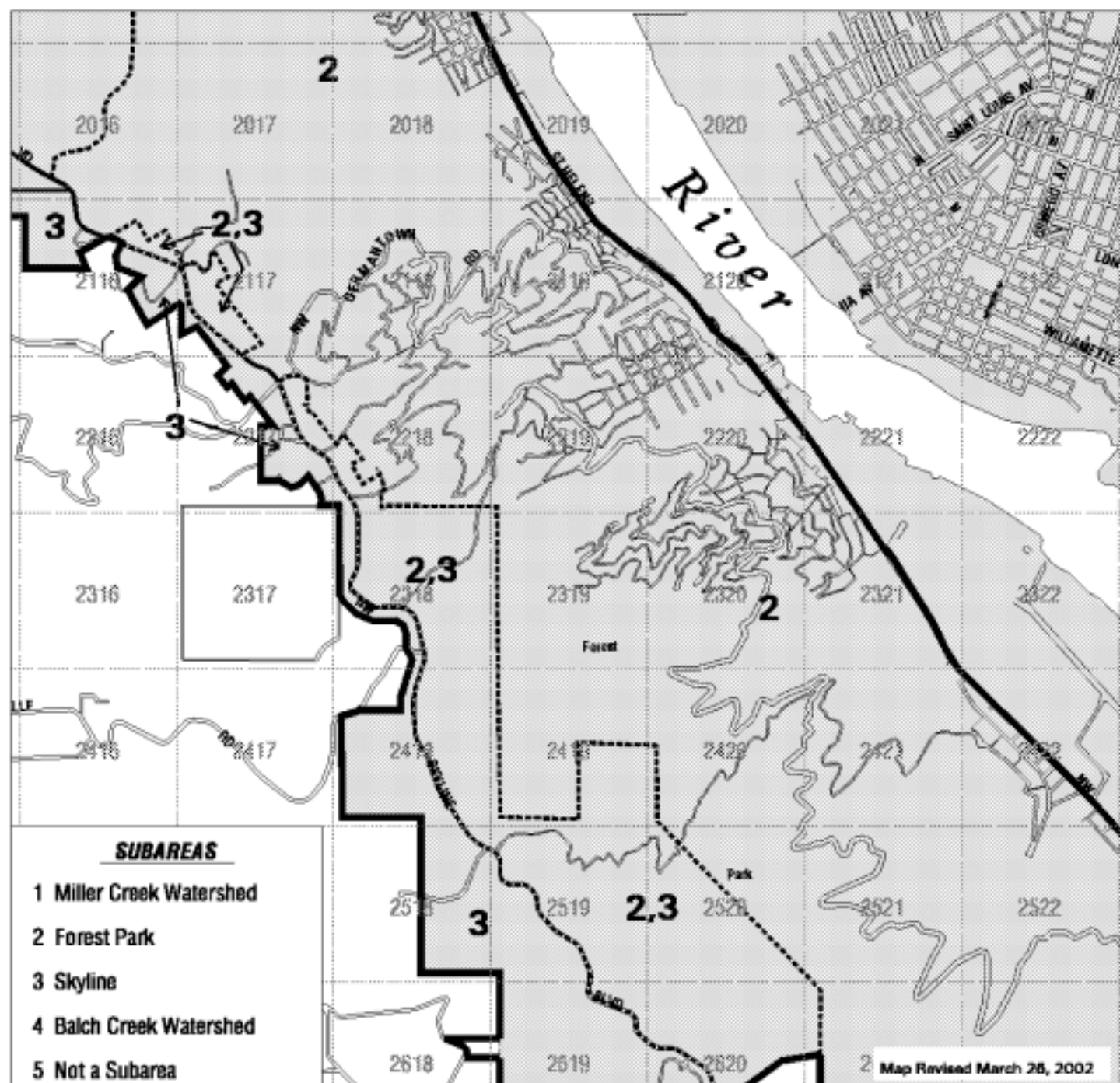


- Plan District Boundary**
- Subarea Boundary**
- Shared Subarea Boundary**
- Quarter Sections (with #)**
- City of Portland**

## Map 563-1

# Northwest Hills Plan District and Subareas

### Map 2 of 5 (Detail)

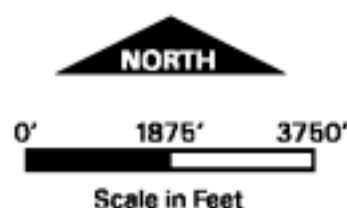
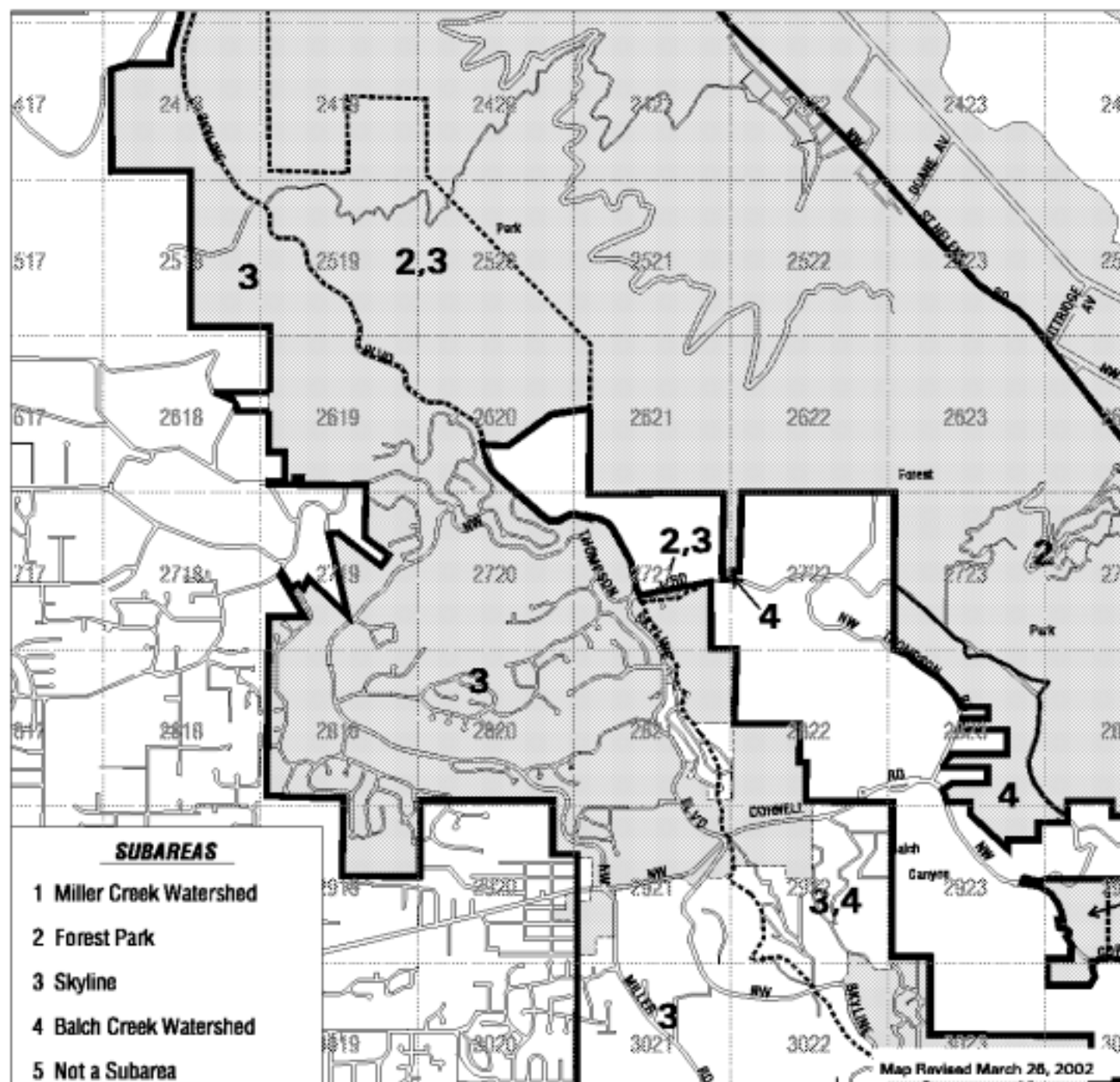


- Plan District Boundary
- Subarea Boundary
- Shared Subarea Boundary
- Quarter Sections (with #)
- City of Portland

## Map 563-1






# Northwest Hills Plan District and Subareas

### Map 3 of 5 (Detail)



0' 1875' 3750'

Scale in Feet

-  Plan District Boundary  
 Subarea Boundary  
 Shared Subarea Boundary  
 Quarter Sections (with #)  
 City of Portland

### Subarea Boundary

### Shared Subarea Boundary

**Quarter Sections (with #)**

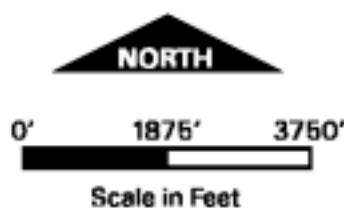
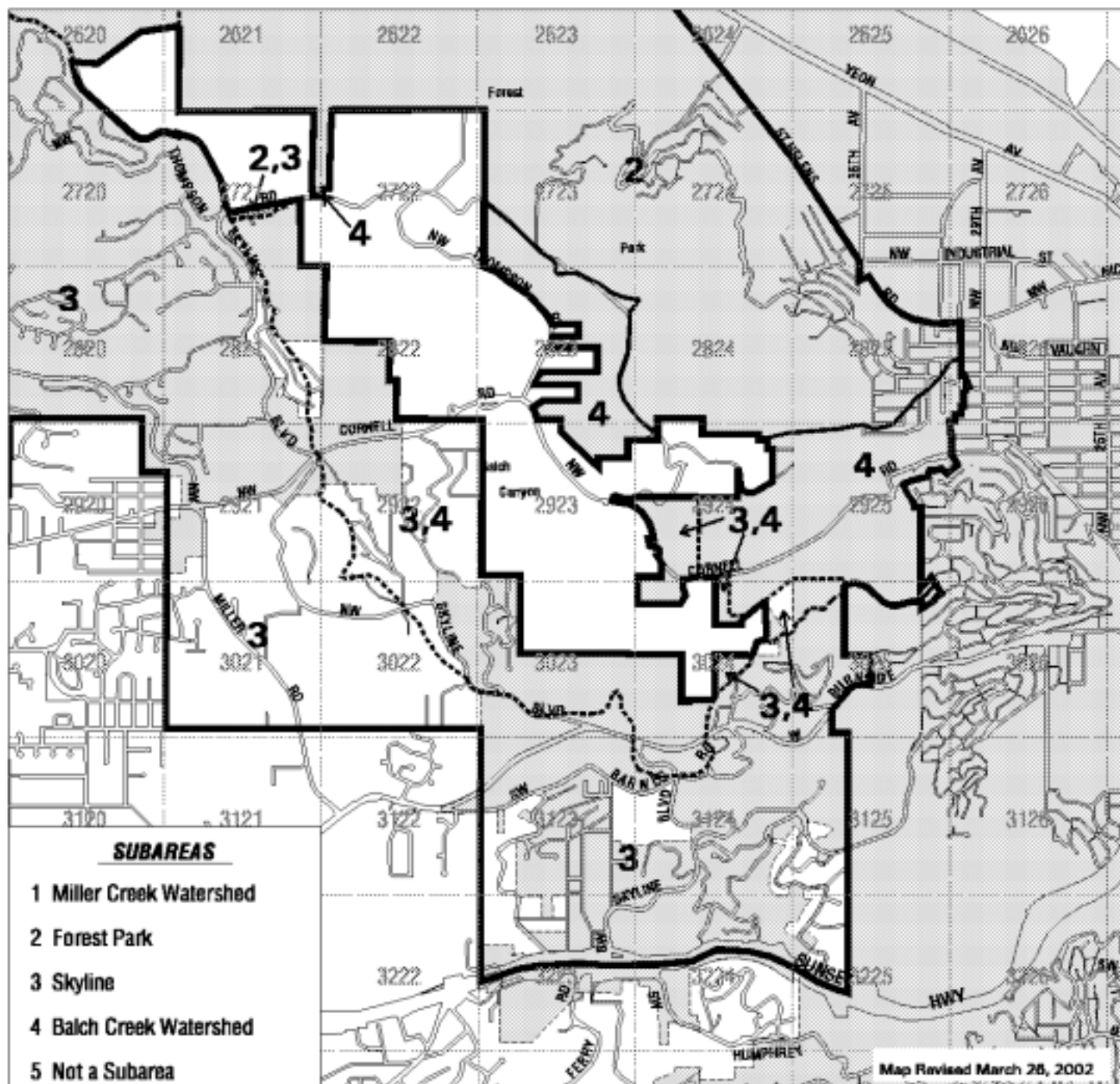
City of Portland

### Map 563-1

**Northwest Hills Plan District  
and Subareas  
Map 4 of 5 (Detail)**

Bureau of Planning • City of Portland, Oregon





- Plan District Boundary**
- Subarea Boundary**
- Shared Subarea Boundary**
- Quarter Sections (with #)**
- City of Portland**

## Map 563-1

# Northwest Hills Plan District and Subareas

## Map 5 of 5 (Detail)

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## Commentary

**Chapter 33.700** Many of the changes recommended for this chapter help the existing regulations in the zoning code and the new Land Division regulations "mesh" more smoothly.

**.015.A** This subsection is consistent with the City's existing approach to nonconforming development in the zoning code.



## AMEND CHAPTER 33.700, ADMINISTRATION AND ENFORCEMENT

### CHAPTER 33.700 ADMINISTRATION AND ENFORCEMENT

#### Sections:

##### Implementing the Code

- 33.700.005 Building Permit Required
- 33.700.010 Uses and Development Which Are Allowed By Right
- 33.700.015 Review of Land Divisions
- 33.700.020 Uses and Development Which Are Not Allowed By Right-
- 33.700.030 Violations and Enforcement
- 33.700.040 Reconsideration of Land Use Approvals
- 33.700.050 Performance Guarantees
- 33.700.060 Covenants with the City
- 33.700.070 General Rules for Application of the Code Language
- 33.700.075 Balancing Requirements for Land Divisions

##### Timeliness of Regulations

- 33.700.080 Regulations that Apply at the Time of an Application
- 33.700.090 Regulations that Apply After Approval
- 33.700.100 Transfer of Approval Rights
- 33.700.110 Prior Conditions of Land Use Approvals
- 33.700.120 Status of Prior Revocable Permits

#### **33.700.015 Review of Land Divisions**

Proposals for land divisions and final plats that are subject to discretionary review under this Title require a land use review. The specific land use review is stated in the 600s series of chapters. Each land use review has specified procedures. See Chapter 33.730 for a description of the quasi-judicial procedures.

