



# Inclusionary Housing Zoning Code Project

## As-Adopted Report

### Ordinance #188162

Adopted December 21, 2016

Effective February 1, 2017



Bureau of Planning and Sustainability  
City of Portland, Oregon

1900 SW 4th Ave. Suite 7100, Portland, OR 97201



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# Acknowledgments

This report was written by project staff from the City of Portland Bureau of Planning and Sustainability, Portland Housing Bureau, and the Bureau of Development Services.

## **Portland City Council**

Charlie Hales, Mayor  
Nick Fish, Commissioner  
Amanda Fritz, Commissioner  
Dan Saltzman, Commissioner  
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Eli Spevak  
Teresa St Martin  
Margaret Tallmadge

## **Bureau of Planning and Sustainability**

Charlie Hales, Mayor, Commissioner-in-charge  
Susan Anderson, Director

## **Project Staff**

Joe Zehnder, Chief Planner  
Tom Armstrong, Supervising Planner  
Tyler Bump, Senior Economic Planner  
Shannon Buono, Senior Planner  
Jonathan Morales, Community Service Aide II

## **Other Contributors**

Matthew Tschabold, Portland Housing Bureau  
Matt Wickstrom, Bureau of Development Services  
Rebecca Esau, Bureau of Development Services

## **Portland Housing Bureau Inclusionary Housing Program Development Panel of Housing Experts**

Shannon Callahan – Office of Commissioner Saltzman  
Matthew Tschabold – Portland Housing Bureau  
Sarah Zahn – Portland Housing Advisory Commission, Gerding Edlen  
Dike Dame – Portland Housing Advisory Commission, Williams and Dame Development  
Dr. Lisa Bates – Portland State University

Dr. Ronald Lehr – KeyBanc Capital Markets Inc.

Amanda Saul – Enterprise Community Partners

Vivian Satterfield – OPAL Environmental Justice Oregon

Margaret Tallmadge – Coalition of Communities of Color, Portland Planning and Sustainability Commission

Eric Cress – Urban Development + Partners

Greg Goodman – Downtown Development Group, Portland Business Alliance

Kira Cadot – Rembold Companies

Nolan Lienhardt – ZGF, 1,000 Friends of Oregon



# 1. Introduction

In March 2016, the Oregon State Legislature passed Senate Bill 1533 which permits cities and counties to adopt land use regulations or impose conditions for approval of permits to require affordable housing of up to 20 percent of units in multi-family structures in exchange for one or more developer incentives that are identified in SB 1533. In addition to the inclusion rate cap of 20 percent of units in a project, SB 1533 creates a project size threshold of 20 or more multi-family units and income level restrictions of a mandatory inclusionary housing program for 80 percent or higher Median Family Income (MFI).

On February 10, 2016, through Resolution No. 37187, Portland City Council asserted its intention to engage in a fair, deliberative, data-driven community discussion of potential enabling ordinances resulting from the potential removal of the preemption on inclusionary housing in the 2016 State Legislative Session. In April 2016, the Portland Housing Bureau (PHB) began work on the development of an Inclusionary Housing Program that identified program requirements.

Core components of the comprehensive inclusionary housing program development framework:

- Technical analysis
- Panel of housing experts
- Community-wide discussion series
- Intra-bureau technical team
- Technical Consulting Advisors David Paul Rosen and Associates and ECONorthwest

## **Technical Analysis**

The Portland Housing Bureau contracted with consultants David Paul Rosen and Associates, with sub-consulting services from ECONorthwest, for an independent analysis of commercial and residential development in the City of Portland, the economic feasibility for a comprehensive inclusionary housing program, and the calibration of existing and potential voluntary and mandatory inclusionary housing programs that would be part of a comprehensive inclusionary housing program structure.

## **Panel of Housing Experts**

Housing Commissioner Dan Saltzman invited individuals with housing expertise to serve on a panel of housing experts to provide input and guidance on the development of a comprehensive inclusionary housing program. The panel held monthly public meetings through December 2016 to review the various components of assessing the feasibility for, and the development of, a comprehensive inclusionary housing program. In addition, the panel met with the technical analysis consulting advisors and the intra-bureau technical team.

## **Public Outreach and Community Involvement**

In addition to the public meetings of the panel of housing experts, the technical analysis consulting advisors and the intra-bureau technical team held three community-wide public meetings at various stages of the feasibility assessment and program development process that have been hosted by community organizations. Project staff held citywide presentations and information sessions with each neighborhood coalition in the City of Portland Neighborhood Association framework.

## **Inter-Bureau Technical Team**

Staff from the bureaus of Development Services, Housing, Planning and Sustainability, the Portland Development Commission and the Office of the City Attorney served on an inter-bureau technical team to provide data, information, and guidance on the development of a comprehensive inclusionary housing program.

## **The Inclusionary Housing Zoning Code Project**

Staff from the Bureau of Planning and Sustainability (BPS) have been working in close collaboration with the Portland Housing Bureau (PHB) and the Bureau of Development Services (BDS) to create a new chapter in Title 33 (33.245) to implement the Inclusionary Housing Program. This project also amends regulations and development standards in the Central City Plan District and bonus provisions within other Plan Districts as applicable. Additionally, changes to applicable base zone designations throughout the City of Portland have been adopted that will be subject to Inclusionary Housing Program Requirements. The following base zones will be subject to the Inclusionary Housing Program Requirements; RX, CX, EX, CS, CM, CN2, CN1, CG, EG, RH, R1, R2, R3.

This project furthermore amends current base zone designations to implement current direction of the Central City 2035 Project and the Mixed Use Zones Project.

New regulations and development standards that adopted by Portland City Council and recommended by the Planning and Sustainability Commission will implement the Inclusionary Housing Program Requirements and subsequent density bonus allowances when the Portland 2035 Comprehensive Plan is acknowledged by the State of Oregon in 2018. These projects include the Central City 2035 Plan, the Mixed Use Zones Project, and the Multi-Dwelling Zones Project.

## **Project summary**

The Inclusionary Housing Zoning Code Project creates a new chapter in Title 33 that mandates on-site or off-site affordable housing production, as well as the option for a fee-in-lieu payment in order to implement the Portland Housing Bureau Inclusionary Housing Program consistent with SB 1533.

### **Proposed zoning code amendments:**

- Create a new chapter in Title 33 (33.245) to require that all development projects with 20 or more dwelling units in one building participate in the Inclusionary Housing Program. The new code sets the percent or share of units in a development that must be affordable at different income levels to meet the terms of the program, called the “inclusion rate”, depending on if the units are provided on-site or off-site.
- Amend base zones and plan districts subject to the Inclusionary Housing Program requirements to create bonuses for floor area and density.
- Amend minimum parking standards for residential development close to transit and affordable housing units elsewhere in the city.



## **Project scope and timing**

This project is a legislative response to implement Inclusionary Housing as identified in SB 1533. The housing market in the City of Portland has increased in value significantly beyond both recession level housing prices and pre-recession 2007 levels. While recent home ownership and rental prices have increased broadly across Portland, various neighborhoods within close proximity to the Central City as well within close proximity to existing Complete Neighborhoods have seen rent escalations of near 10 percent annually since 2013. This Inclusionary Housing Zoning Code Project, in conjunction with the Inclusionary Housing Program at the Portland Housing Bureau, attempts to capture value of the current high demand real estate environment to produce much needed housing at 80 percent and 60 percent MFI levels to maintain income diversity in neighborhoods across Portland and promote economic inclusion as our city changes.