#### **A. Adjustment review required for existing development**

1. Conforming development. If a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment. If an adjustment to the regulation is prohibited, the land division is prohibited.
2. Nonconforming development. If a proposed land division will cause nonconforming development to move further out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment. If an adjustment to the regulation is prohibited, the land division is prohibited.

#### **B. Applications that will not be accepted.** Applications for land divisions that include elements that are prohibited by this Title will not be accepted.

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## Commentary

### **33.700.030 Violations and Enforcement**

**A. Violations.** It is unlawful to violate any provisions of this Title, a land use decision, or conditions of a land use approval. This applies to any person undertaking a development or land division, to the proprietor of a use or development, or to the owner of the land underlying the development or land division. For the ease of reference in this chapter, all of these persons are referred to by the term "operator."

**B. – C.** [No change]

### **33.700.040 Reconsideration of Land Use Approvals**

**A.** No change]

**B. Situations when land use approvals may be reconsidered.** All quasi-judicial land use approvals, except plan amendments, ~~and zone changes,~~ and land divisions, may be reconsidered. In addition, all uses that became conditional uses or nonconforming uses due to a change of zoning regulations or mapping are also eligible for reconsideration. They may be reconsidered if there is evidence of any of the following situations:

1.-3. [No change]

**C.–F.** [No change]

### **33.700.070 General Rules for Application of the Code Language**

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

**A. – B.** [No change]

**C. Situations where the code is silent.** Proposals for uses, development, or land divisions where the Code is silent or where the rules of this section do not provide a basis for concluding that the use proposal is allowed are prohibited. The Planning Director may initiate an amendment to Title 33 to add a new use category, or make other amendments, as stated in Chapter 33.835, Goal, Policy, and Regulation Amendments.

**D.** [No change]

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## Commentary

**.070.E.1** Most of the changes to this paragraph are re-formatting. The substantive changes incorporate the hierarchy for land division regulations into the rules for other regulations.

**E. Hierarchy of regulations.**

1. Different levels of regulations. In general, an area with base zoning, overlay zoning, ~~and/or an area~~ in a plan district is subject to all of the regulations of each. Where a land division is requested, the regulations of the 33.600s series of chapters also must be met.

When the regulations conflict, unless specifically indicated otherwise, the following rules apply:

- a. ~~†The regulations in a plan district supersede regulations in an overlay zones, base zones, and regulations in the 600s series of chapters, and;~~
  - b. ~~†The regulations in an overlay zone supersede regulations in base zones and regulations in the 600s series of chapters;~~
  - c. The regulations for plan districts and overlay zones also supersede conflicting regulations for a specific use or development stated in the 200s series of chapters ~~unless specifically stated otherwise; and~~
  - d. The regulations in the 200s series of chapters supercede regulations in the 600s series of chapters.
- 2.-3. [No change]
4. Land division reviews. In land division reviews, where there are conflicts between requirements resulting from regulations of the City Code that are not otherwise addressed by this subsection, the requirements resulting from the regulations in conflict will be resolved as set out in Section 33.700.075, Balancing Requirements for Land Divisions.

**F.** [No change]

**G.** [No change]

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## Commentary

**Notes:** The Planning Commission originally recommended amendments that would implement Oregon State Statute (ORS) 92.040, which addresses vesting rights. The statute states that the applicant for a land division has 10 years after the final plat is approved to develop on the lots under the regulations in effect at the time of the preliminary plat application. ORS 92.040 also allows local governments to establish a shorter vesting period. The Planning Commission recommended vesting periods between 5 and 10 years depending on the dates of key land division decisions. Since the time that the Planning Commission made its decisions on vesting, other citywide policies have risen related to the Endangered Species Act fish listing and environmental protection. Because of these major issues, the Planning Director recommends that the Planning Commission reconsider the vesting issue as part of the Environmental Overlay zones remapping project. In the interest of working seamlessly with possible future amendments, this recommendation does not include new language related to vesting.

The Planning Commission originally recommended regulations pertaining to balancing land use and technical decisions. City Council deleted these provisions on February 27, 2002 because of input from multiple City bureaus that the provisions were unclear and no longer worked within the framework of the land use and technical decision making split in the adopted land division regulations—the Council asked for future monitoring of potential decision making conflicts under the new code.

## Timeliness of Regulations

### 33.700.090 Regulations That Apply After Approval

The regulations of this section apply to land use approvals that are subject to expiration as provided in 33.730.130, Expiration of an Approval.

**A. [No Change]**

- B. Land divisions.** ~~Final approval of the plat for land divisions which have Applications for Final Plat approval where the Preliminary Plan approval has not expired is~~ are subject only to the regulations in effect at the time a complete application for Preliminary Plan was submitted ~~of the land division application.~~

### 33.700.110 Prior Conditions of Land Use Approvals

This section addresses situations where a use, ~~or~~ development, or land division was approved with conditions as part of a land use review under zoning or land division regulations that no longer apply to the site. Over time, there are instances when uses or development previously approved with conditions are subject to new zoning or land division regulations. This may result from a change of the content of zoning or land division regulations or from legislative zone changes including annexation rezonings.

- A. Conditions of approval prior to 1981.** Conditions of approval for a land use review applied for prior to 1981 no longer apply to a site, except for conditions on all types of land divisions, a PUD-Planned Unit Developments (PUD), or subdivision, or any other quasi-judicial review approved in association with a land division or PUD or subdivision.
- B. Conditions of approval after 1981.** The regulations stated below apply to all prior conditions of approval for all types of land divisions, PUD-Planned Unit Developments (PUD), and subdivisions and any other quasi-judicial review approved in association with a land division or PUD or subdivision, and for land use reviews applied for after January 1, 1981, unless the conditions of approval or the ordinance adopting the conditions provide for their continuance.

1.- 4. [No change]

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## Commentary

**Chapter 33.720** These amendments reflect the new Type IIX procedure.



## AMEND CHAPTER 33.720, ASSIGNMENT OF REVIEW BODIES

Sections:

- 33.720.010 Purpose
- 33.720.020 Quasi-Judicial Land Use Reviews
- 33.720.030 Legislative Land Use Reviews
- ~~33.720.040 Concurrent Reviews~~

### **33.720.020 Quasi-Judicial Land Use Reviews**

Quasi-judicial land use reviews are assigned to the review bodies stated below.

- A. ~~Planning Director of OPDR.~~** All land use reviews that are subject to a Type II or Type IIX procedure are assigned to the ~~Planning Director of OPDR.~~
- B. ~~Hearings Officer.~~** All appeals of land use reviews that were processed as a Type II or Type IIX procedure and all land use reviews subject to a Type III procedure, unless stated otherwise in Subsection C., or D., or E. below, are assigned to the Hearings Officer.
- C.-F.** [No change.]
- G.** Applications for more than one land use review request on a site may be consolidated into a single application package. If the reviews are not assigned to the same review body, they are assigned in the manner stated below;
  - 1. When more than one review is requested and the reviews have different procedures, the overall application is reviewed by the review body assigned to the highest procedure. See 33.730.042, Concurrent Reviews.
  - 2. When three or more different kinds of land use reviews are requested, and at least three of the land use reviews are assigned to a Type II procedure, if none of the reviews are assigned to a Type III procedure, the overall application is processed using the Type IIX procedure. If any of the reviews are assigned to a Type III procedure, the overall application is processed using the Type III procedure.
  - 3. When the requested reviews have the same highest procedure but are assigned different review bodies, the reviews may be processed simultaneously with a joint hearing before the applicable review bodies, except in the case of adjustments. If an adjustment is being reviewed concurrently with other land use reviews, then the review body is the body or bodies assigned to the other land use reviews. For the purposes of this chapter, a joint hearing includes holding consecutive public hearings at the same location.

### **~~33.720.040 Concurrent Reviews~~**

~~Applications for more than one land use review request on a site may be consolidated into a single application package. If the reviews are not assigned to the same review body, they are assigned in the manner stated below.~~

- ~~**A.** When more than one review is requested and the reviews have different procedures, the overall application is processed using the highest procedure and reviewed by the review body assigned to that procedure. A Type III procedure is the highest, followed by a Type II.~~

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## Commentary

**B.** ~~When the requested reviews have the same highest procedure but are assigned different review bodies, the reviews may be processed simultaneously with a joint hearing before the applicable review bodies, except in the case of adjustments. If an adjustment is being reviewed concurrently with other land use reviews, then the review body is the body or bodies assigned to the other land use reviews. For the purposes of this chapter, a joint hearing includes holding consecutive public hearings at the same location.~~

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## Commentary

## AMEND CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

### CHAPTER 33.730 QUASI-JUDICIAL PROCEDURES

#### Sections:

##### General

33.730.010 Purpose

##### Basic Procedures

33.730.013 Expedited Land Division Procedure

33.730.015 Type I Procedure

33.730.020 Type II Procedure

33.730.025 Type IIx Procedure

33.730.030 Type III Procedure

33.730.035 Additional Steps Required for Land Divisions

33.730.040 Final Council Action Required

##### General Information on Procedures

33.730.042 Concurrent Reviews

33.730.045 Neighborhood Contact Requirement

33.730.050 Pre-Application Conference

33.730.060 Application Requirements

33.730.070 Written Notice Requirements

33.730.080 Posting Requirements

33.730.090 Reports and Record Keeping

33.730.100 Public Hearing Requirements

33.730.110 Ex Parte Contact

##### After a Final Decision

33.730.120 Recording an Approval

33.730.130 Expiration of an Approval

33.730.140 Requests for Changes to Conditions of Approval

#### General

#### **33.730.010 Purpose**

This chapter states the procedures and requirements for quasi-judicial reviews. It contains the step-by-step processing requirements. The chapter also describes the rules of conduct for all people involved in the quasi-judicial review process. The assignment of procedures to specific reviews is done in the chapter that establishes the review. The assignment of the review body is done in Chapter 33.720, Assignment of Review Bodies.

The regulations provide standardized methods for processing quasi-judicial land use reviews. The requirements provide clear and consistent rules to ensure that the legal rights of individual property owners and the public are protected. The rules implement state law, including the requirement that quasi-judicial reviews must be completed within 120 days of filing a complete application. The Type II, Type IIx, and Type III procedures, with their varying levels of review, provide the City with options when assigning procedures to each quasi-judicial review in this Title. The Type I procedure is an administrative procedure.

The Type I procedure, or limited land use review, allows local decisions to be made administratively for such reviews as minor design cases. The Type II procedure is the shorter and simpler of the other two quasi-judicial reviews. It is intended for reviews which involve lesser amounts of discretion, lower potential impacts, or both. The Type IIx procedure is used primarily for land divisions. It provides more time to make the administrative decision than the Type II procedure. The Type III procedure is the longer and more in-depth review. It is intended for reviews which involve the most discretion or the greatest potential impacts.

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## Commentary

**.013** The Expedited Land Division procedure (ELD) is a particular process that is mandated by the state, and may be chosen by the applicant for certain proposals. Because the State Legislature could amend this procedure at any time, the Oregon Revised Statutes (ORS) are referred to, rather than amending the code frequently. The latest ORS information will be provided by the Office of Planning and Development Review in their handouts. The ELD process can provide a faster decision for some proposals, but is less flexible, and, in some situations, more expensive for the applicant.

## **Basic Procedures**

### **33.730.013 Expedited Land Division Procedure**

The Expedited Land Division (ELD) procedure provides an alternative to the standard procedures for some land divisions. The applicant may choose to use the ELD process if the land division request meets all of the elements specified in ORS 197.360. The steps of this procedure are in ORS 197.365 through .375. The application requirements are listed in Section 33.730.060, below. Two additional steps are required for land division requests using the ELD Procedure:

- A. Neighborhood Contact Requirement.** The applicant must complete the steps in Section 33.730.045, Neighborhood Contact Requirement, before applying for an ELD review.
- B. Pre-application conference.** A pre-application conference is required for all land division requests processed through the ELD procedure. See 33.730.050, Pre-Application Conference. The pre-application conference must be held before applying for an ELD review.

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## Commentary

**.015.D** Although in practice neighbors generally have a 10 day to two week comment period within the 45 day decision period of a Type I Procedure, no specific time frame for comment has ever been placed within the Code. This addition guarantees a sufficient amount of time for neighbors to review and comment on a Type I Land Division proposal.

**.025** This new review procedure was created to address the additional time it was felt was needed to adequately review applications for Preliminary Plan approval. Because we are asking the applicant for more detailed information at the Preliminary Plan phase the review will be more complex than at present. However, the 120 day processing time limit mandated by state law for land use reviews will not change.

**.025.D** The same guaranteed 30 calendar day comment period being added to the Type I Procedure will also be incorporated in the new Type IIX Procedure.

**.025.E-.F** These paragraphs are identical to the current Type II procedure.



### **33.730.015 Type I Procedure**

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

**A. – C.** [No change]

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

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

### **33.730.025 Type IIx Procedure**

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

**A. Pre-application conference.** A pre-application conference is optional unless it is a specific requirement of a review. See 33.730.050, Pre-Application Conference.

**B. Application.** The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

**C. Preliminary notice.** Upon receipt of an application, the Director of OPDR will mail a notice of the request to all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, and to all recognized organizations within 400 feet of the site. See 33.730.070 C, Type II and Type IIx notice of request.

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

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

**E. Administrative decision.**

1. In making the decision, the Director of OPDR may consult with the owner, applicant, other citizens, City agencies, and other public and private organizations to solicit information relevant to the request. The decision is based on the Director of OPDR's findings, which are based on an evaluation of the facts and the applicable code regulations.

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## Commentary

**.025.G-.I** These paragraphs are identical to the current Type II procedure, except for I.3, which shortens the time to 14 days.

2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.
3. A copy of the decision report will be mailed to the owner, applicant if different, the recognized organization(s) in which the site is located, and will be made available to the public.

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

**G. Ability to appeal.** The Director of OPDR's decision is final unless appealed. The decision may be appealed by the applicant, the owner, those entitled to notice, and any person adversely affected or aggrieved by the decision. The appeal must be submitted to the Director of OPDR within 14 days of the day the notice of decision is mailed. The review body for the appeal will be as stated in 33.720, Assignment of Review Bodies.

**H. When no appeal is filed.** If no one appeals the decision, an approved request takes effect on the day after the last day to appeal.