This project is a prompt, focused response to these market changes. The code amendments require all multi-dwelling and mixed use development projects with 20 or more residential units to comply with the Inclusionary Housing Program requirements as defined below. The effective date of these zoning code amendments is February 1, 2017.

## **Where will these zoning code amendments apply?**

These zoning code amendments apply to all base zones that allow for multi-dwelling development of 20 or more units. These zoning code amendments apply to the following base zones; EX, EG, CX, RX, CS, CM, CN1, CN2, CO1, CO2, CG, RH, R1, R2, and IR.

## **How does the Inclusionary Housing Zoning Code Project relate to Title 30?**

Title 30 is the title of Portland City Code that administers the mandate, policies, and programs for the Portland Housing Bureau. As a result, the mandatory inclusionary housing program parameters, rules, and regulations that are not located in Title 33 are located in Title 30. These necessary changes include program parameters, incentives for the inclusion of affordable units in market rate buildings, and the fee-in-lieu schedules for opting out of a mandatory inclusionary housing program, and purchasing additional floor area ratio (FAR). The Portland Housing Bureau has developed the necessary changes to Title 30 in a separate ordinance.

## What is the Inclusionary Housing Program?

Mixed Use Zones	
<b>Mandatory Inclusionary Requirement:</b>	20% of Units at 80% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus</li> <li>• 10 Year Property Tax Exemption on Affordable Units</li> <li>• CET Exemption on Affordable Units</li> <li>• Density Bonus Units Exempt from Parking Requirements</li> </ul>
<b>Deeper Affordability Option:</b>	10% of Units at 60% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus</li> <li>• 10 Year Property Tax Exemption on Affordable Units</li> <li>• CET Exemption on Affordable Units</li> <li>• Density Bonus Units Exempt from Parking Requirements</li> <li>• SDC Waivers on Affordable Units</li> </ul>
Central City Zones with 2:1, 3:1 and 4:1 Base FAR	
<b>Mandatory Inclusionary Requirement:</b>	20% of Units at 80% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus of 3.0 FAR</li> <li>• 10 Year Property Tax Exemption on Affordable Units</li> <li>• CET Exemption on Affordable Units</li> </ul>
<b>Deeper Affordability Option:</b>	10% of Units at 60% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus of 3.0 FAR</li> <li>• 10 Year Property Tax Exemption on Affordable Units</li> <li>• CET Exemption on Affordable Units</li> <li>• SDC Waivers on Affordable Units</li> </ul>
Central City Zones with Base FAR 5:1 and Higher	
<b>Mandatory Inclusionary Requirement:</b>	20% of Units at 80% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus of 3.0 FAR</li> <li>• 10 Year Property Tax Exemption on All Residential Units</li> <li>• CET Exemption on Affordable Units</li> </ul>
<b>Deeper Affordability Option:</b>	10% of Units at 60% Area Median Income
Incentives:	<ul style="list-style-type: none"> <li>• Density Bonus of 3.0 FAR</li> <li>• 10 Year Property Tax Exemption on all Residential Units</li> <li>• CET Exemption on Affordable Units</li> <li>• SDC Waivers on Affordable Units</li> </ul>

## Off Site Options to Satisfy Inclusionary Housing Program Requirements

### **Option #1: Off-site Construction of New Units**

# of Affordable Units Required Off-Site

- **Either**, 20% of the total units in sending site at 60% AMI
- **Or**, 10% of the total units in sending site at 30% AMI

### **Option #2: Off-site Dedication of Existing Units**

# of Affordable Units Required Off-Site

- **Either**, 25% of the total units in sending site at 60% AMI
- **Or**, 15% of the total units in sending site at 30% AMI

For additional program recommendations and criteria regarding the build off-site options including distance from sending project, please visit the October 11, 2016 Portland Housing Bureau presentation at <https://www.portlandoregon.gov/phb/article/593973>.

## City Council amendments

The Portland City Council held public hearings on December 13 and December 14, 2016, and made five amendments to the Recommended Draft in response to issues raised in testimony and at a City Council Work Session on November 29, 2016.

1. A phase-in a lower inclusion rate for both the mandatory and voluntary options outside the Central City and Gateway plan districts. These inclusion rates will start at 15 percent of units at 80 percent MFI and 8 percent of units at 60 percent MFI. On January 1, 2019, the rates will increase to 20 percent of units at 80 percent MFI and 10 percent of units at 60 percent MFI.
2. Provide an option to satisfy the inclusionary housing requirements by providing a certain number of units or bedrooms at the requisite affordability rate. The intent is to encourage the creation of more family housing (units with 2 or more bedrooms) in multi-dwelling development.
3. Provide an exemption from minimum parking standards for all dwelling units in development projects that are close to transit (less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service) that provide on-site or off-site affordable dwelling units. The exemption will also apply to affordable dwelling units that are located on sites that are far from transit. Neither exception will apply when a fee-in-lieu of affordable housing is paid.
4. Change the Central City FAR bonus and transfer system to allow development projects that do not trigger inclusionary housing requirements (i.e. commercial projects) to increase floor area through a historic resource transfer or the voluntary inclusionary housing bonus before accessing other bonus or transfer options. This amendment is intended to encourage historic preservation and seismic upgrades.
5. Title 33 Zoning Code technical clean-up amendments to the Recommended Draft.

## What's in this report?

This *As Adopted Report* of the Inclusionary Housing Zoning Code Project encompasses amendments made to the Planning and Sustainability (PSC) Recommended Draft by City Council in November and December of 2016. The audience of this report is the general public, including stakeholders, inter-governmental partners, implementers and other interested parties. Project stakeholders include property owners, businesses, employees, residents, neighbors, business district and neighborhood associations, underrepresented and underserved groups, environmental groups and other community groups. Implementers include the real estate industry, development review staff and others who use the zoning code.

This report consists of five parts:

- **Section 1** introduces the project.
- **Section 2** describes how the proposed code changes implement City policies in Resolution No. 37187, the 1980 Comprehensive Plan, and the 2035 Comprehensive Plan.
- **Section 3** summarizes public and stakeholder involvement activities that have helped shape and inform this project.
- **Section 4** specifies the draft code language, along with code commentary pages that clarify expected implementation.
- **Section 5** recommends future implementation directions and periodic monitoring for code effectiveness.

## 2. Policy direction

Section 2 describes how the proposed code changes implement relevant City policies in [Resolution 37187](#) and the Comprehensive Plan.

### **City of Portland Inclusionary Housing Resolution 37187**

Assert the City's intent to engage in a fair, deliberative, data-driven community discussion of potential enabling ordinances resulting from the potential removal of the preemption on inclusionary housing in the 2016 State Legislative Session (Resolution)

WHEREAS, The City of Portland is committed to meeting its growth needs in terms of households and employment: over the next 20 years, Portland is projected to add approximately 260,000 new residents and 140,000 new jobs.

WHEREAS, The City of Portland is committed to enacting policies that will meet its need for quality, affordable homes for a growing and socioeconomically-diverse population, and to help ensure equitable access to housing.

WHEREAS, The City of Portland in its 2016 Legislative Agenda has prioritized lifting the statewide preemption on inclusionary housing ordinances.

WHEREAS, The Portland rental costs have increased an average of 8 to 9 percent - or roughly \$100 per month over the previous year. Similarly, for-sale unit prices have increased by 32 percent - or roughly \$75,000 from the market's low point in 2011. As a result, it is increasingly difficult for working families to live in neighborhoods close to their employment and where their children attend school.

WHEREAS, An inclusionary housing ordinance would provide an affordable housing tool that links the production of affordable housing to the production of market-rate housing. Inclusionary housing policies produce affordable housing by requiring new residential developments to include a certain percentage of affordable housing units.

WHEREAS, If the Legislature were to lift the preemption on inclusionary housing in the 2016 legislative session, it would allow City Council to comprehensively consider the use of the tool while it also considers its Comprehensive Plan, Incentive Zoning, and Linkage Fee proposal.

NOW THEREFORE IT BE RESOLVED, If the Oregon State Legislature lifts the statewide preemption on inclusionary housing ordinances, the City of Portland would consider the use of an inclusionary housing ordinance to create affordable housing within new market rate residential developments; and

BE IT FURTHER RESOLVED, during the consideration of any inclusionary housing ordinance the City of Portland would engage in a community-wide data driven discussion that would include but would not be limited to members of the development community, as well as affordable housing experts and advocates. A panel of housing experts with representation from the development community would be expected to advise the Council throughout the discussion of an inclusionary housing ordinance; and

BE IT FURTHER RESOLVED, All discussions regarding an inclusionary housing ordinance would be grounded with consideration of the City's needs to meet its comprehensive growth goals.

## **Guiding principles of the 2035 Comprehensive Plan**

The Comprehensive Plan sets five Guiding Principles, which encourage balanced, integrated multi-disciplinary approaches that must comply with the Plan. This project is consistent with the Guiding Principles because it promotes major benefits to human health and safety, environmental health and resilience, and integrates considerations for economic prosperity and equity.

### **Economic prosperity**

*Guiding Principle: Support a low-carbon economy and foster employment growth, quality education and training, competitiveness, and equitably-distributed household prosperity.*

The proposed code changes further this principle by increasing household prosperity by creating housing opportunities for middle and low-income households in Portland in high opportunity areas with good access to living wage jobs.

### **Human health**

*Guiding Principle: Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.*

Major benefit – The proposed code changes would increase opportunities for low and middle income households in high opportunity areas across Portland. High opportunity areas are parts of Portland that are within walking distance of parks, grocery stores, daily needs commercial services, schools and frequent transit. Access to these amenities are considered critical urban form components relative to social determinants of health to encourage people to lead active and healthier lives.

### **Environmental health**

*Guiding Principle: Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland's air, water, and land.*

Major benefit – This project furthers these principles by creating opportunities for middle and low income households to increase walkable access to services, parks, and schools. The majority of new development is occurring in areas that are in close proximity to frequent transit and active transportation infrastructure.

### **Equity**

*Guiding Principle: Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address, and prevent repetition of the injustices suffered by communities of color throughout Portland's history.*

The proposed code changes advances goals to increase equitable access to housing. These proposed code changes support greater access to and expansion of economic opportunities in the Central City and other high opportunity areas for all groups facing longstanding disparities, including education, housing and employment barriers, so that they can share in employment and economic prosperity

## **Resilience**

*Guiding Principle: Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.*

Major benefit – The proposed code changes create opportunities for middle and low income households to stay in neighborhoods and adapt to rapidly change economic conditions that are manifested through housing price increases which leads to displacement. The proposed code changes promote economic inclusion and economic diversity in our rapidly changing neighborhoods.

## **2035 Comprehensive Plan policies specifically implemented in this project**

The proposed zoning changes in the project are implementing the following specific policies.

### **Overall project direction: Inclusionary housing**

#### **Policy 5.35 Inclusionary housing**

Use inclusionary zoning and other regulatory tools to effectively link the production of affordable housing to the production of market-rate housing. Work to remove regulatory barriers that prevent the use of such tools.

The proposed code changes would also support the implementation of the following policies of the 2035 Comprehensive Plan.

#### **Policy 3.3 Equitable development**

Guide development, growth, and public facility investment to reduce disparities; encourage equitable access to opportunities, mitigate the impacts of development on income disparity, displacement and housing affordability; and produce positive outcomes for all Portlanders.

**3.3.d.** Incorporate requirements into the Zoning Code to provide public and community benefits as a condition for development projects to receive increased development allowances.

#### **Policy 5.10 Coordinate with fair housing programs**

Foster inclusive communities, overcome disparities in access to community assets, and enhance housing choice for people in protected classes throughout the city by coordinating plans and investments to affirmatively further fair housing.

#### **Policy 5.14 Preserve communities**

Encourage plans and investments to protect and/or restore the socioeconomic diversity and cultural stability of established communities.

#### **Policy 5.16 Involuntary displacement**

When plans and investments are expected to create neighborhood change, limit the involuntary displacement of those who are under-served and under-represented. Use public investments

and programs, and coordinate with nonprofit housing organizations (such as land trusts and housing providers) to create permanently-affordable housing and to mitigate the impacts of market pressures that cause involuntary displacement.

**Policy 5.22 New development in opportunity areas**

Locate new affordable housing in areas that have high/medium levels of opportunity in terms of access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities. *See Figure 1.*

**Policy 5.23 Higher-density housing**

Locate higher-density housing, including units that are affordable and accessible, in and around centers to take advantage of the access to active transportation, jobs, open spaces, schools, and various services and amenities.

**Policy 5.25 Housing preservation**

Preserve and produce affordable housing to meet needs that are not met by the private market by coordinating plans and investments with housing providers and organizations.

**Policy 5.26 Regulated affordable housing target**

Strive to produce and fund at least 10,000 new regulated affordable housing units citywide by 2035 that will be affordable to households in the 0-80 percent MFI bracket.

**Policy 5.27 Funding plan**

Encourage development or financial or regulatory mechanisms to achieve the regulated affordable housing target set forth for 2035.

**Policy 5.29 Permanently-affordable housing**

Increase the supply of permanently-affordable housing, including both rental and homeownership opportunities.