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

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of OPDR. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
  - The file number and land use review(s) appealed;
  - The appellant's name, address, signature, and phone number;
  - A statement of which approval criteria the decision violates; and
  - The required fee.
2. Notification of appeal hearing. The Director of OPDR will file a copy of the appeal within 3 days of its receipt to the City Auditor and the applicant, unless the applicant is also the appellant. Within 5 days of the receipt of the appeal, the Director of OPDR will send a notice of the appeal hearing to the applicant and all persons and recognized organizations which received the notice of the decision. See 33.730.070 H, Notice of an appeal hearing.
3. Scheduling of hearing. The Director of OPDR will schedule a public hearing to take place at least 21 days from the mailing of the notice of an appeal hearing.
4. Submit report to review body. The Director of OPDR will forward the decision report and a copy of the appeal to the review body and make the report and copy of the appeal available to the public at least 7 days prior to the date of the hearing.
5. Appeal hearing. Appeal hearings must comply with the provisions of 33.730.100, Public Hearing Requirements, and 33.730.110, Ex Parte Contact.

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## Commentary

**.035** This section clarifies that there are some additional steps required just for land divisions.

6. Appeal decision. The review body may adopt the decision report of the Director of OPDR, modify it, or reject it based on information presented at the hearing and in the record.
  - a. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 14 days of the hearing.
  - b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.
7. Amended decision report. If the review body modifies or rejects the decision report, an amended report with findings supporting the decision must be prepared. For review bodies other than the Hearings Officer, the Director of OPDR will prepare the amended decision report and mail notice of the decision within 14 days of the hearing. The report must comply with 33.730.090, Reports and Record Keeping.
8. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of OPDR will mail notice of the decision. Within 14 days of the hearing, the Hearings Officer or Director of OPDR will mail notice of the review body's final decision to the City Auditor, applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.
9. Effective date of decision. The review body's decision takes effect on the day the notice is mailed.
10. Appeal decision final. The appeal decision of the review body is final and may not be appealed to another review body within the City.

### **33.730.035 Additional Steps Required for Land Divisions and Planned Developments**

Two additional steps are required for land divisions and planned developments processed through a Type IIx or Type III procedure:

- A. Neighborhood Contact Requirement.** The applicant must complete the steps in Section 33.730.045, Neighborhood Contact Requirement, before applying for a land division review.
- B. Pre-application conference.** A pre-application conference is required. See Section 33.730.050, Pre-Application Conference.

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## Commentary

**.042** The regulations in Subsections A and B are currently in Chapter 33.720, Review Bodies (Section 33.720.040). Moving them here adds clarity. The regulation in Subsection C was in response to a request from the Office of Planning and Development Review. The regulation in Subsection D clarifies that where adjustments are required to divide the land, the adjustment must be processed concurrently with the land division. This will include adjustments required to divide the land, such as adjustments to lot requirements in multi-dwelling zones, and provide for a more comprehensive review.

**.045** Several other provisions of the zoning code, such as the chapters dealing with design review and community design standards, already require neighborhood contact. This new section of the zoning code consolidates the steps in one place in the Code.

A copy of both the letters sent to the neighborhood association will be required as part of the application for review. The neighborhood contact can take place before or after the pre-application conference.

This proposal for a neighborhood contact requirement is new for land divisions. It will help implement the goal of having more public involvement earlier in the review process. The purpose of the requirement is to promote dialog and understanding between the applicant and the neighborhood. We believe that the exchange of information will lead to better projects and a more informed citizenry. The requirement is for the applicant to offer to meet with the neighborhood. If the meeting is held, the applicant is not bound by recommendations made at the meeting. However, if the proposal is changed, the neighborhood will receive a letter detailing the changes.

## **General Information on Procedures**

### **33.730.042 Concurrent Reviews**

The following regulations apply to applications for more than one land use review on a site:

- A. Applications for more than one land use review on a site may be consolidated into a single application package;
- B. When more than one review is requested and the reviews have different procedures, the overall application is processed using the highest procedure type. A Type III procedure is the highest, followed by Type IIX, Type II, and then Type I;
- C. When three or more different kinds of land use reviews are requested, and at least three of the land use reviews are assigned to a Type II procedure, the overall application is processed using the Type IIX procedure, unless any of the reviews are assigned to a Type III procedure. If any of the reviews are assigned to a Type III procedure the overall application is processed using the Type III procedure.
- D. When a land division proposal requires an adjustment, the adjustment must be processed concurrently with the land division.

### **33.730.045 Neighborhood Contact Requirement**

- A. **Purpose.** The neighborhood contact requirement provides a setting for an applicant and neighborhood residents to discuss a proposal in an informal manner. By sharing information and concerns early in the quasi-judicial process, all involved have the opportunity to identify ways to improve a proposal, and to resolve conflicts before the proposal has progressed far into the quasi-judicial process.

Where the proposal is for a land division, the focus of the meeting should be on the proposed configuration of lots, tracts, and streets. Where the proposal involves design review or historic design review, the focus of the meeting should be the design of the proposal and not whether the proposal will be built. The discussion at the meeting is advisory only and is not binding on the applicant.

- B. **Requirements.** The requirements for the Neighborhood Contact Requirement are:

1. The applicant must contact the neighborhood association for the area, by registered or certified mail, to request a meeting. The neighborhood association should reply to the contact within 14 days and hold a meeting within 45 days of the date of the initial contact. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 45 days, the applicant may submit an application without further delay. The neighborhood may schedule the meeting with its board, the general membership, or a committee.
2. After the meeting and before applying for the land use review, the applicant must send a letter to the neighborhood association. The letter will explain changes, if any, the applicant is making to the proposal.
3. Copies of both letters required by this subsection must be submitted with the application for land use review.

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## Commentary

**.050.E** This amendment consolidates the pre-application requirements, currently located in both the zoning code and the Land Division Code.



### **33.730.050 Pre-Application Conference**

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

**E. Concurrent pre-application and application requests.** Application for a land use review other than a land division and a pre-application conference may be submitted at the same time. However, it is recommended that an application be filed after the pre-application conference so that the information obtained at the conference may be incorporated in the application submittal. Application for a land division may not be filed before the pre-application conference is held.

**F. – G.** [No change]

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## Commentary

**.060** These amendments will make the requirements of this section better mesh with Oregon Revised Statutes, while still providing staff with additional time to determine the completeness of the application.

**.060.A** The amendment is intended to address the following issues:

- **Notifying Applicant of Missing Information.** The amendment changes the date within which the OPDR Director must notify the applicant of missing information from 14 days to 21 days. This provides additional time to review for completeness while continuing to allow the applicant, within 30 days following submittal of the application, to refuse to submit any of the requested missing information. On the 31<sup>st</sup> day, the City would be required to deem the application complete.
- **When an Incomplete Application is Deemed Complete.** State Law (ORS 227.178(3)) allows an applicant up to 180 days from the date that a land use review application is submitted to provide missing information requested by the City. If the information is received within 180 days, State law requires that the application be reviewed based on the regulations in effect at the time the application was first submitted. To be consistent with the 180-day period identified in State law, the amendment changes the period within which the applicant must provide the missing information from 30 days to 180 days.
- **Consistent with ORS 227.178(2),** the amendment clarifies that an incomplete land use review application will be deemed complete on the 31<sup>st</sup> day following submittal of the original application if by the 30<sup>th</sup> day the applicant indicates in writing that none of the missing information will be provided. The amendment also clarifies that the application will be deemed complete on the date that any of the missing information is submitted, unless the applicant indicates to the City in writing that the additional missing information will be provided.

### 33.730.060 Application Requirements

#### A. Check for complete application.

1. Initial check. An applicant must submit a request for a land use review on the appropriate forms supplied by the Director of OPDR. The Director of OPDR will review the application ~~to see if it is complete~~ for completeness.
2. Incomplete applications. If the Director of OPDR finds that the application is not complete, the following procedures apply:
  - a. The Director of OPDR must notify the applicant of any missing information or materials within 14 ~~21~~ days from the date of original submittal.
  - ~~2.b. Time allowed for additional submittals. If the Director of OPDR finds that the application is not complete, the applicant has 30 ~~180~~ days from the date of original submittal to provide the missing information or material;~~
  - c. If the missing information is not provided, the application will be considered complete on the 31st day after its original submittal. It will be processed based on the information submitted. The application will be determined complete on the date the Director of OPDR receives any of the missing information or material, unless:
    - (1) The applicant indicates in writing that any or all of the remaining information or material will be provided within 180 days from the date of original submittal. In that case, the application will be determined complete on the date the remaining information is provided; or
    - (2) The applicant refuses to submit any of the missing information or material. If the refusal is in writing, and is received by OPDR by the 30th day following the date of original submittal, the application will be considered complete on the 31st day after its original submittal. The application will be processed based on the information and material included in the original submittal;
  - d. If none of the missing information or material is provided within 180 days of the date of the original submittal, and the applicant has not refused to submit the missing information or material as specified in A.2.c(2), the application will be voided on the 181st day. The City will not refund the filing fee.
3. ~~Time extensions. The applicant may request an extension of the 30 day limit in writing. However, if the missing information is not provided within 180 days of the date of original submittal, then the application will be voided. The City will not refund the filing fee.~~
4. ~~3. The 120 day limit. The 120 day processing time limit required by ORS 227.178 will begin on the day the application is determined to be complete.~~

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## Commentary

**.060.D.1** This list is a considerable change from the current requirements. Because the Preliminary Plan is the most crucial step in the land division process, it is important that detailed information be submitted, including some surveyed site information and preliminary service bureau information. The applicant will be required to submit information on all aspects of the development to allow interested parties the opportunity for review of all facets of the proposal.

The site plan requirements for a Land Division taking advantage of the special process for large sites in Industrial Zones will be slightly different because of the different lot and block pattern requirements and the more detailed information required at the Final Plat stage.

**B. Changes to applications.** [No change]

**C. Required information for land use reviews except land divisions.** Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in Paragraphs 1. through 5. below this Subsection. The Director of OPDR may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request.

1.-6. [No change.]

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

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

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

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## Commentary

**.060.D.1.c** A vicinity map has been added to the preliminary plan application requirements to help in locating the site and to provide a frame of reference for the site in relationship to the surrounding area.

**.060.D.1.d** As noted above, this recommendation requires more detailed information be submitted with the Preliminary Plan. This includes a site boundary survey, as well as surveyed information for some of the existing conditions on the site. The reason for requiring this detailed information at the preliminary stage is to have as complete a picture of the proposal as possible to allow the most informed decision to occur. This will also ensure that all interested parties have enough information on which to comment.

Site-related information is normally required to be submitted in the form of a site plan. The amount and variety of information required for a Land Division may require preparation of more than one site plan.

The required right-of-way information will ensure that the reviewers have enough detailed information to evaluate whether vehicular and pedestrian circulation is adequately addressed for the site and the surrounding area and that emergency and service vehicles can be accommodated. See Chapter 33.654, Rights-of-Way, for more discussion and the specific regulations.

The applicant may group related information on several maps as long as the general survey information and proposed land division layout are included on each map.

- A description of the type and location of any known potential geologic hazards such as liquefaction hazards, seismic hazards and faults, landfills, contamination; and
  - A description of past uses on the site that may affect the suitability of the site for development, such as industrial uses, landfills, railroad yards, mining, and Quick Vehicle Servicing;
- c. Vicinity map. Three copies of a vicinity map. The map must cover an area extending at least 800 feet in each direction from the land division site, and show the following existing conditions for both the site and the vicinity:
- Zoning and Comprehensive Plan designations;
  - Streets;
  - Transit, pedestrian, and bicycle facilities and connections; and
  - Water bodies, wetlands, flood hazard areas, and potential landslide hazard areas; and
  - Location of utilities and services;
- d. Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of OPDR. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:
- (1) Base map. The following information must be on all maps:
- Surveyed information:
- Boundary lines of the site with dimensions and total site area;
  - North arrow and scale of map;
  - Identification as the Preliminary Plan Map
  - Stamp of surveyor; and
  - If more than 3 lots are proposed, the proposed name of land division;
- Additional information:
- Proposed lot layout with sizes, dimensions, and lot and block numbers;
  - Proposed tract layout with sizes, dimensions, purpose, and name;
  - Proposed layout and widths of all rights-of-way including dimensioning and roadway width;
  - Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way; and
  - Proposed location, dimensions, and purpose of all easements;

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## Commentary

**.060.D.1.d(3)** This application requirement will ensure that the reviewers have more detailed information in the beginning of the process to evaluate whether the stormwater management system proposed will be the best to serve the site. See Chapter 33.653, Stormwater Management, for more discussion and the specific regulations.



(2) Existing conditions map. The following existing site conditions must be shown:

Surveyed information:

- Ground elevations shown by contour lines at 5-foot vertical intervals for slopes greater than 10 percent, and at 2-foot vertical intervals for ground slopes of 10 percent or less;
- Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;
- Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
- Seeps and springs, wetlands, watercourses, and all water bodies including the ordinary high water line and top of bank; if there is a seep or spring on the site, a wetland delineation is required to determine the edge of the seep or spring. This delineation must be performed by an environmental scientist;
- The centerline of existing drainageways, including ditches, swales, and other areas subject to wet weather inundation; and
- Location of flood hazard areas, including elevations of 100-year floodplains, and FEMA Floodway boundaries. Sites that contain a water body not shown on the FEMA maps must identify the location of the flood hazard areas;

Additional information:

- Zoning and Comprehensive Plan designations; and
- Location, dimensions, and purpose of existing easements on and abutting the site;

(3) Proposed improvements map. The following proposed improvements must be shown:

- Enough information to determine that minimum lot width requirements are met for each proposed lot including footprint of structures and locations of driveways if necessary;
- Distances of all known proposed development to proposed lot lines;
- Proposed pedestrian connections;
- If proposed lots are within a flood hazard area or landslide hazard area, proposed building locations, and
- If Preliminary Plan phasing is proposed; boundaries of sequence of the proposed phasing.
- Existing and proposed services and utilities; and
- Preliminary Stormwater Plan that meets the requirements of the Stormwater Management Manual and the BES Sewer Design Manual. This plan must show the capacity, type, and location, as well as the land area required, of the stormwater management system and stormwater disposal facilities proposed. The plan must also provide information on the feasibility of the stormwater management system being proposed;

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## Commentary

**.060.D.1.d(4)** This application requirement ensures that the reviewer has enough detailed information to evaluate whether the limits of disturbance on a site are reasonable. The Director recommends that a Preliminary Clearing and Grading Plan be required for every land division. See Chapter 33.635, *Clearing and Grading*, for more discussion and the specific regulations.