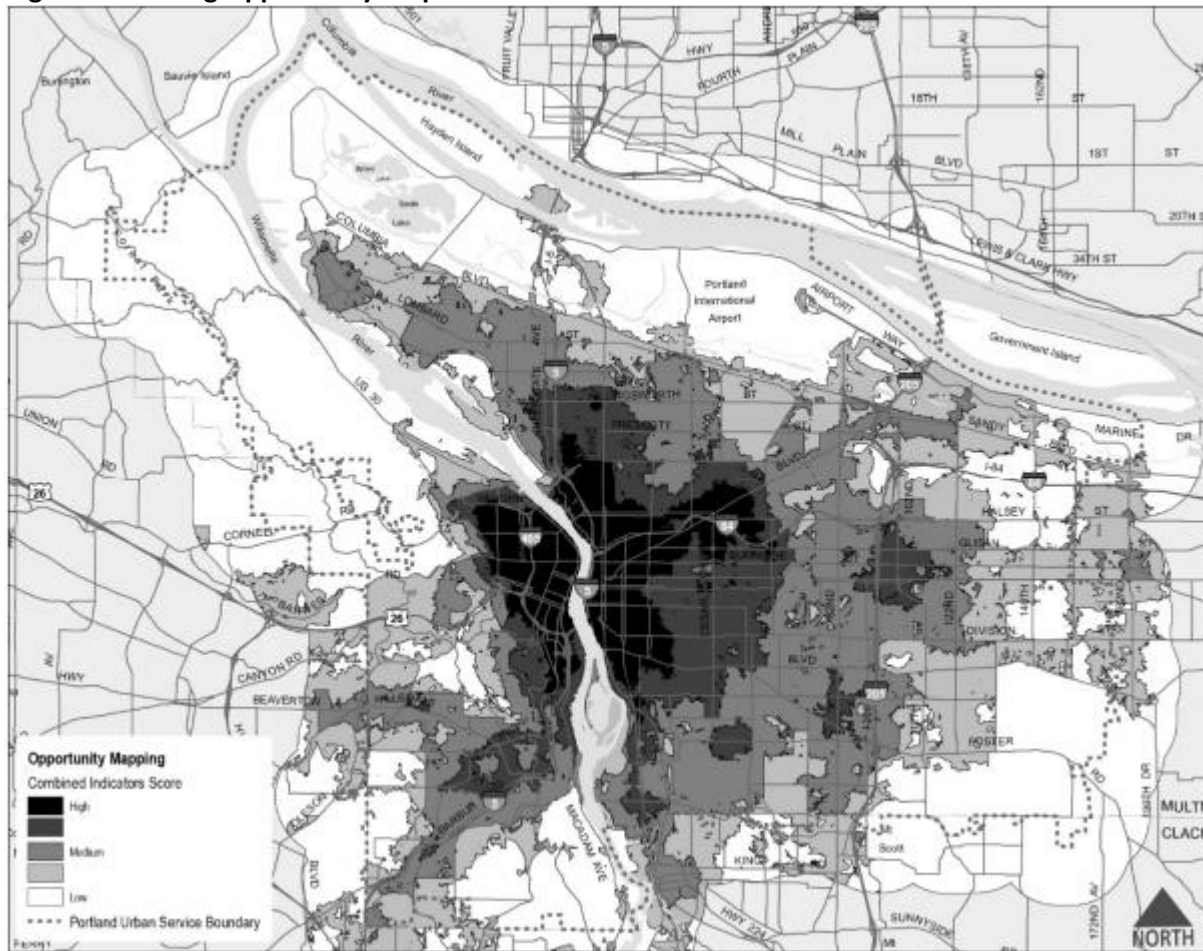
**Policy 5.34 Affordable housing resources**

Pursue a variety of funding sources and mechanisms including new financial and regulatory tools to preserve and develop housing units and various assistance programs for households whose needs are not met by the private market.

**Policy 5.38 Workforce housing**

Encourage private development of a robust supply of housing that is affordable to moderate-income households located near convenient multimodal transportation that provides access to education and training opportunities, the Central City, industrial districts, and other employment areas.

**Figure 1. Housing Opportunity Map**



## **Existing Comprehensive Plan policies specifically implemented in this project**

The 2035 Comprehensive Plan was adopted in June 2016 and is not expected to take effect until early 2018. In the meantime, the existing 1980 Comprehensive Plan is in effect.

### **Policy 3.3 Neighborhood Diversity**

Promote neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City's neighborhoods.

### **Policy 4.1 Housing Availability**

Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of Portland's households now and in the future.

### **Policy 4.7 Balanced Communities**

Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.



**Policy 4.9 Fair Housing**

Ensure freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability.

**Policy 4.10 Housing Diversity**

Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

**Policy 4.11 Housing Affordability**

Promote the development and preservation of quality housing that is affordable across the full spectrum of household incomes.

**Policy 4.12 Housing Continuum**

Ensure that a range of housing from temporary shelters, to transitional, and to permanent housing for renters and owners is available, with appropriate supportive services for those who need them.

**4.14 Neighborhood Stability**

Stabilize neighborhoods by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction.

**5.1 Urban Development and Revitalization**

Encourage investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities.

The proposed code changes in the Inclusionary Housing Zoning Code Project are consistent with the above 1980 Comprehensive Plan Policies.

**2015 Climate Action Plan**

The proposed code changes advance that vision in the 2015 Climate Action Plan that every resident, regardless of socio-economic status, has easy access to a walkable and bikeable neighborhood that includes retail, schools, parks, jobs and affordable housing.

**Objective 4Q Affordable Housing Access to Transit**

Use regulatory and voluntary tools to promote affordable and accessible housing development along existing and planned high capacity transit lines, frequent transit routes and in opportunity areas identified by the Portland Housing Bureau.

# 3. Public and stakeholder involvement

Section 3 summarizes public and stakeholder involvement activities that have helped shape and inform this project.

## Public comments received for this project

Generally, comments were made around three major themes: issues around the existing bonus FAR allowances and the relationship to the density bonus approach in the proposed code changes; a desire from community members and advocacy organizations that the affordability requirements should be set at the maximums allowed under SB 1533; and a desire from community members as well as private sector participants in the development community that the program requirements proposed should have a minimal impact on development economics.

Comments in regard to the new density bonus proposal generally are concerned about pipeline development projects that have accounted for existing density bonuses (there are currently nineteen density bonuses in the Central City) in both the design and financing of development projects. Staff has received multiple comments and recommendations from stakeholders that the new proposed density bonus as part of the Inclusionary Housing Program incentive packages should be phased in, and existing bonuses phased out, over time to allow the market to incrementally absorb the impact of new regulations. Furthermore, staff has received comments that this code project, and subsequent base zone and plan district implementation projects, should increase the bonus FAR cap that currently exists in the Central City beyond 3:1 FAR.

Portland Housing Bureau and Bureau of Planning and Sustainability Staff both received a significant number of comments that the Inclusionary Housing Code and Program should mandate the highest affordable housing inclusion rate for all areas of Portland. Community organizations and advocacy groups are concerned with the rapid housing cost escalations that are occurring throughout Portland and are advocating for the highest inclusion rate allowable under SB 1533 to help address issues of economic inclusion and diversity at the neighborhood scale. Additionally, rapid escalation in housing costs have generated a significant amount of displacement occurring in rapidly changing neighborhoods; many comments staff have received is to mandate a higher inclusion to increase neighborhood stability in areas of the city where rapid displacement is occurring and that has occurred over the last two development cycles.

There were also a significant number of comments received from community organizations, professional organizations, government agency partners, and private sector stakeholders with concerns about the overall impact of the Inclusionary Housing Program on development feasibility and housing production. These comments generally recommend that the Inclusionary Housing Program be calibrated both in inclusion rate and incentive packages to maintain development feasibility across all areas of Portland. Comments under this theme generally support the development of an Inclusionary Housing Program, but are concerned that the requirements will have a chilling effect on development both in total number of housing units being delivered to meet growth projections, as well as in reducing the scale and density of development projects across the city. Staff also received a number of comments that noted

regardless of how an Inclusionary Housing Program is calibrated, this program will make development infeasible.

Comments submitted in response to the Inclusionary Housing Zoning Code Project generally fell into three categories:

- BPS staff heard significant testimony from community and advocacy organizations that the City of Portland should maintain the proposed inclusion rates and limit the amount of incentives that are offered to the private sector to offset the cost of providing affordable units. There is a significant need for housing at 60 percent and 80 percent MFI and the City of Portland should be aggressive in their requirements to see more affordable housing units.
- Staff received comments from both community stakeholders and private sector stakeholders that a policy and program of this importance needs more time to work through issues and provide a more comprehensive public outreach strategy that allows for more time to digest proposals and provide feedback.
- A significant volume of both written and oral testimony was provided by the private sector that the proposed inclusion rates and incentive packages are not feasible within the context of the Portland market. Also, BPS staff received testimony from developers, architects, and community members with concerns that the broad requirements and incentive packages do not fit the geographic and project size variability of projects across Portland. There was a significant amount of testimony of phasing in the impacts of the Inclusionary Housing Program through ramping of inclusion rates, starting with high incentive packages and scaling down overtime, or providing a lower in-lieu fee payment at the beginning of the program requirement.

Public involvement in concept development for the project consisted primarily of eight panel of expert meetings, which were held in between March and September 2016 to discuss objectives of the inclusionary housing program development process, to discuss inputs into the prototype and economic modeling, and to review and refine the findings of the feasibility analysis. The panel of expert meetings highlighted the range of stakeholder perspectives and interests concerning proposed zoning changes.

Public involvement during the review period of the Inclusionary Housing Zoning Code Proposed consisted of a series of neighborhood coalition level presentations and info sessions and presentations to professional organizations and other stakeholder groups. The Portland Housing Bureau, along with various community organizations, co-hosted two forums in Community Wide Discussion series regarding inclusionary housing. Bureau of Planning and Sustainability staff has scheduled a series of five presentation and information sessions that will be held at District Coalition meetings in September, October, and November. BPS staff also organized an information session and presentation specific for Diversity and Civic Leadership partners that was hosted at Portland Community College – Cascade Campus. BPS staff also be presented the Inclusionary Housing Code Proposed draft to a number of neighborhood associations in October and November 2016. BPS staff presented to and received comments from a number of professional organizations including the American Institute of Architects Portland Urban Design Panel and Urban Land Institute Northwest. BPS staff briefed and continues to work with the Historic Landmarks Commission and the Design Commission.

## **What have we heard leading up to this project?**

There have been significant amounts of public comments received specific to the affordable housing density bonus proposals in both the Central City 2035 Plan as well as the Mixed Use Zones Project.

These comments were submitted in written response to the code concept and as oral testimony at various Advisory Committee meetings and at Planning and Sustainability Commission hearings. The density bonus approaches in the Inclusionary Housing Zoning Code Project advances policy direction, public testimony, and technical analysis conducted for the Central City 2035 Plan and the Mixed Use Zones Project. Thus, comments that relate to the density bonuses to provide affordable housing are summarized by themes below in relation to the proposed code changes.

### **Central City 2035 Plan**

Public testimony submitted for the *Central City 2035 Plan* were overwhelmingly against the proposed removal of nineteen bonuses in the Central City in the current zoning code until the “working of the Inclusionary Housing Program Panel of Experts is completed and all the impacts of the affordable housing policy changes are evaluated to ensure robust multifamily development at all levels of affordability.” It was stressed among commenters that removing some of the Central City bonuses such as the daycare bonus option or the open space bonus option, would discourage family housing development with family sized units, thus pushing families out of the Central City. The public was also concerned about limiting the 3:1 density bonus only to the Inclusionary Housing program development. Further, there were concerns about the downzoning of some areas within the Mixed Use Zones, thus “reducing the development capacity of these districts,” and restricting height, limiting new infill development.

The Portland Design Commission submitted testimony in support of the goal of “broader and deeper affordability” through the Affordable Housing Bonus Option. Further, the Commission would like to “clearly understand the impact of the new inclusionary zoning standards in order to be effective advocates for affordable housing.”

Comments from the development community suggested tweaking of the affordable housing bonus FAR provision to enhance its outcome, and allowing for flexibility for development projects that are fully or primarily affordable housing projects. In regards to affordable housing bonus FAR that is not used, it is suggested that it should be transferred to other developments in the Central City to meet the initial 3:1 FAR increase. Many commenters recommended that the financial incentives that are offered through the Inclusionary Housing program be robust enough to offset the entire amount of added costs for the affordable units in order to prevent a “chilling effect on development” which would reduce potential supply and further the affordability challenge.

Major themes of comments related to affordable housing were the need for workers to be able to afford housing, the need for family friendly housing and family sized units, and an overall critique of the proposed removal of Central City bonuses in the form of public amenities and family friendly amenities.

### **Inter-governmental coordination**

An In-House Zoning Code Concept was circulated to inter-bureau partners in September 2016, and their comments have helped to shape and inform the Proposed Draft, particularly addressing code administration and legal limitations. Bureau of Planning and Sustainability staff will continue to meet with inter-governmental partners to refine responses to implementation issues.

## 4. Zoning code changes

### Zoning Code Amendments to Implement Inclusionary Housing Policy

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## Commentary

## Additional Use & Development Regulations

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- 33.203 Accessory Home Occupations
- 33.205 Accessory Dwelling Units
- 33.207 Accessory Short-Term Rentals
- 33.209 Aviation
- 33.218 Community Design Standards
- 33.219 Convenience Stores
- 33.224 Drive-Through Facilities
- 33.229 Elderly and Disabled High Density Housing
- 33.236 Floating Structures
- 33.237 Food Production and Distribution
- 33.239 Group Living
- 33.243 Helicopter Landing Facilities
- 33.245 Inclusionary Housing
- 33.248 Landscaping and Screening
- 33.251 Manufactured Housing and Manufactured Dwelling Parks
- 33.254 Mining and Waste-Related
- 33.258 Nonconforming Situations
- 33.262 Off-Site Impacts
- 33.266 Parking and Loading
- 33.272 Public Recreational Trails
- 33.274 Radio Frequency Transmission Facilities
- 33.278 Permit-Ready Houses
- 33.279 Recreational Fields for Organized Sports
- 33.281 Schools and School Sites
- 33.284 Self-Service Storage
- 33.285 Short Term Housing and Mass Shelters
- 33.288 Special Street Setbacks
- 33.293 Superblocks
- 33.296 Temporary Activities
- 33.299 Wind Turbines

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## Commentary

### **Chapter 33.245 Inclusionary Housing**

The new regulations require new development with more than 20 dwelling units in one building to provide either 20% of the dwelling units to be affordable at 80% MFI or 10% of the dwelling units to be affordable at 60% MFI, or pay a fee-in-lieu.

#### **33.245.020 Where These Regulations Apply**

This regulation serves as the threshold for mandatory compliance with the subsequent development standards and Title 30 requirements for the Inclusionary Housing Program. This regulation applies to new development with 20 or more dwelling units in one building on both vacant sites and existing developed sites. State legislation requires that this regulation apply to buildings as opposed to sites.

This regulation also covers an alteration that adds 20 or more units to an existing building. This will capture the addition of 20 or more units to an existing residential structure, and a conversion of a warehouse to a residential or mixed use building as long as the residential portion of the building is 20 or more units.

#### **33.245.020 Exemptions**

Exempting Group Living is intended to ensure that dorms, nursing homes, and other group homes do not trigger the inclusionary housing requirement. Exempting College uses is intended to ensure that dorms that have full-fledged apartments do not trigger the requirement.

#### **33.245.040 Inclusionary Housing Standards**

These regulations set the inclusion rate for affordable housing and codify the legislative intent consistent with Senate Bill 1533.

These regulations outline the programmatic implementation of both the Inclusionary Housing Zoning Code and the Inclusionary Housing Program. This regulation requires compliance with Title 30 code and administrative rule that will be enforced by the Portland Housing Bureau and the Bureau of Development Services.

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI.



## **33.245 Inclusionary Housing**

**245**

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### Sections:

- 33.245.010 Purpose
- 33.245.020 Where These Regulations Apply
- 33.245.030 Exemption
- 33.245.040 Inclusionary Housing Standards
- 33.245.050 Compliance

### **33.245.010 Purpose**

The purpose of these regulations is to promote the production of affordable housing for a diversity of household types by linking of the production of affordable housing to the production of market-rate housing.

### **33.245.020 Where These Regulations Apply**

The regulations of this chapter apply to the following:

- A. New buildings with 20 or more dwelling units; and
- B. Alterations to existing buildings that add 20 or more dwelling units.