**.060.D.1.e** This application requirement will ensure that the reviewers have more detailed information in the beginning of the process to ensure that the public benefit of trees on the site is considered in the design and layout of the land division. See Chapter 33.630, *Tree Preservation*, for more discussion and the specific regulations.

**.060.D.1.f** This spells out what is referenced in the recommended Landslide Hazard Area Regulations (see Chapter 33.632) and is needed to provide detailed information on where and how a site located within a potential landslide hazard area can be safely developed. The requirement for stormwater information is intended to allow the reviewer to determine how the stormwater will affect the landslide potential rather than to evaluate stormwater quality and quantity.

(4) Preliminary Clearing and Grading Plan. A Preliminary Clearing and Grading Plan that identifies all areas of clearing and grading. The plan must show the following:

- Existing contours and drainage patterns;
- Existing drainageways, wetlands, streams, seeps and springs, and other water bodies;
- Existing trees and vegetation;
- Areas of the site where fill has been placed;
- Boundaries of Environmental Overlay Zones;
- Proposed areas of clearing and grading, including grading and clearing for:
  - Rights-of-way;
  - Services and utilities; and
  - Structures, such as retaining walls, necessary for the construction of these elements. Proposed areas of clearing and grading for individual lots and tracts may also be shown;
- Proposed contours within areas to be cleared and graded;
- Proposed stormwater and sedimentation control devices to be used during construction;
- Proposed stockpile areas;
- Proposed trees and vegetation to be preserved;
- Proposed location and material of construction fencing for proposed tree preservation tract;
- Proposed location and material of construction fence;
- Proposed amount (cubic yards) of soil to be disturbed; and
- Proposed structures necessary to construct streets or pedestrian connections;

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

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

f. Landslide Hazard Study. If any part of the site is in a potential landslide hazard area as shown on the City's Potential Landslide Hazard Areas Map the application must include a Landslide Hazard Study prepared by a Certified Engineering Geologist and a Geotechnical Engineer. The Landslide Hazard Study must identify landslide hazard areas within the site and identify the safest part of the site in terms of the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site. The Landslide Hazard Study should make recommendations for the layout and design of the land division and development. The study must provide adequate detail to show the design of all proposed structures and improvements, and must include a statement of on-site slope stability after the proposed development is complete. The study must also include a statement of the estimated effect of the developments on stormwater and groundwater runoff as it relates to slope stability and landslide hazard, and a proposed method of control.

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## Commentary

**.060.D.1.g** An applicant must decide at the time of Preliminary Plan if the final plat is to be staged so the stages can be reviewed for the most logical sequence.

**.060.D.2** Land divisions on large sites in Industrial zones have only slightly different application requirements for both Preliminary Plans and Final Plats. Specific lot and tract layout is determined at the Final Plat stage.

**.060.D.3** The Final Plat process is administrative and the submittal requirements are straightforward, many relating directly to state requirements.

**.060.D.3.a** The phrase "acceptable to the Director of OPDR" will mean that the Final Plat survey must meet the requirements of ORS 92.050, Requirements of survey and plat of subdivision and partition; ORS 92.070, Surveyor's certificates; ORS 92.075, Declarations required; and ORS 92.080, Preparation of plat. These requirements will be included in handouts available from the Development Services Center. It is also anticipated that this information will be available on OPDR's web site.

The study may also include

- Review of aerial photography including stereo views;
- Review of geologic literature or previous reports;
- Site reconnaissance including mapping of observable geologic features or hazards;
- Field explorations as necessary; and
- Laboratory testing;

- g. Final Plat staging. When the Final Plat for a land division is to be submitted in stages, the application must include the number of stages, the areas each stage includes, and the sequence and time schedule for application for Final Plat approval of the various stages.
- h. Neighborhood Contact letters. Two copies of letters required by Section 33.730.045, Neighborhood Contact Requirement;
- i. Pre-application conference summary. In the case of a land division that requires a pre-application conference, two copies of the completed pre-application conference summary or proof of participation;
- j. Transportation Impact Study. Three copies of the Transportation Impact Study, if required; and
- k. Fees. The applicable filing fees.

2. Preliminary Plan for Land Divisions on Large Sites in I Zones. An application for a Preliminary Plan taking advantage of Chapter 33.664, Land Divisions on Large Sites in Industrial Zones, must include all the elements listed in Paragraph D.1., above, except the lot and proposed building locations. Block pattern layout with dimensions and areas and all required tracts must be shown.

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

- a. Final Plat survey. Copies of a Final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of OPDR. The following information must be on the Final Plat survey:
  - The statements:
    - “This plat is subject to the conditions of City of Portland Case File No. LUR...” and
    - “Additional City review is required for any changes made to this plat after the signature date of the Office of Planning and Development Review representative. Such changes may require an additional review procedure; and
  - Easements and tracts, including their purpose;

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## Commentary

- b. Supplemental plan. A supplemental plan, the number determined by the Director of OPDR and that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval which may restrict the use of all or part of the land division site are met. Such restrictions include special development standards such as special setbacks, lot coverage limitations, impervious surface limitations, access restrictions, restrictive building areas, and approved minimum or maximum densities;
  - c. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval such as development envelopes, final tree preservation plans, mitigation plans, and final landscape/ planting plans;
  - d. Maintenance agreements and CC&Rs. Three copies of each required maintenance agreement or Conditions, Covenants and Restrictions;
  - e. Performance Guarantees. One copy of each Performance Guarantee;
  - f. Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;
  - g. Service bureau requirements. Documentation of submittal of all service bureau requirements, including water system plans, final street construction plans, final sewer and storm water plans, construction management plans, final clearing and grading plans; and
  - h. Fees. The applicable filing fees.
4. Final Plat for Land Divisions on Large Sites in Industrial Zones. An application for a Final Plat taking advantage of Chapter 33.664, Land Divisions on large Sites in Industrial Zones, must include all the elements listed in Paragraph D.3., above, for the area being platted. The application must also include enough information for the balance of the site to show how the approval criteria will be met.

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## Commentary



### **33.730.070 Written Notice Requirements**

**A. – B.** [No change]

- C. Type II and Type IIx notice of request.** The notice of request, when processed through a Type II procedure and Type IIx procedure, will contain at least the following information:
- The file number;
  - The name and address of the applicant and owner;
  - The legal description of the site.
  - The street address or other easily understood geographical reference to the subject property;
  - A map depicting the subject property in relation to surrounding properties;
  - The name and telephone number of the recognized organization(s) whose boundaries include the site;
  - A description of the proposal which could be authorized;
  - An explanation of the local decision-making process for the decision being made;
  - A list, by commonly used citation, of the applicable criteria for the decision;
  - An invitation to comment, in writing, on the proposal and the place, date and time that comments are due;
  - A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals (LUBA) must be raised prior to expiration of the comment period or prior to the conclusion of the final hearing if a local appeal is requested;
  - A statement that issues must be raised with sufficient specificity to afford the review body an opportunity to respond to the issue;
  - A statement that all evidence on the matter is available for review, and that copies can be obtained for a fee equal to the City's cost for providing the copies: and
  - The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

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## Commentary

**D.-F.** [No change]

**G. Notice of Type II or Type IIx decision (pending appeal).** The notice of Type II or Type IIx decision (pending appeal) will describe the land use request and decision. The notice will include the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- An explanation of the local decision-making process for the decision being made;
- A summary of the applicable approval criteria;
- The Director's decision, the decision date, and the filing date;
- A statement that the decision is final unless appealed;
- A description of the appeal process, time frame, the review body, and the fee for an appeal; and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

**H. Notice of a Type II, Type IIx, or Type III appeal hearing.** If a local appeal of a Type II or Type IIx administrative or Type III decision is filed, the notice of appeal hearing will be provided in the same manner as set forth in 33.730.070.D for a Type III notice of request and hearing.

**I. Notice of final Type II, Type IIx, or III decision following appeal.** Where a Type II, Type IIx, or Type III decision is appealed, a subsequent review body decision is made, and no further local appeal is available, a notice of final decision will be sent, containing the following information:

- The file number;
- The name and address of the applicant, owner, and appellant (if different);
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- A description of the review body decision, the decision date, and filing date; and
- A statement that the decision is final, but may be appealed to the Land Use Board of Appeals (LUBA) as specified in ORS 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA have appeared during the local proceedings (orally or in writing), and file a notice of intent to appeal with LUBA within 21 days after the decision becomes final.

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## Commentary

### 33.730.130 Expiration of an Approval

A. [No change.]

#### B. When approved decisions expire.

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

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

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

~~2.~~(2) If within 3 years of the date of the final decision the approved activity has not commenced ~~or, in situations involving only the creation of lots, the land division has not been recorded.~~

b. Exception. Land use approvals do not expire if they meet all of the following:

(1) The land use approval was reviewed concurrently with a land division, planned unit development, or planned development;

(2) The decision and findings for the land division, planned development, or planned unit development specify that the land use approval was necessary in order for the land division, planned development, or planned unit development to be approved;

(3) The final plat of the land division or final development plan of the planned development or planned unit development has not expired; and

(4) Development or other improvements have been made to the site within three years of approval of the final plat or final development plan. Improvements include buildings, streets, utilities, grading, and mitigation enhancements;

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## Commentary

2. Land divisions, planned unit developments and planned developments. Land division, planned unit development and planned development approvals become void under any of the following circumstances:

a. Preliminary plans and preliminary development plans.

(1) Generally. Approved preliminary plans and approved preliminary development plans become void if within 3 years of the date of the final decision an application for approval of Final Plat or final development plan has not been submitted.

(2) Exception for large industrial sites. Where the Preliminary Plan is approved under the provisions of Chapter 33.664, Review of Land Divisions On Large Sites In Industrial Zones, the following applies:

- The approved Preliminary Plan will become void if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.
- Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of final approval of the Preliminary Plan. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval is not void, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.

(3) Exception for staged Final Plats. Where the Preliminary Plan is approved under the provisions of sections 33.633.200 through .220, Staged Final Plats, the following applies:

- The approved Preliminary Plan will become void if within 3 years of the final decision an application for a Final Plat for part or all of the site has not been submitted.
- Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of submittal of the first Final Plat application. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval is not void, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.

b. Final Plats and final development plans. Final Plats and final development plans expire if they are not submitted to the County Recorder to be recorded within 90 days of the final decision.

c. Exception for Expedited Land Divisions. Land Divisions reviewed through the Expedited Land Division procedure in 33.730.013, are subject to the regulations of ORS 197.365 through .375. When the regulations of ORS 197.365 through .375 conflict with the regulations of this section, the regulations in ORS supersede the regulations of this section.

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## Commentary



**C. – D.** [No change]

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

Requests for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review, unless this Title specifies another procedure or set of approval criteria. In the case of zone change requests filed before January 1, 1981, the Type II procedure applies. In the case of land use reviews that are no longer required by this Title, the most comparable review and procedure applies. For example, for variance requests, the procedures for adjustments apply.

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## Commentary

The actual fees for land use reviews—including land divisions—are listed in a fee schedule that is incorporated into the Code by reference.

The Planning Commission recommends revising the terminology of the fee schedule to reflect the reviews in the proposed land division regulations, including:

- Deleting references to “major” and “minor” land divisions; they will all be just “land divisions.”
- Deleting “Title 34 variances.” All adjustments to land division regulations will be processed as Title 33 adjustments.
- Planned Developments will replace some elements of Planned Unit Developments (PUDs), while other elements of PUDs will be incorporated into the general land division regulations. As a result, the term “Planned Unit Development” should be replaced with “Planned Development.”
- Because most of the elements of Industrial Parks have been incorporated into the Land Division general regulations, and the sections of the zoning code relating to Industrial Parks have been deleted, Industrial Park reviews should be deleted from the fee schedule.

The Office of Planning and Development Review has begun a project to update the Cost of Service Study for land use reviews and development services. That project may recommend changes to current fees, including fees for land divisions.

**33.750.030 Land Use Procedures**

**A. – B.** [No change.]

**C. Appeal fees.**

1. [No change.]
2. Type II procedure and Type IIx procedure. An appeal of a land use decision processed through a Type II or Type IIx procedure must include an appeal fee. The appeal fee is \$250. If the cost to the city of preparing for and conducting the appeal is less than \$250, the difference will be refunded at the conclusion of the appeal. The appeal fee may be waived for recognized organizations as provided in 33.750.050, Fee Waivers. The appeal fee will be refunded if the appellant prevails. The review body will identify a prevailing party as part of the decision.

**D.** [No change.]

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## Commentary

**33.805** These paragraphs allow increases in density by considering adjustments to density and minimum lot size. In order to be consistent with recommendations on lot size and density, maximum density will automatically round up in certain situations. (See Chapter 33.930, Measurements.) Adjustments to maximum density in the RF through R1 zones will be prohibited.

**.025** Specific language about the steps in the neighborhood contact requirement will be replaced with a cross references to proposed Section 33.730.045, which will contain the "generic" neighborhood contact requirement. This is a housekeeping measure that will somewhat simplify the code and standardize this requirement. There are no content changes.

## AMEND CHAPTER 33.805, ADJUSTMENTS

### 33.805.030 Regulations Which May and May Not Be Adjusted

A. [No change]

B. **Ineligible regulations.** Adjustments are prohibited for the following items:

1.-6. [No change]

7. To allow an increase in density of ~~more than one half of a dwelling unit~~ in the ~~R3, R2, or R1~~RF through R1 zones. ~~An example would be the owner of an R1 lot at between 6,000 and 6,499 square feet could not ask for a seventh unit, but an owner of a lot between 6,500 and 6,999 could; and~~
8. To create a ~~new lot~~ on vacant land in a residential zone below the sizes stated below, unless specifically allowed by this Title:

RF .....	43,560	square feet
R20 .....	15,000	square feet
R10 .....	8,750	square feet
R7 .....	6,000	square feet
R5 through RH .....	3,000	square feet

## AMEND CHAPTER 33.825, DESIGN REVIEW

### 33.825.025 Review Procedures

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

1.-5. [No change]

B. **Neighborhood Contact Requirement.** ~~Proposals listed in Paragraph B.1, below, must complete the steps in Paragraph B. before applying for design review.~~

1. ~~Proposals subject to the Neighborhood Contact Requirement.~~ The following proposals are subject to the Neighborhood Contact Requirement, as specified in ~~Paragraph B.2~~ Section 33.730.045, Neighborhood Contact Requirement below, if they are in the a, Alternative Design Density Overlay Zone, in the Albina Community Plan Area shown on Map 825-2; or: in the Outer Southeast Community Plan Area shown on Map 825-3:

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## Commentary

**33.830** These changes reflect the new approach to clearing and grading plans, where clearing and grading plans must be approved as part of all Preliminary Plans.