### **33.245.030 Exemption**

The regulations do not apply to Group Living and College uses.

### **33.245.040 Inclusionary Housing Standards**

Affordable dwelling units must be provided as follows, or a fee-in-lieu of providing affordable dwelling units must be paid. Adjustments are prohibited:

- A. On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
  - 1. Central City and Gateway plan districts. Inside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:
    - a. 10 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or
    - b. 20 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income.
  - 2. Outside the Central City and Gateway plan districts. Outside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:
    - a. Rates before January 1, 2019:
      - (1) 8 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or

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## Commentary

This is a new chapter. For ease of readability the text is not underlined

- (2) 15 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income.
- b. Rates on and after January 1, 2019. The rates shown in Paragraph A.1. apply outside the Central City and Gateway plan districts on and after January 1, 2019.
- B. Off-site affordable dwelling units.** When the affordable dwelling units will be located off-site, affordable dwelling units must be provided at one of the following rates:
  1. New dwelling units. When the affordable dwelling units will be provided by constructing new dwelling units off-site, one of the following rates apply. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:
    - a. 10 percent of the total number of dwelling units in the new building or alteration must be affordable to those earning no more than 30 percent of the area median family income; or
    - b. 20 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.
  2. Existing dwelling units. When the affordable dwelling units will be provided by dedicating existing dwelling units as affordable, one of the following rates apply. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:
    - a. 15 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 30 percent of the area median family income; or
    - b. 25 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.

#### **33.245.050 Compliance.**

To comply with the inclusionary housing standards in Section 33.245.040, the following must be met. Adjustments are prohibited:

- A.** The applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the standards stated above and any administrative requirements. The letter is required to be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review; and
- B.** If affordable dwelling units will be provided the property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of the building permit for the development that triggers this chapter, and the covenant must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau.

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## Commentary

### **33.120 Multi-Dwelling Zones Table of Contents**

Mandatory inclusionary housing requirements are being added to the zoning code as chapter 33.245. See page 19 for more details. This amendment adds inclusionary housing reference section to the table of contents for this base zones chapter.

## 33.120 Multi-Dwelling Zones

120

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### Sections:

#### General

- 33.120.010 Purpose
- 33.120.020 List of the Multi-Dwelling Zones
- 33.120.030 Characteristics of the Zones
- 33.120.040 Other Zoning Regulations
- 33.120.050 Neighborhood Contact

#### Use Regulations

- 33.120.100 Primary Uses
- 33.120.110 Accessory Uses
- 33.120.120 Nuisance-Related Impacts

#### Development Standards

- 33.120.200 Housing Types Allowed
- 33.120.205 Density
- 33.120.210 Development on Lots and Lots of Record
- 33.120.215 Height
- 33.120.220 Setbacks
- 33.120.225 Building Coverage
- 33.120.230 Building Length
- 33.120.231 Main Entrances
- 33.120.232 Street-Facing Facades
- 33.120.235 Landscaped Areas
- 33.120.237 Trees
- 33.120.240 Required Outdoor Areas
- 33.120.250 Screening
- 33.120.255 Pedestrian Standards
- 33.120.260 Recycling Areas
- 33.120.265 Amenity Bonuses
- 33.120.270 Alternative Development Options
- 33.120.275 Development Standards for Institutions
- 33.120.277 Development Standards for Institutional Campuses in the IR Zone
- 33.120.280 Detached Accessory Structures
- 33.120.283 Additional Standards for Garages
- 33.120.285 Fences
- 33.120.290 Demolitions
- 33.120.300 Nonconforming Development
- 33.120.305 Parking and Loading
- 33.120.310 Signs
- 33.120.320 Inclusionary Housing

#### Supplemental Information

- Map 120-1 Index Map for RH Areas with Maximum FAR of 4:1
- Maps 120-2 through 120-20 RH Areas with Maximum FAR of 4:1

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## Commentary

### 33.120.205 Density

- A. Purpose.** The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the availability of support commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the City's housing goals are met.
- B. Maximum density.** The maximum densities for the multi-dwelling zones are stated in Table 120-3. All new housing built, or converted from other uses, must be on sites large enough to comply with the density standards. The number of units allowed on a site is based on the presumption that all site development standards will be met. The allowed density is not a special right that justifies adjusting other development standards.
1. In RH and IR zones, the maximum FAR is 4 to 1 in the areas shown on Maps 120-2 through 120-20. In all other areas the maximum FAR is 2 to 1.
  2. 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.
- 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 that bring the site closer to conformance without coming all the way into conformance.
1. In R3 and R2 zones, if maximum density is two units then minimum density is two units. If maximum density is one unit, minimum density is one unit.
  2. In the R1 zone, if the site is less than 10,000 square feet in area, the minimum density is 1 unit per 2,000 square feet.
  3. On sites where trees that are 12 or more inches in diameter are proposed for preservation, minimum density may be reduced as follows:
    - a. The maximum allowed reduction in minimum density is shown in Table 120-6.
    - b. When this provision is used to reduce density, the owner must execute a covenant with the City. The covenant is not required if the site is also part of a proposed Land Division. The covenant must:
      - (1) Require that all trees used to reduce the minimum density be preserved for at least 10 years;

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## Commentary

### **33.120.205.E Maximum increase in density or FAR**

This language is being moved and amended. Currently, the RH and RX zones do not have any base zone bonus FAR options, but there is the option to transfer up to 3 to 1 FAR to a site. The remaining multi dwelling zones have the option to increase density in exchange for providing certain amenities (such as children's play areas or extra sound insulation), and density can be transferred to a site. However, it is currently unclear whether the amenity bonus density can be added on top of the transferred density. As a comparison, in the Central City, both transfer and bonus density/FAR is counted toward the maximum increase. The inclusionary housing project is adding an additional density/FAR bonus that will be available in all zones, and utilized more often because it will be automatically awarded when a project triggers the mandatory inclusionary housing chapter (33.245). In addition to being moved, this paragraph is being amended to make it clear that the maximum increase on any site whether from a transfer or a bonus is limited to 3 to 1 in RH and RX, and in the R3, R2 and R1 zones, the increase is limited to no more than 100 percent of the number of dwelling units allowed on the site.

### **33.120.205.F Bonus density or FAR**

The mandatory inclusionary housing bonus is for new buildings or additions to existing buildings with 20 or more dwelling units that trigger the requirements of 33.245, Inclusionary Housing.

The voluntary inclusionary housing bonus has been designed for projects that want extra density or FAR but fall under the thresholds for the mandatory inclusionary housing requirements (non-residential projects and residential projects with fewer than dwelling 20 units). The requirements of the voluntary bonus are consistent with the requirements of the mandatory inclusionary housing code (see 33.245). The in-lieu fee payment to the Affordable Housing Fund to access the voluntary housing bonus density will be set at the same rate on a per square basis as defined in Title 30 for the mandatory program in-lieu fee. The bonus will allow additional density or FAR up to the overall maximum stated in Table 120-3

These bonus amounts were set to be consistent with the existing amenity bonus in the Multi-Dwelling zones. The density bonus allowance will be evaluated and re-calibrated as part of the Multi-Dwelling Residential Zones Project that is currently in process and led by the Bureau of Planning and Sustainability.

The inclusionary housing project is adding an additional density/FAR bonus that will be available in all zones and utilized more often because it will be automatically awarded when a project triggers the mandatory inclusionary housing chapter (33.245). This paragraph is being amended to make it clear that the maximum increase on any site whether from a transfer or a bonus is 3:1 in RH and RX and no more than 100 percent of the maximum number of dwelling units allowed.



- (2) Allow trees used to reduce the minimum density that die, or become diseased or dangerous to be removed and replaced within the 10 year preservation period. The trees must be determined to be dead, diseased, or dangerous by an arborist, and a Title 11 tree permit must be obtained. If a tree used to reduce the minimum density is dead, diseased, or dangerous as the result of a violation, Tree Review is required; and
- (3) The covenant must meet the requirements of Section 33.700.060 and be recorded before a development permit is issued.

<b>Table 120-6</b> <b>Reduction in Minimum Residential Density from Tree Preservation</b>		
<b>Required Minimum Residential Density</b>	<b>No. of 12-Inch Trees To Be Preserved</b>	<b>Reduction of Minimum Residential Density</b>
Up to 7 units	1	1
8-12 units	1	1
	2 or more	2
13-17 units	1	1
	2	2
	3 or more	3
18 or more units	1	1
	2	2
	3	3
	4 or more	4

- D. Floor area ratio.** The floor area ratio (FAR) states the amount of floor area allowed. There is no maximum limit on the number of dwelling units within the allowable floor area, but the units must comply with all building and housing code requirements. The FAR also includes any nonresidential uses that are allowed. Minimum density requirements may also apply.
- E. Maximum increase in density or FAR.** In the RH and RX zones, an increase in FAR through the use of bonuses and transfers of more than 3 to 1 is prohibited. In all other multi-dwelling zones, an increase in the number of units through the use of bonuses, including amenity bonuses, and transfers of more than 100 percent is prohibited.
- F. Inclusionary housing bonus density or FAR.** The following density and FAR bonus options are allowed in the R3 through RX zones. Sites in the IR zone are not eligible for the bonus density options. Adjustments to this Subsection, or to the amount of maximum density or floor area allowed through the bonuses in this Subsection, are prohibited. Amenity bonuses described in 33.120.265 may allow additional bonus density:
  1. Mandatory inclusionary housing. Bonus density or FAR is allowed up to the maximum stated in Table 120-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.
  2. Voluntary inclusionary housing. Bonus density or FAR up to the maximum stated in Table 120-3 is allowed when affordable housing is provided as follows:

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## Commentary

### **33.120.205.F.2. Voluntary inclusionary housing bonus**

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).

a. Bonus density or FAR is allowed for projects that voluntarily provide affordable housing at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated below and any administrative requirements of the Portland Housing Bureau. The letter must be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:

(1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:

- Inside the Central City and Gateway plan districts:
  - 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
- Outside the Central City and Gateway plan districts until January 1, 2019:
  - 8 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 15 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
- The rates shown in Subsubparagraph F.2.a.(1) that apply inside the Central City and Gateway plan districts apply outside the Central City and Gateway plan districts on and after January 1, 2019.

(2) Off-site affordable dwelling units in a new building. When the affordable dwelling units will be provided by constructing new dwelling units off-site, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:

- 10 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 20 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

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## Commentary

### 33.120.205.F Bonus density or FAR continued

The bonus provisions also allow an in-lieu payment option. The Portland Housing Bureau will determine the amount of the in-lieu payment and will collect payment and administer the use of the funds.

For sites where density is calculated in number of dwelling units, the amount of floor area purchased through the fund will be converted to dwelling units at a rate of 1 dwelling unit per 800 square feet. The average square footage of multi-dwelling development assumed in the Buildable Lands Inventory is 800 square feet net per housing unit. This unit size is based on average unit sizes that have been observed in multi-dwelling development that has occurred over the last two development cycles.

(3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off-site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:

- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

b. Bonus density or FAR is allowed in exchange for payment into the Affordable Housing Fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). For sites where density is calculated in dwelling units, the amount of floor area purchased is converted to dwelling units at a rate of 1 dwelling unit per 800 square feet. The Portland Housing Bureau collects and administers the Affordable Housing Fund, and determines the fee. PHB determines the fee per square foot and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

**EG. Transfer of density or FAR.** Density or FAR may be transferred from one site to another subject to the following:

1. Calculating the amount of density or FAR transferred. In the R3, R2, and R1 zones, transferable density is calculated in terms of dwelling units. In the RH and RX zones, transferable density is calculated by FAR.
- ~~2. Maximum increase in density or FAR. In the RH and RX zones, an increase in FAR on the receiving site of more than 3 to 1 is prohibited. In all other R zones, an increase in the number of units of more than 100 percent of the receiving site is prohibited.~~
23. Development standards. Buildings on sites receiving transferred density or FAR must meet the development standards of the base zone, overlay zone, or plan district, except for maximum density, which is regulated by paragraph E.2 above.
34. General standards for transfers of density or FAR.

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## Commentary

- a. Except for transfers from the sites of Landmarks, the transfers may be only between sites within a block or between sites that would be abutting except for a right-of-way.
- b. Density or FAR from the site of a Landmark may be transferred to any site allowed by Paragraph 5 below, within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark.

45. Zoning.

- a. RX Zone. In the RX Zone:
  - (1) Transfer of commercial development rights is regulated by Subparagraph 33.120.100.B.3.f;
  - (2) Density or FAR may be transferred from a site zoned RX to a site zoned RX, RH, CX, or EX. Density may be transferred from the site of a Landmark zoned RX to a site zoned RX, RH, C, or EX.
- b. RH Zone. Density or FAR may be transferred from a site zoned RH to a site zoned RX or RH. Density may be transferred from the site of a Landmark zoned RH to a site zoned RX, RH, or EX.
- c. R3, R2, and R1 Zones. Density may be transferred among sites zoned R3, R2, and R1.

56. Covenants. The property owner must execute a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenant for the receiving site must meet the requirements of Section 33.700.060. The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.

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## Commentary



**Table 120-3  
Summary of Development Standards in Multi-Dwelling Zones**

Standard	R3	R2	R1	RH	RX	IR
Maximum Density (See 33.120.205)	1 unit per 3,000 sq. ft. of site area	1 unit per 2,000 sq. ft. of site area	1 unit per 1,000 sq. ft. of site area	FAR of 2 to 1 or 4 to 1	FAR of 4 to 1	See 120.205
<u>Maximum Density with Inclusionary Housing Bonus (See 33.120.205.E)</u>	<u>1 unit per 2,400 sq. ft. of site area</u>	<u>1 unit per 1,600 sq. ft. of site area</u>	<u>1 unit per 800 sq. ft. of site area</u>	<u>FAR of 2.5 to 1 or 5 to 1 [1]</u>	<u>FAR of 5 to 1</u>	<u>NA</u>
Minimum Density (See 33.120.205)	1 unit per 3,750 sq. ft. of site area	1 unit per 2,500 sq. ft. of site area	1 unit per 1,450 sq. ft. of site area	1 unit per 1,000 sq. ft. of site area	1 unit per 500 sq. ft. of site area	none
Maximum Height (See 33.120.215)	35 ft.	40 ft.	25/45 ft.	25/65 ft. 75/100 ft.	100 ft.	75/100 ft.
Minimum Setbacks - Front building setback - Street building setback - Side and rear building setback. - Garage entrance setback (See 33.120.220)	10 ft. - - See Table 120-4 18 ft.	10 ft. - - See Table 120-4 18 ft.	3 ft. 3 ft. See Table 120-4 5/18 ft.	0 ft. 0 ft. See Table 120-4 5/18 ft.	0 ft. 0 ft. 0 ft. 5/18 ft.	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	20 ft.	20 ft.	20 ft.	20 ft.	10 ft.	10 ft.
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)	No	Yes	Yes	No	No	No
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 Areas (See 33.120.240)	Yes	Yes	Yes	No	No	No

**Notes:**

[1] If the base FAR is 2 to 1 then the maximum with bonus is 2.5 to 1. If the base FAR is 4 to 1, then the maximum with bonus is 5 to 1.