- a.1. Proposals that create more than three new dwelling units. Dwelling units are created:
  - (1)a. As part of new development;
  - (2)b. By adding net building area to existing development that increases the number of dwelling units;
  - (3)c. By conversion of existing net building area from non-residential to residential uses; and
  - (4)d. By increasing the number of units within existing net building area already in residential use, for example, by converting a duplex to a triplex;
- b.2. Proposals that create more than 10,000 square feet of gross building area for uses in the Commercial or Industrial use categories; or
- e.3. Proposals in the IR zone where the site is not covered by an Impact Mitigation Plan or Conditional Use Master Plan.

~~2. Steps. The steps are:~~

- a. ~~The applicant must contact the neighborhood association for the area, by registered or certified mail, to request a meeting. The neighborhood association should reply to the contact within 14 days and hold a meeting within 30 days of the date of the initial contact. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 30 days, the applicant may apply for design review without further delay. The neighborhood may schedule the meeting with its board, the general membership, or a committee.~~
- ~~— The purpose of the meeting is to allow neighborhood residents and the developer to discuss concerns about the design of the proposal. The focus of the meeting should be the design of the proposal and not whether the proposal will be built. The discussion at the meeting is advisory only and is not binding on the applicant.~~
- b. ~~After the meeting and before applying for design review, the applicant must send a letter to the neighborhood association. The letter will explain changes, if any, the applicant is making to the proposal's design.~~
- e. ~~Copies of both letters required by this paragraph must be submitted with the application for design review.~~

## AMEND CHAPTER 33.830, EXCAVATIONS AND FILLS

### 33.830.030 Exemption from Review

Except as modified elsewhere in this Title, the following excavations and fills are exempt from the excavation and fill review:

- A. – B. [No change]
- C. Those in conjunction with a ~~road-clearing and grading plan approved as part of a Preliminary Plan for a PUD Land Division or Planned Development or an interim plat for a subdivision by OPDR.~~

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## Commentary

**.020** Specific language about the steps in the neighborhood contact requirement will be replaced with cross references to proposed Section 33.730.045, which will contain the "generic" neighborhood contact requirement. This is a housekeeping measure that will somewhat simplify the code and standardize this requirement. There are no content changes.



## AMEND CHAPTER 33.835, GOAL, POLICY, AND REGULATION AMENDMENTS

### 33.835.040 Approval Criteria

- A. Amendments to the zoning code.** Text amendments to the zoning code must be found to be consistent with the Comprehensive Plan, Urban Growth Management Functional Plan, and the Statewide Planning Goals. In addition, the amendments must be consistent with the intent or purpose statement for the base zone, overlay zone, plan district, ~~or~~ use and development, or land division regulation where the amendment is proposed, and any plan associated with the regulations. The creation of a new plan district is subject to the approval criteria stated in 33.500.050.
- B. Amendments to the goals and policies of the Comprehensive Plan.** Text amendments to the goals and policies of the Comprehensive Plan must be found to be consistent with the Comprehensive Plan, the Urban Growth Management Functional Plan, and with the Statewide Planning Goals.
- C. Neighborhood plans.** Adoption or amendment of neighborhood plans and similar area plans must be found to be consistent with the Comprehensive Plan, the Urban Growth Management Functional Plan, and with the Statewide Planning Goals.
- D.** [No change]

## AMEND CHAPTER 33.846, HISTORIC REVIEWS

### 33.846.020 Review Procedures

- A. – C.** [No change]
- D. Historic design review.** Procedures for historic design review are as follows:
  - 1. Neighborhood Contact Requirement. ~~This requirement applies to proposals for sites within the Albina Community Plan area, as shown on Map 825-2. Proposals listed in Subparagraph D.1.a, below, must complete the steps in Subparagraph D.1.b before applying for historic design review.~~
    - ~~a. Proposals subject to the Neighborhood Contact Requirement.~~ The following proposals are subject to the Neighborhood Contact Requirement, as specified in ~~Subparagraph D.1.b, below, Section 33.730.045, Neighborhood Contact Requirement~~, if they are in the a, Alternative Design Density Overlay Zone, in the Albina Community Plan area shown on Map 825-2; or in the Outer Southeast Community Plan area shown on Map 825-3. Proposals listed below must complete the steps in 33.730.045 before applying for historic design review.

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## Commentary

~~(1)~~a. Proposals that create more than three new dwelling units. Dwelling units are created:

- ~~(1)~~ As part of new development;
- ~~(2)~~ By adding net building area to existing development that increases the number of dwelling units;
- ~~(3)~~ By conversion of existing net building area from non-residential to residential uses; and
- ~~(4)~~ By increasing the number of units within existing net building area already in residential use, for example, by converting a duplex to a triplex;

~~(2)~~b. Proposals that create more than 10,000 square feet of gross building area for uses in the Commercial or Industrial use categories; or

~~(3)~~c. Proposals in the IR zone where the site is not covered by an Impact Mitigation Plan or Conditional Use Master Plan.

~~b.~~ Steps. The steps are:

- ~~(1) The applicant must contact the neighborhood association for the area, by registered or certified mail, to request a meeting. The neighborhood association should reply to the contact within 14 days and hold a meeting within 30 days of the date of the initial contact. If the neighborhood association does not reply to the applicant's letter within 14 days, or hold a meeting within 30 days, the applicant may apply for historic design review without further delay. The neighborhood may schedule the meeting with its board, the general membership, or a committee.~~

~~The purpose of the meeting is to allow neighborhood residents and the developer to discuss concerns about the design of the proposal. The focus of the meeting should be the design of the proposal and not whether the proposal will be built. The discussion at the meeting is advisory only and is not binding on the applicant.~~

- ~~(2) After the meeting and before applying for historic design review, the applicant must send a letter to the neighborhood association. The letter will explain changes, if any, the applicant is making to the proposal's design.~~

~~e. Copies of both letters required by this paragraph must be submitted with the application for historic design review.~~

2.-6. [No change]

**E.** [No change]

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## Commentary

### Introduction

This chapter was created to allow modifications to tree preservation plans associated with land divisions after the Final Plat has been approved and recorded. Such a modification could occur several years after platting, when a builder encounters an unanticipated problem on a specific lot.

A review for violations to tree protection regulations in other parts of the zoning code has also been needed for some time. Additionally, the existing tree review in the Scenic Overlay zone and the Rocky Butte plan district, are better positioned in the 800's series of chapters. This chapter consolidates most of the reviews for trees into one chapter.

**.020.A-.B** Tree review is required for the removal of trees in the Scenic Overlay Zone and the Rocky Butte plan district when the proposed tree removal does not meet the standards of those chapters.

**CHAPTER 33.853**  
**TREE REVIEW**

Sections:

33.853.010 Purpose

33.853.020 When Review Is Required

33.853.030 Procedure

33.853.040 Approval Criteria

**33.853.010 Purpose**

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

**33.853.020 When Review Is Required**

Tree review is required in the following situations:

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

**33.853.030 Procedure**

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

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## Commentary

**.040.A** The approval criteria for the Scenic Overlay Zone and Rocky Butte plan district were transferred directly from the Scenic Overlay Zone chapter, with some minor wordsmithing, except for a criterion relating to the Environmental Overlay Zone. This criterion was not included here because this chapter does not apply within the Environmental Overlay Zone.

**.040.B** These approval criteria allow a tree preservation plan that was approved through a land division and Final Plat process to be changed. The first option is to meet the requirements for a new tree preservation plan. If that criterion cannot be met, then the second option allows a change that meets the intent of the tree preservation regulations of Chapter 33.630 and requires tree replacement.

### **33.853.040 Approval Criteria**

**A. Trees in the Scenic Overlay Zone or Rocky Butte plan district.** A request to remove trees in the Scenic Overlay Zone or Rocky Butte plan district will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

1. The removal is to create or enhance a public view from public property or from a public right-of-way; and
2. Mitigation is provided on site by replacing removed trees with approved vegetation listed in the Scenic Resources Protection Plan appendix. Consultation with the City Forester is required.

**B. Changes to a tree preservation plan or to the approved method of tree preservation or mitigation.** A request to change a tree preservation plan or the approved method of tree preservation or mitigation of a land division, where the Final Plat of the land division has been approved and recorded, will be approved if the review body finds that the applicant has shown that the revised plan will continue to meet Chapter 33.630, Tree Preservation.

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## Commentary

**.040.C** The criteria for corrections to violations require mitigation that meets the purpose of the regulation and provides a minimum number of replacement trees. Additional mitigation over and above that listed in the table may be necessary and required if the particular situation warrants it and it better meets the purpose of the regulation that was violated.



**C. Corrections to violations.** For corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation plans or the approved method of tree preservation or mitigation, the applicant must show the review body that all of the following approval criteria are met:

1. Mitigation Plan;

- a. The applicant's mitigation plan meets the purpose of the regulation that was violated. Where the violation is of a tree preservation plan or the approved method of tree preservation or mitigation, the mitigation plan meets the purpose of the regulation that required the preservation plan; and
- b. The mitigation plan includes replacement of trees cut. The plan must at a minimum, meet the requirements of Table 853-2.

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

2. Replacement trees must be planted as follows:

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

3. Replacement trees must meet the requirements of Section 33.248.030, Plant Materials.

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## Commentary

**.030** These approval criteria are substantially the same as those currently in the zoning code for Substandard Lot Review (33.291.060).

**.030.B** The requirement that a lot of record met the dimensional requirements for new lots at the time it was created is part of the current definition of lot of record; moving it into the criteria achieves the same purpose.

## **ADD CHAPTER 33.854, VALIDATION REVIEW**

### **CHAPTER 33.854** **VALIDATION REVIEW**

#### Sections:

33.854.010 Purpose

33.854.020 Procedure

33.854.030 Approval Criteria

#### **33.854.010 Purpose**

Validation Review allows development on lots and lots of record that do not meet the requirements of Section 33.110.212, Validation of Lots and Lots of Record, where such development is appropriate.

#### **33.854.020 Procedure**

Validation Review is processed through a Type II procedure.

#### **33.854.030 Approval Criteria**

Validation Review will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:

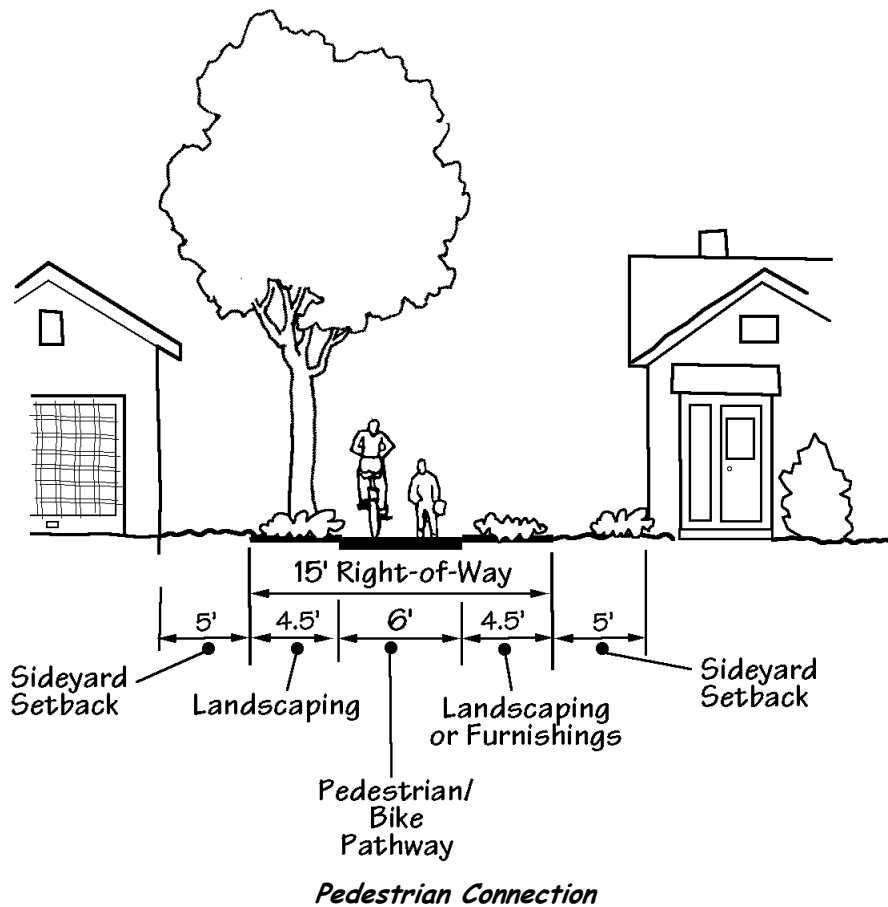
- A. On July 26, 1979, or any time since that date, the lot or lot of record did not abut any lot or lot of record owned by the same family or business. The intent of this criterion is to not allow ownerships to be split into building sites that do not meet the requirements of Table 110-4, or in West Portland Park, the requirements of Table 110-5;
- B. If it is a lot of record, it met the dimensional requirements for new lots at the time it was created;
- C. The proposed development is as compatible with the surrounding housing as is practicable. Compatibility is based on considerations such as placement on the site, size, height, number of stories, angle of roof pitch, architectural style, size and placement of accessory structures such as garages, building materials, and landscaping materials; and
- D. Any requested adjustments are consistent with the purpose of this chapter, the purpose of Section 33.110.212, and the intent of the regulation being adjusted.

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## Commentary

**Pedestrian connections.** The right-of-way guidelines in Appendix A recommend a minimum 15-foot wide right-of-way for pedestrian connections.



**Flood hazard area:** The commonly-used term "100-year floodplain" is misleading because floods may occur there more often than once every 100 years. Most of these areas are shown on the FEMA flood map.

## AMEND CHAPTER 33.910, DEFINITIONS

**Alley.** A right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access, however where vehicle access from the street is not allowed or not possible, the alley may provide primary vehicle access.

**Clearing.** Any activity that removes existing vegetation or strips surface material from any portion of the site.

**Dead-End Street.** A street that connects to another street at only one end, or extends from an existing dead-end street. Dead-end streets serve 2 or more lots that have frontage only on the dead-end street. A pedestrian connection may extend from the end of a dead-end street to connect with another street of any type, or with another pedestrian connection.

**Density.** A measurement of the number of people, ~~or dwelling units, or lots~~ in relationship to a specified amount of land. ~~As used in this Title, density does not include land devoted to streets.~~ Density is a measurement used generally for residential uses. Accessory Dwelling Units are not counted in calculations of minimum or maximum density. See also Intensity.

**Easement.** A grant of rights by a property owner that allows others to use the owner's land for a specific purpose, such as access, or to locate utilities.

### **Environment-Related Definitions**

- **Utilities.** Infrastructure services, including those in the Basic Utility Use Category, and structures necessary to deliver those services. These services may be provided by a public or a private agency. Examples include water, sanitary sewer, electricity, natural gas, and telephone. Also see the other definition of Utilities in this chapter.

**Exchange Parcel.** The area of land to be conveyed from one property to another through a Property Line Adjustment. A single Property Line Adjustment may involve more than one exchange parcel. See Property Line Adjustment.

**Final Plat.** The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions and information concerning a land division.

**Flood Hazard Area.** Land that is subject to a one percent or greater chance of flooding in any given year.

**Floodway.** The active flowing channel during a flood, as designated on the flood maps adopted under authority of Title 24 of the Portland City Code. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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## Commentary

**Historic Landmark Tree.** Generally, Historic Landmark trees are important to the city as a whole because of historic or cultural significance.

**Future Division Plan.** A document that shows lot, tract and right-of-way boundaries for all future phases of a land division. The plan is not binding on the City or the applicant. The purpose of the plan is to document that the design of the first phase of the plan does not preclude future phases from meeting the requirements of this and other Titles.

**Grading.** All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development of the land division site.

**Common Green.** A street that provides for pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.

**Historic Landmark Tree.** A tree designated by the Historic Landmarks Commission because of its historical or cultural significance.

**Lot.** A lot is a legally defined piece of land other than a tract that is the result of a land division. ~~subdividing or partitioning land.~~ This definition includes the State definition of both lot (result of subdividing) **and** parcel (result of partitioning). See also, Ownership and Site.

**Lot of Record.** A lot of record is a ~~tract~~ plot of land:

- Which was not created through an approved subdivision or partition;
- W ~~hich~~ was created and recorded before July 26, 1979; ~~which met the dimensional requirements for new lots at the time it was created and~~
- F ~~or~~ which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder. ~~This includes tracts created by subdivision or partition (lots), and those created through other methods.~~

**Lot Lines.** The property lines along the edge of a lot or site.

- **Front Lot Line.** A lot line that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines ~~which that~~ abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length. See Figure 910-3.

~~For purposes of the solar access calculations, when the actual front lot line is curved, the front lot line is considered to be a straight line that connects the ends of the curve. For a flag lot, the front lot line is considered to be the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag. See Figure 910-5.~~

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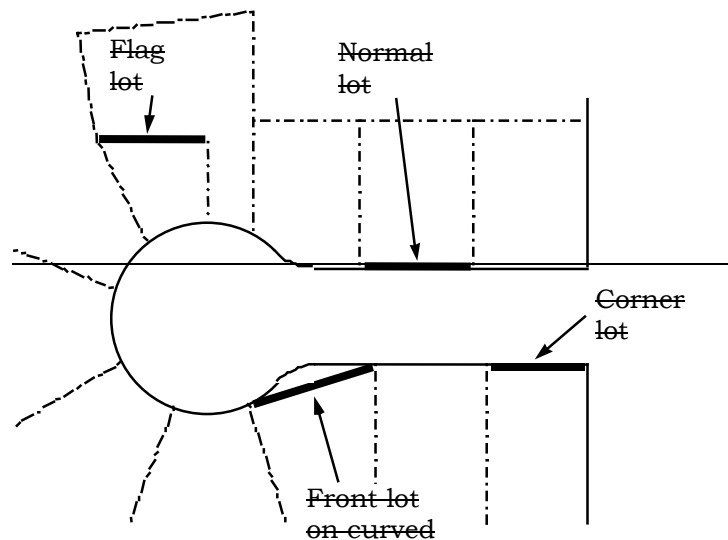
## Commentary

**Northern Lot Line and North-South Lot Dimension** These definitions are being deleted because they do not relate to the proposed solar access criteria for land divisions. These definitions were related to the solar access development standard that was in the zoning code until 1997. When that standard was deleted from the code, these definitions were inadvertently left in the code. It is being removed now in order to avoid confusion with the new land division regulations.

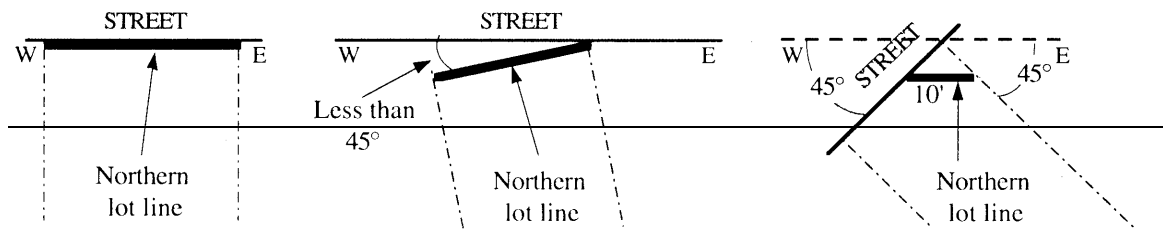


- Northern Lot Line.** For the purpose of the solar access calculations, the lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If two sides of the lot are at equal angles from an east-west line, then the northern lot line is a line 10 feet in length within the lot parallel to the east-west line. See Figure 910-6.

**Figure 910-5  
Solar Front Lot**



**Figure 910-6  
Northern Lot Lines**



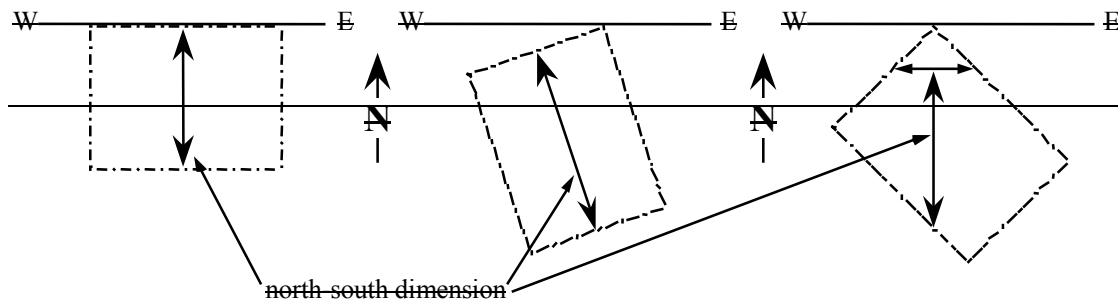
**North-South Lot Dimension.** For the purpose of the solar access regulations, the length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a lot line. See Figure 910-8.

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## Commentary

**Figure 910-8**  
**North-South Dimension of a Lot**



**Partial street.** A partial street is one or more parts of a dead-end street or through street; each part usually is located on a different site. Partial streets are created when a street will be completed in stages, on more than one site. Partial streets may include the whole or part of a turnaround, part of the total width, or part of the total length.

**Pedestrian Connection.** A pedestrian connection generally provides a through connection for bicyclists and pedestrians between two streets or two lots. It may be a sidewalk that is part of a street, or may be separate from the roadway.

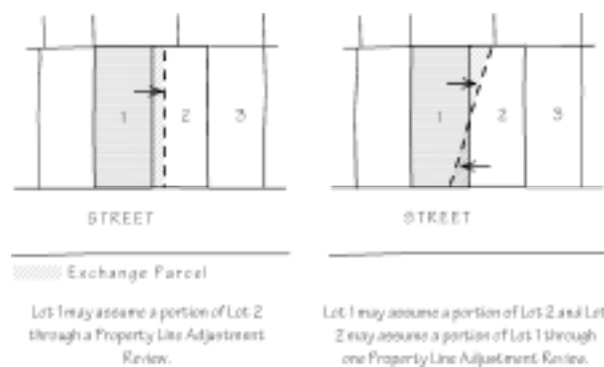
**Planned Unit Development.** A type of development that is based on a comprehensive design that addresses the entire complex of land, structures, and uses as a single project. The design plan for the project functions as a substitute for the general site development regulations of the zoning on the site.

**Tract.—Plot.** A piece of land created by a partition, subdivision, deed, or other instrument recorded with the appropriate county recorder. This includes a lot, a lot of record, a tract, or a piece of land created through other methods.

**Potential Landslide Hazard Area.** Potential Landslide Hazard Areas are shown on the City's Potential Landslide Hazard Areas Map.

**Property Line Adjustment.** The relocation of a single common property line between two abutting properties. Also see Exchange Parcel. See Figure 910-12.

**Figure 910-12**  
**Property Line Adjustment**



**Public Access Easement.** A public access easement is an easement granted to the public for all the purposes for which a public sidewalk may be used, including but not limited to, pedestrian and bicycle travel.

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## Commentary

**Shade and Shade Point**        These two definitions are being deleted because they do not relate to the proposed solar access criteria for land divisions. These definitions were related to the solar access development standard that was in the zoning code until 1997. When that standard was deleted from the code, these two definitions were inadvertently left in the code. They are being removed now in order to avoid confusion with the new land division regulations.

**Right-Of-Way.** ~~An public or private area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, streets, bike paths, pedestrian connections, alleys, and walkways, and all streets. A public right-of-way may be is a right-of-way that is dedicated or deeded to the public for public use and be under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract.~~

**Roadway.** The portion of a ~~street~~ right-of-way that is improved for motor ~~vehicular~~ vehicle travel. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

**Seep or Spring.** The point where an aquifer intersects with the ground surface and discharges water into a stream channel that flows into a wetland or other water body.

**Services.** For the purposes of the 600s series of chapters, services are water service, sanitary sewage disposal, stormwater management systems, and rights-of-way.

**Significant Tree.** A tree that is listed in Table 630-1, Significant Trees.

**Site.** For land divisions, the site is an ownership. If a proposed land division includes more than one ownership, then all the ownerships are included as the site. For all other purposes, the site is A-an ownership except as follows:

- If a proposed development includes more than one ownership, then all the ownership's are included as the site.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

**Shade.** ~~For the purposes of the solar access regulations, a shadow cast by the shade point of a structure or regulated vegetation.~~

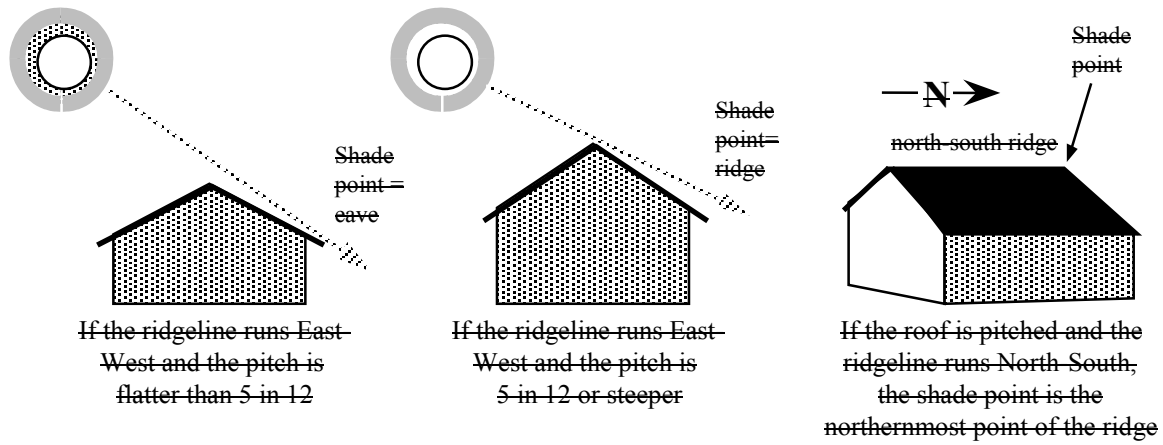
**Shade Point.** ~~For the purpose of the solar access regulations, the part of a structure or regulated vegetation that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south. See Figure 910-12.~~

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## Commentary

**Figure 910-12**  
**Shade Point**



**Stormwater Facility.** A facility designed to improve the quality and manage the quantity of stormwater runoff. Stormwater facilities include vegetated and sand filters, wet or dry ponds, marshes, infiltration facilities, and structural storm sewer devices. Stormwater facilities do not include conveyance systems that are meant only for conveying the stormwater from one place to another and do not affect the quality or quantity of the stormwater.

**Stormwater Management System.** A stormwater facility, and a conveyance system or an outfall.

**Street.** A ~~public or private~~ right-of-way that is primarily intended for motor vehicle travel or for motor vehicle access to abutting property. ~~Street includes all the area within the right of way, such as roadways, parking strips, and sidewalks.~~ Streets are also intended for pedestrian or bicycle travel, or access to abutting property. For the purposes of this Title, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or the interstate freeways and the Sunset Highway including their ramps.

**Through Street.** A street that connects to other streets at both ends.

**Tract.** A tract is a piece of land within a land division site that is not a lot, lot of record, or a public right-of-way. Tracts have a specific purpose and limited development potential. Examples of purposes of tracts include access, tree preservation, and environmental resource.

**Utilities.** For the purposes of the 600s series of chapter, utilities are telephone, cable, natural gas, electric, and telecommunication facilities. See also the definition of Utilities under the Environment-Related Definitions.

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## Commentary

**020.B.2** This amendment changes the "rounding" rule for maximum density. In some cases the whole number will round down however, in others the density will round up. The Director's discussion group worked out a rounding rule that has the least amount of impact on small sites.

Currently, maximum density rounds down in all cases and applicants can ask for an adjustment to maximum density. In most cases, the adjustments are approved. This new rounding rule, coupled with a prohibition on adjustments, will provide more simplicity, certainty, and equity.



## AMEND CHAPTER 33.930, MEASUREMENTS

### 33.930.020 Fractions

When calculations result in fractions the results will be rounded as follows:

- A. Minimum requirements.** Minimum requirements other than density are calculated as described in Paragraph A.1. Minimum requirements for density are calculated as described in Paragraph A.2.
1. Generally. When a regulation is expressed in terms of a minimum requirement, any fractional result will be rounded up to the next ~~consecutive~~ whole number. For example, if a minimum requirement of one tree for every 30 feet is applied to a 50 foot strip, the resulting fraction of 1.67 is rounded up to 2 required trees.
  2. Density. Minimum density calculations are rounded based on a fraction that is truncated to two numbers past the decimal point. For example, 3.4289 is truncated to 3.42. Where a minimum density calculation results in a fraction that is 50 or above, the fraction is rounded up to the next whole number. Where a minimum density calculation results in a fraction that is less than 50, the fraction is rounded down to the preceding whole number
- B. Maximum limits.** Maximum limits other than density are calculated as described in Paragraph B.1. Maximum limits for density are calculated as described in Paragraph B.2.
1. Generally. When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the ~~preceding next lower~~ whole number. For example, if a maximum limit of one parking space for every 2,500 square feet of site area ~~dwelling unit for every 3,000 square feet~~ is applied to an 8,000 square foot site, the resulting fraction of ~~2.67~~ 3.2 is rounded down to ~~2~~ 3 allowed parking spaces.~~dwelling units.~~
  2. Density. Maximum density calculations are rounded as follows. For the purposes of this measurement, rounding is based on a fraction that is truncated to two numbers past the decimal point. For example, 1.7398 is truncated to 1.73.
    - a. 1.01 to 3.99. Where a maximum density calculation results in number that is at least 1.01 and up to 3.99:
      - (1) If the fraction is less than .90, the fraction is rounded down to the next whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 13,900 square foot site, the resulting fraction of 2.78 is rounded down to 2 allowed dwelling units.
      - (2) If the fraction is .90 or above, the fraction is rounded up to the next whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 14,600 square foot site, the resulting fraction of 2.92 is rounded up to 3 allowed dwelling units.
    - b. 4.01 to 10.99. Where a maximum density calculation results in a number that is at least 4.01 and up to 10.99:

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## Commentary

- (1) If the fraction is less than .75, the fraction is rounded down to the next whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 23,400 square foot site, the resulting fraction of 4.68 is rounded down to 4 allowed dwelling units.
- (2) If the fraction is .75 or larger, the fraction is rounded up to the next whole number. For example, If a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 23,900 square foot site, the resulting fraction of 4.78 is rounded up to 5 allowed dwelling units.
- c. 11.01 or larger. Where a maximum density calculation results in a number that is 11.01 or greater:
- (1) If the fraction is less than .50, the fraction is rounded down to the next whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 56,200 square foot site, the resulting fraction of 11.24 is rounded down to 11 allowed dwelling units.
- (2) If the fraction is .50 or larger, the fraction is rounded up to the next whole number. For example, If a maximum limit of one dwelling unit for every 5,000 square feet of site area is applied to a 58,200 square foot site, the resulting fraction of 11.64 is rounded up to 12 allowed dwelling units.

### **33.930.030 Measuring Distances**

- A.** [No change]
- B. Measurements are shortest distance.** When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the shortest distance between the two objects. See Figure 930-2. Exceptions are stated in Subsections C, ~~D~~E, and ~~E~~F.
- C.** [No change]
- D. Measurement of distance between rights-of-way.** Distance between rights-of-way is measured from centerline of one right-of-way to the centerline of the other right-of-way.
- ~~D~~E.** [No change]
- ~~E~~F.** [No change]
- ~~F~~-G.** [No change]



## **Part V:**

# **Recommended Implementation Measures**

The actions described under A. through G., below are necessary to implement the new land division regulations shown in Part III of this report. These recommended actions are reflected as council directives in the ordinance adopting this report.

#### **A. Regulations and guidelines for technical decisions**

The Land Division Code will continue to rely on service bureaus, including the Portland Office of Transportation and the Bureau of Environmental Services, to review and approve many of the technical elements of land division proposals. Service bureaus make technical decisions related to Preliminary Plans and Final Plats and provide input on certain land use decisions.

Service bureau staff rely on City codes, handbooks, and manuals, in addition to state and federal codes and their own technical expertise, as the basis for their evaluation of land division proposals. Currently, some technical requirements are not well-documented, and staff must explain rules repeatedly to participants in land division reviews. An outcome of this practice is that important information is not readily accessible to applicants and neighbors in advance of the pre-application conference.

In order to implement the Land Division Code Rewrite recommendation, service bureaus need to provide more documentation regarding how they make their technical decisions related to land divisions. This information may be adopted legislatively into Portland City Code, or adopted administratively as part of a handbook, manual, or set of guidelines. The sponsoring bureau should solicit public comments on these new regulations or administrative documents before they are issued for use.

Successful examples of technical handbooks that have been adopted in the past include the recently adopted Portland Pedestrian Guide and the Stormwater Management Manual. Both of these guides involved extensive review and input from citizens and City staff. In addition, BES has formed a Stormwater Advisory Committee to assess the performance of the manual and to suggest future improvements. Both of these guides serve as a basis for the technical decisions that are made as part of the existing land division process and will continue to be used by technical staff as they review land division proposals under the new code. In order to fully implement the land division code, however, additional technical documentation needs to be adopted.

**Recommendation:** Direct service bureaus to document administrative practices and technical requirements prior to the effective date of the code language recommended by this report as described below:

**Water Bureau.** The water bureau should amend city code or adopt guidelines or manuals that outline technical requirements related to the provision water service on land division sites. This work should be coordinated with the Fire Bureau, which also has authority for requiring water service on land division sites.

**Office of Planning and Development Review.** The Office of Planning and Development Review should adopt guidelines or manuals that outline the technical requirements that apply to development on the site as part of the land division process. The requirements should include standards related to private streets and any other service or utility regulated by the agency as part of the land division process. This work will supplement the creation of guidelines for public streets by the Portland Office of Transportation; in the future the City should consider creating one set of guidelines for all streets regardless of their ownership.

**Bureau of Environmental Services.** The Bureau of Environmental Services should amend city code or adopt guidelines or manuals that outline technical requirements related to the provision of sanitary sewer disposal and stormwater management on land division sites.

Many of these requirements are already documented in the Stormwater Management Manual.

In particular, Environmental Services should amend Title 17, or adopt amendments to the Stormwater Management Manual to:

- require analysis of off-site stormwater impacts and, in certain circumstances, require off-site upgrades as part of the land-division approval. Language in the current land division code regarding the adequacy of stormwater facilities gives the City the authority to require analysis of the effect of a land division on downstream systems, and to require off-site upgrades. While the new code will still provide this authority, off-site analysis and upgrade will be a technical requirement, and work needs to be done to clarify the specifics of the requirement.
- require an assessment and management of water that flows onto a land division site from adjacent property. Currently there are technical requirements related to the water flowing from the site, but these requirements may not effectively manage the effect of water flow within the site itself. This work would require additional research and involvement by other City Bureaus. A question to analyze would include whether or not there are standard research methods that can be used to assess sheet flows and interflows onto a site.

**Portland Office of Transportation.** The Portland Office of Transportation should amend city code or adopt guidelines or manuals that outline technical requirements related to rights-of-way on the land division site. See Chapter 33.654 for a description of which right-of-way decisions are technical decisions under the recommended code. This work will supplement guidelines for the creation of private rights-of-way by the Office of Planning and Development Review; in the future the City should consider creating one set of guidelines for all streets regardless of their ownership.

In particular, the Portland Office of Transportation should amend Titles 16 or 17, or adopt appropriate guides that document the following technical requirements:

- **Street improvements.** Transportation should adopt code language or guidelines to document requirements for specific street improvements created as part of a land division. The recommended land division regulations would require specific street widths based on land uses and site characteristics, but would grant authority to Transportation to make technical decisions related to the improvements required to be made in streets. Certain requirements that are currently documented in Title 34, Subdivisions and Partitions, such as monument boxes and street inlets, will not be documented in the new land division regulations because they are technical in nature. The draft street design guidelines included in Appendix A of this report, could serve as a starting point for the creation of appropriate technical guidelines. The draft guidelines include recommended configurations for through streets, dead end streets, alleys, and bicycle/pedestrian connections. Additionally, a guideline for a new type of allowed street, the green street, should be included.
- **Improvement guarantees for land divisions.** Transportation should implement an interim measure to retain authority to require land division agreements. Such agreements allow the City to collect on improvement guarantees (for land division improvements such as streets and sanitary sewer) in the event that the developer defaults. Existing language in Title 17 gives the City Engineer the authority to require improvement guarantees from the developer, but does not explicitly grant the authority to require improvement guarantees as part of a land division. This specific authority is currently documented in Sections 34.40.010 and 34.40.020 of Title 34, Subdivisions and Partitions, but is not being recommended for inclusion in the new code language because it is an issue of technical authority which should be regulated under the appropriate technical code. This interim measure would supplement the work described under D. Improvement Guarantee Functions, below.

- **Local Improvement Districts.** Transportation should adopt code language or guidelines to document their authority over land divisions within the context of the Local Improvement District process. Existing language in Title 17 gives the City Engineer the authority to administer a Local Improvement District process to fund street improvements, but does not explicitly grant the authority to administer this process as part of a land division. This specific authority is currently documented in Sections 34.40.030 of Title 34, Subdivisions and Partitions, but is not being recommended for inclusion in the new code language because it is an issue of technical authority which should be regulated under the appropriate technical code.
- **Reserve strips for right-of-way access.** Transportation should adopt code language or guidelines to document their authority to require reserve strips as part of a land division. The existing land division code grants the City the ability to adopt conditions of approval that grant the City control over a narrow strip of property adjacent to the right-of-way in order to control access to and from the right-of-way. This authority is currently granted under Section 34.50.030 of Title 34, Subdivisions and Partitions, but is not being recommended for inclusion in the new code language because it relates to a technical issue that should be placed under the authority of the City Engineer and documented in a technical code.
- **Temporary turnarounds.** Transportation should adopt code language or guidelines to document their authority to require temporary turnarounds in land division sites outside of the residential zones. Temporary turnarounds are often required as part of a land division when a street is being required that will eventually extend further into or beyond the site. Authority to require construction of temporary turnarounds is currently documented in Section 34.50.040 of Title 34, Subdivisions and Partitions, however, this authority will be granted to the Office of Transportation and the Fire Bureau under the recommended code. The authority to require temporary turnarounds is in a technical issue that should be placed under the authority of the City Engineer and documented in a technical code. In addition, the regulations or guidelines developed by Transportation should include design standards or criteria for the design of improvements to these temporary turnarounds in the non-residential zones. (The recommended land division code includes approval criteria for the design of required turnarounds in the residential zones.)
- **Alignment of streets and intersections.** Transportation should adopt code language or guidelines to document design criteria for the alignment of streets and intersections. Some design standards related to the alignment of streets and intersections are currently documented under Subsections 34.60.010 B and C of Title 34, Subdivisions and Partitions; however, comparable standards are not being incorporated into the new land division code because they are technical in nature and should be placed under the authority of the City Engineer.

## **B. Conceptual Citywide Street Plan Map**

As part of the update of the City's Transportation System Plan (TSP), the Portland Office of Transportation is preparing a Conceptual Citywide Street Plan Map. This map will:

- provide guidance to administrators regarding potential street locations throughout the city; and
- complement connectivity requirements found in the TSP and in the land division regulations.

The citywide map will be supplemented by existing and future master street plans that are adopted for specific areas or specific land division sites. Currently there are adopted master street plans for the North Macadam area and Airport Way. In addition, many approved land divisions, particularly those involving phased approval, have incorporated specific street plans.

The recommended land division code includes minimum connectivity requirements and approval criteria for achieving these requirements on a particular site. The code also includes regulations related to adopting a specific street plan for an area or site. The



Conceptual Citywide Street Plan Map will provide additional guidance to administrators as they review land division proposals against the connectivity approval criteria.

**Recommendation:** Direct the Portland Office of Transportation to continue work toward adoption of a Conceptual Citywide Street Plan Map. After the Map is adopted, the Bureau of Planning may need to amend the land division regulations to better coordinate with the map.

### **C. Administrative practices**

The City recently implemented new procedures to streamline development review and permitting as part of the Blueprint 2000 initiative. Procedural improvements undertaken as part of this effort included:

- merging the development review functions that were formerly housed in the Bureau of Planning with the Bureau of Buildings to create a new Office of Planning and Development Review (OPDR);
- setting up a formal process management function within OPDR. The process manager can provide continuity by tracking a development application from land division through the development and service permitting process;
- reconfiguring the physical space of the Development Services Center (formerly the "Permit Center"); and
- implementing a new computerized permit and review tracking system (TRACS) to make applicant materials and decisions more accessible to applicants, neighbors, and City Staff.

Additional improvements to the administrative practices of each of the Bureaus involved in the review of land division proposals will be needed to implement the new land division regulations. These improvements include: creating an administrative review process for technical decisions that is available to the public as well as the land division applicant, providing additional early assistance and process management, setting goals for final plat turnaround times, and providing adequate staffing at key decision points during the land division review process.

### **Recommendation:**

Direct OPDR, Transportation, and BES to create administrative review processes that are available to the public as well as the land division applicant for the technical decisions made as part of a land division. These administrative processes should be developed with input from the community.

- Administrative review processes should be developed for decisions related to the design of private and public streets as well as on and off-site stormwater management. The stormwater management manual already includes an administrative review process which should be modified to be available to the public as well as the applicant.

These processes will allow citizens to formally ask questions or submit concerns to the service bureau about technical decisions they make on specific land divisions. The process is intended to be a forum for discussion and information exchange between citizens and service bureaus that make technical decisions on land divisions. The process will differ from a formal land use appeals process.

Direct the Office of Planning and Development Review to consider the following actions:

- Process management, early assistance, and information management. Make available a process manager to attend Neighborhood Contact meetings, as needed for potentially difficult land division cases. Use process managers to help neighbors evaluate technical aspects of land division reviews. Make Final Plat review information readily accessible to the public and neighborhood associations via the internet or other medium.
- Turnaround Times. Set a goal for staff turnaround times to complete final plat reviews. Turnaround times refer to the amount of time reviewers need to check the final plat against the preliminary plan decision.

- Adequate staffing. Allocate additional staff resources to administer the new code, implement the process improvements being recommended, and to meet the recommended turnaround times. At the preliminary plan stage, more staff resources with different expertise will be needed because applications will now require additional information.

#### **D. Improvement guarantee functions**

For land divisions, the City typically requires improvements, such as the construction of streets, sidewalks, and utilities, or the installation of landscape materials or mitigation. However, it usually is not practical for all improvements to be completed before the final plat is recorded. Improvement guarantees secure the financing for the City to complete the required improvements if they are not completed by the developer. This tool benefits the developer by postponing costly improvements until revenues can be generated from sale of the lots.

Currently, applicants for land divisions must contact service bureaus individually and post separate improvement guarantees for each service improvement. In addition, rules and procedures are not consistent among the bureaus. As a result, the process is time-consuming and costly.

The recommendation described below should be supplemented by an interim measure related to street improvements, and described under A, above.

**Recommendation:** Direct the City Attorney to head up a long-term inter-bureau effort toward consolidation of improvement guarantee activities and regulations by project. This effort should include the adoption of regulations as part of Title 3, Administration that address the following:

- when improvement guarantees are required or allowed;
- terms of the agreement;
- the approval process;
- form and amount;
- completion and inspection;
- reduction or release of the guarantee; and
- the City's recourse if improvements are not completed as agreed.

#### **E. Housekeeping amendments to other City Titles**

Several City titles need to be updated to match terminology and cross-references in the new land division regulations. For instance, Titles 17, 21, 24, and 31 currently contain terminology that is no longer used in the new regulations, such as "subdivision" or "planned unit development."

**Recommendation:** Direct appropriate service bureaus to update their titles for consistency with the land division code as they create adopted guidelines and new regulations relating to their service requirements. The table below includes examples of changes that should be made:

<b><u>Possible Changes to Other City Titles</u></b> <b>(other than Titles 33 and 34)</b>	
<b>City Title and Section</b>	<b>Commentary on proposed change</b>
<u>Land division terms</u> 21.08.030; 24.50.060; and 31.10.160.B.	<p>These sections describe service requirements that are triggered by a "subdivision." Section 21.08.030 addresses Water Bureau requirements for water main extensions in subdivisions located in the City. Section 24.50.060 addresses Bureau of Buildings requirements to reduce floor hazard in relation to "subdivisions." Section 31.10.160.B discusses "subdivision" documents for Fire Bureau record-keeping.</p> <p>Since subdivisions will be renamed to land divisions, we need to make clear that the two terms are interchangeable in application. That is, a previously-approved subdivision decision (whether Preliminary Plan or Final Plat) and the above service requirements continue to apply, and the new code will refer to them as land divisions.</p> <p>There appear to be two alternatives to align these terms: define "land division" to include subdivision within the appropriate titles of Portland City Code; or amend these sections to use the term land division.</p>
17.04.070; 17.23.020.F; 17.24.030.B; 17.24.220; 17.36.005.A; 17.56.020; 17.88.020; 21.08.030; 21.12.070	<p>These sections refer to "planned unit developments" in the context of local service improvements, street use (ROW) permits, sewer user charges, public utilities, and street access. The land division recommendation would delete the "planned unit development (PUD)" process and create a new "planned development" process that will provide some of the flexibility previously provided by the PUD process. (However, previously approved PUDs will continue to exist.) Titles 17 and 21 should be amended to recognize Planned Developments and to clarify which rules apply to "old" previously approved PUDs and which rules apply to "new" Planned Developments..</p>

Possible Changes to Other City Titles, Cont.	
City Title and Section	Commentary on proposed change
<u>Street-related terms</u> 17.15.100 Through lanes	This section identifies new <b>through lanes</b> as one type of street improvement that is subject to the transportation system development charge (transportation SDC). The Portland Office of Transportation should define this term, and relate it to "through street" as used in Chapter 34.654 of this report.
<u>Adjustments</u> 17.88.010	The term "variance" in Title 34 will be replaced with the terms "adjustment" and "exception". This section in Title 17 should be amended to reflect this updated terminology. In 1991, the City replaced the variance procedure in the zoning code requirements with the adjustments procedure. The Land Division Code Rewrite Recommendation would make the regulations consistent by using adjustments and exceptions in the land division regulations as well. For an explanation of these two tools, see "How to Use This Document" in Part III of this report.
<u>Outdated references to Title 34</u> 3.111.060 relating to solar access permit	<p>This section states that property owners of certain zones that allow residential uses may apply for, and be subject to, a solar access permit, except that a solar access permit may not be obtained for any property in these zones that is affected by or exempt from the solar envelope requirements contained in <b>Title 33 and 34</b> of this Code. The purpose of the solar access permit is to enable property owners with solar energy systems (solar panels) to preserve solar access to their systems by restricting the shade cast by certain types of vegetation on neighboring properties.</p> <p>In 1997, solar requirements were deleted from Title 33, Planning and Zoning. This amendment was intended to eliminate a regulation that was widely viewed as ineffective and cumbersome. This amendment was made as part of the Code Language Improvement Project (CLIP). The regulations that remain in Title 34 are very complicated to administer and provide for numerous exceptions. This has resulted in minimal solar access protection when compared to public and private costs. Therefore, the Land Division Code Rewrite Recommendation replaces the existing Title 34 requirements with approval criteria requiring lot configurations that will maximize solar access on the site where practicable.</p> <p>Delete from Chapter 3.111 the reference to solar envelope requirements of Titles 33 and 34.</p>

## **F. Land Division Handbook**

A land division handbook would be a user-friendly supplement to the code provided to land owners and developers, land development professionals, neighborhood groups, and others interested in the land division process. The handbook could serve several purposes:

- Explain all city processes and requirements that effect land division proposals;
- Offer suggested ways to approach a variety of development issues, including designing land divisions to work within site constraints and provide required services; and
- Provide guidance on preparing land division applications and supporting documentation.

In addition to giving the land division process a more “customer-friendly” face, a handbook could ultimately save city resources by encouraging submittal of complete applications and a better understanding of the requirements. (The November 29, 1999 Recommended Draft of the Land Division Code includes an outline on pages 409 and 410 that could be a good starting point for creation of a handbook.)

**Recommendation:** Direct the Bureau of Planning and the Office of Planning and Development Review to work jointly to produce a Land Division Handbook, if feasible within the constraints of existing budget priorities.

## **G. Land Division Monitoring**

Because of the complexity of the regulations being proposed, they will likely need to be in use for a period of time before their effectiveness can be fully assessed. We anticipate that some issues could emerge during the first few years of implementation that would warrant refinements to better implement the legislative intent of the Land Division Code Rewrite project.

**Recommendation:** Allocate a budget for and direct the Bureau of Planning to work with the Office of Planning and Development Review to undertake a two-year work program to monitor implementation of the land division regulations. The focus of this process should include monitoring the Type IIx procedure to evaluate if the time period for citizen comment is adequate, and whether final plat turnaround times are adequate. The monitoring process would include regular reporting to the Planning Commission, and could result in future code changes or changes to administrative processes. Monitoring reports provided to the Planning Commission should also be provided to the neighborhood coalition offices.

## **H. Post final plat applications on the internet.**

Posting final plat applications on the internet would provide citizens the opportunity to see a final plat application without requiring them to make a trip city offices.

**Recommendation:** Direct the Office of Planning and Development Review to review the feasibility of posting final plat applications on the internet. If posting is feasible, direct the Office of Planning and Development Review to post final plat applications on the internet.

**I. Street standards (future work program).** Currently private streets are regulated by OPDR and public streets are regulated by Transportation. Developers sometimes elect to create a private street rather than a public street in order to gain access to more flexible street standards when providing access to infill lots. This current practice may not support City Policies related to public access and connectivity.

**Recommendation:** Direct Transportation, OPDR, the City Attorney, and the Bureau of Planning to work jointly to: modify existing street standards to require that streets be designed according to their use and function, rather than ownership; create a narrow street standard that accommodates infill sites; and create criteria for when streets should be dedicated to the City and when they can be in privately owned tracts.

**J. Designing for quality neighborhoods (future work program).**

While the Land Division Code Rewrite Recommendation includes standards for the design of development on narrow lots, additional work needs to be done to address issues related to design of development in other types of infill situations, including:

- Exploring additional design standards for existing narrow lots;
- Revisiting the Community Design Standards;
- Reexamining “a” overlay mapping and density bonus;
- Continuing design work for multi-dwelling development, town centers, main streets and station communities; and
- Encouraging the local architectural community to prepare a pattern book of good design examples

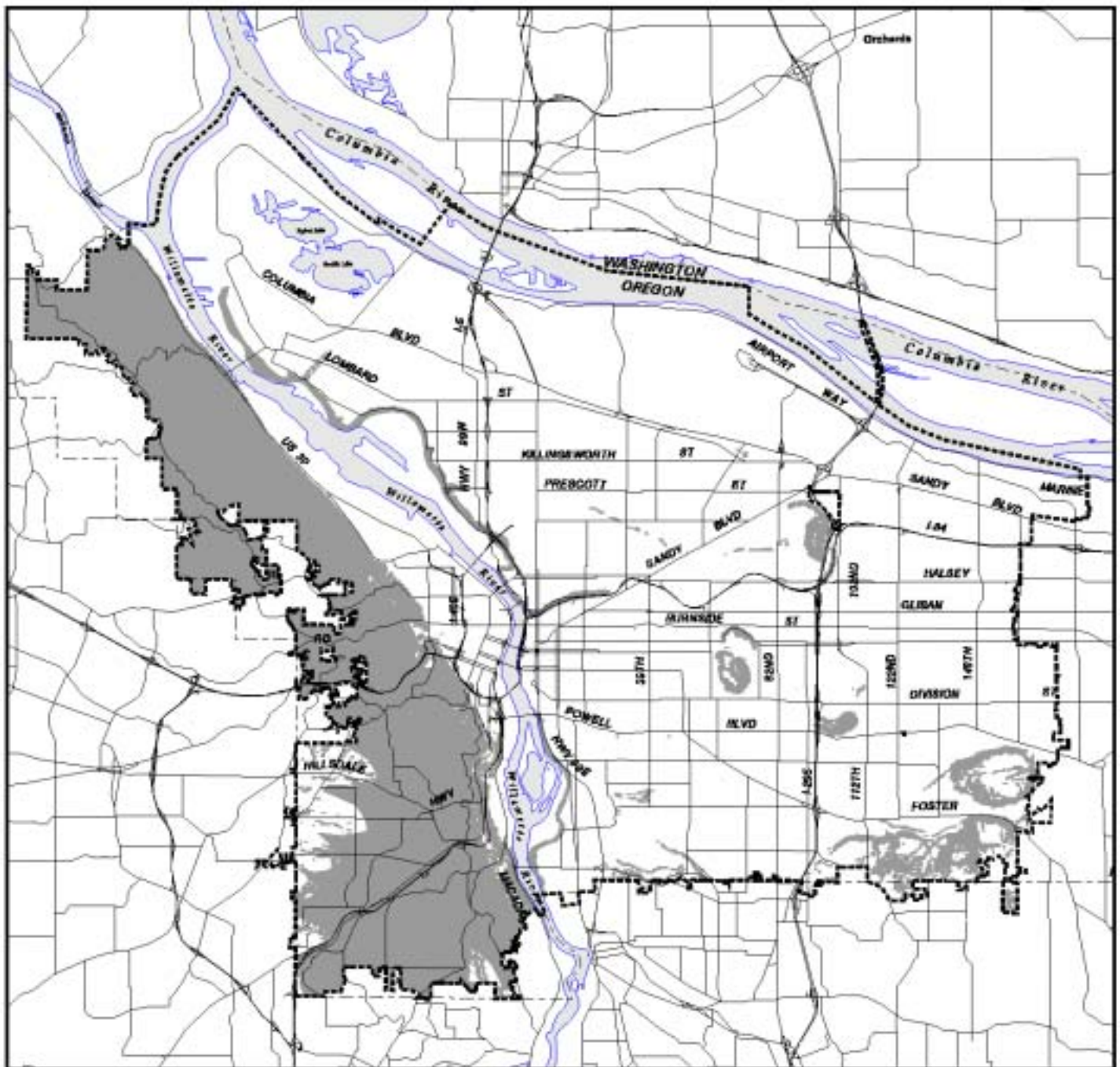
**Recommendation:** Direct the Bureau of Planning to address issues related to the design of infill development as part of the “Infill Design Project” that has received City Council funding for FY01/02.

# **Appendices**

- A. Potential Landslide Hazard Area Map
- B. Ordinance #175965  
Ordinance #176333







## Potential Landslide Hazard Areas



City of Portland  
Bureau of Planning  
Geographic  
Information System  
March 15, 2001



Scale  
0' 8000' 12000' 18000'

### INFORMATION SOURCES:

City Boundary:  
Digitized by Portland Department of Transportation. Updated  
by PDOT and Bureau of Planning, October 2000. Registered  
to latest base maps.

All data compiled from source materials at different scales.  
For more detail, please refer to the source materials or  
City of Portland, Bureau of Planning.

The information on the map was derived from digital data  
bases on the City of Portland, Bureau of Planning GIS. Care  
was taken in the creation of this map but it is provided "as  
is". The City of Portland cannot accept any responsibility  
for errors, omissions, or positional accuracy, and therefore,  
there are no warranties which accompany this product.  
However, notification of any errors will be appreciated.





## Contributors and Publications

### Phase 1 (Scoping)

Consultant team: Larry Epstein, PC and the Dorman Company.

Published report: Land Division Code Rewrite Project: Initial Report, 1995.

### Phase 2 (Code Concepts)

#### Project Advisory Committee

Chet Antonsen	Pacific Western Homes
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Names followed by an asterisk identify PAC members who also served on the Development Review Team subcommittee

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Planning Commission Subcommittee: Steven Abel, Doug Van Dyk (until July, 1996), Sarah ffitth, Rick Michaelson

Consultant team: Larry Epstein, P.C., McKeever/Morris, Inc., and Angela Borden-Jackson

Published report: Land Division Code Rewrite Project: Final Project Report, November 4, 1996.

### Phase 3 (Proposed Code)

Planning Commission Subcommittee: Steven Abel, Amanda Fritz (since July, 1996), Rick Holt (since July, 1996), Rick Michaelson, Ingrid Stevens (since June 1999)

Published reports: (First) Proposed Draft, Land Division Code Rewrite Project, January 23, 1998; Second Proposed Draft, Land Division Code Rewrite Project, September 28, 1998; Planning Commission Working Draft, Land Division Code Rewrite, September 16, 1999; Planning Commission Recommended Draft of Land Division Code Rewrite Project, November 29, 1999

### Phase 4 (Recommended Code)

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Arlene Kimura	East Portland Neighborhood Office
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Bruce Sternberg	Southeast Uplift
Brigid Flanigan	Southwest Neighborhoods, Inc.
Greg Theisen	Neighbors West/Northwest
John Weigant	North Portland Neighborhood Services

Published reports and presentations: Land Division Code Rewrite Project, Designing for Quality Neighborhoods, The Director's Cut, November 30, 2000 (presentation); Recommended Draft of Land Division Code Rewrite Project, April 2, 2001.

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