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## Commentary

### **33.120.265.B.3 Amenity Bonus Regulations**

This language is being added to clarify that additional density allowed through the inclusionary housing density bonus is counted toward the total 50 percent increase allowed on an R3, R2 or R1 site. The inclusionary housing bonus density options have been calibrated to be a 25 percent density increase so that there is room for additional density to be added to a site in exchange for these other public amenities.

### 33.120.265 Amenity Bonuses

- A. Purpose and description.** Special amenity bonuses for increased density are intended to improve the livability of multi-dwelling developments for their residents and to promote family oriented multi-dwelling developments. The amenity bonuses are designed to allow additional dwelling units in a manner that is still consistent with the purposes of the multi-dwelling zones. The bonuses are applicable to a range of development sizes. However, they are more practical or workable for larger projects. Not all bonus options will be applicable for all situations. The amenity options are designed to provide incentives, while leaving the specific choices to the developer. Some options involve providing additional features, such as children's play areas. Others require improved materials, such as additional sound insulation.

The amount of the bonus for each option is a result of balancing several factors. These include:

- The likelihood that the amenity will be provided without the use of incentives;
- The potential cost to the developer; and
- The importance of the amenity.

**B. Regulations.**

1. Qualifying types of development. The amenity bonus provisions are applicable to all housing types in the R3, R2, and R1 zones.
2. Computation of the bonus. The percentages of all the bonus options included in the project are added together. The total is then applied to the allowed number of units to determine the additional units allowed. Fractions of additional units earned are not counted.
3. Maximum bonus. The maximum density increase allowed for a development is 50 percent including density increased through an inclusionary housing bonus allowed by 33.120.205.F. Increases over 50 percent are prohibited.
4. Compliance with the standards. The bonus amenity standards must be met in full to receive the bonus; exceptions are prohibited. In addition, adjustments to the development standards of the base zone, overlay zone, or plan district are prohibited if the project is to receive any density bonuses. It is the responsibility of the applicant to document that all of the amenity bonus requirements are met. Documentation is required prior to issuance of building permits for the bonus units.
5. Base zone site development standards. The additional units must comply with all applicable site development standards. Any development feature provided to comply with the requirements of the base zone, such as the required outdoor area requirement, may not be counted towards the calculation of bonus density.

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## Commentary

### **33.120.265.C Amenity bonuses**

The list of amenity bonus options has not been amended. They are included in this draft for informational purposes only.

6. Covenants.

- a. The applicant must sign a covenant that ensures that the amenities provided to receive any bonus density will continue to be provided for the life of the project.
- b. The covenant must comply with the standards in 33.700.060, Covenants with the City.
- c. If the bonus density is earned through preservation of trees under Paragraph C.9, the covenant must also specify that if the trees are determined to be dead, diseased, or dangerous by an arborist, they must be removed and replaced under a tree permit in accordance with Title 11, Trees. If a tree used to earn bonus density is dead, diseased, or dangerous as the result of a violation, Tree Review is required.

**C. The amenity bonus options.**

1. Outdoor recreation facilities. Outdoor recreational facilities may include a tennis or basketball court, ball field, swimming pool, horseshoe pit, gazebo, permanent picnic tables, and similar items. The density bonus is 2 percent for each 1/2 of 1 percent of the overall project development cost spent on outdoor recreation facilities. There is a maximum of 10 percent density increase allowed for this bonus.
2. Children's play areas. The density bonus for this amenity is 5 percent. A qualifying children's play area must comply with all of the following standards:
  - a. Size and layout. Each children's play area must be at least 1,000 square feet and clearly delineated. Each must be of such shape to allow a square 25 feet on a side to fit in the area. At least 400 square feet of the area must be in grass. Children's play areas must be separated from any other outdoor recreational facilities.
  - b. Play equipment. Each children's play area must include a play structure at least 100 square feet in area, a swing structure with at least 4 swings, and at least one of the following: a slide, permanent sand box, permanent wading pool, or other children's play equipment commonly found in a public park. Equipment must be of adequate materials to match the expected use, and manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment.
  - c. Fencing. Each children's play area must be fenced along any perimeter which is within 10 feet of a street, alley, property line, or parking area.
3. Three bedroom units. A bonus of 5 percent is allowed if 10 percent of the development's units have at least 3 bedrooms. A bonus of 10 percent is allowed if 20 percent or more of the development's units have at least 3 bedrooms. If between 10 percent and 20 percent of the units have at least 3 bedrooms, then the bonus is prorated.

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## Commentary

4. Storage areas. The density bonus for this amenity is 5 percent. The bonus is allowed if all units are provided with interior storage and additional storage for large items, as indicated below.
  - a. Interior storage. Interior storage areas must comply with all of the following minimum dimensions:
    - (1) Kitchens — 20 square feet of drawers and 50 square feet of shelf space. Shelves must have at least 12 inches of vertical clearance.
    - (2) Bedroom closets — 16 square feet in floor area, and one in each bedroom.
    - (3) Linen closet — 10 square feet of shelving, and may be located in a hallway or bathroom.
    - (4) Entry closet — 10 square feet of floor area.
  - b. Storage for large items. Storage areas must be fully enclosed, be dry, and have locks if they are not located in the dwelling. They must be at least 50 square feet in floor area, and at least 7 feet high. They must be located so as to be easily accessible for large items, such as barbecues, bicycles, and sports equipment.
5. Sound insulation. The density bonus for this amenity is 10 percent. To qualify for this bonus, the interior noise levels of residential structures must be reduced in 3 ways. The reductions address noise from adjacent dwellings and from outdoors, especially from busy streets.
  - a. The sound insulation of all party walls, walls between corridors and units, and in floor-ceiling assemblies must comply with a Sound Transmission Class (STC) of 55 (50 if field-tested). STC standards are stated in the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon).
  - b. The STC rating on all entrance doors assemblies from interior corridors must be at least 30, as documented by acoustic laboratory tests of the doors.
  - c. The STC rating on all windows, skylights, and exterior doors, must be at least 35, as documented by acoustic laboratory tests.
6. Crime prevention. The density bonus for this amenity is 10 percent. The bonus is allowed if all units have security features which comply with items 1 through 6 of the Residential Security Recommendations of the Portland Police Bureau. In addition, exterior lights which comply with the lighting standards of the Crime Prevention Division of the Portland Police Bureau must be provided. Development plans must be certified by the Crime Prevention Division of the Portland Police Bureau as complying with these provisions.
7. Solar water heating. The density bonus for this amenity is 5 percent. The bonus is allowed if solar-heated water is provided to all units. Systems may be active or passive. Systems must qualify for the Oregon State solar energy tax credit or be rated by the Solar Rating and Certification Corporation (SRRC). Applicants must provide documentation that the provisions are met.

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## Commentary

### **33.120.320 Inclusionary Housing**

This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19 for more information.



8. Larger required outdoor areas. The density bonus for this amenity is 5 percent. To qualify for this amenity, at least 96 square feet of outdoor area is required for each dwelling unit. All other standards of 33.120.240, above, must be met.
9. Tree preservation. Development proposals that preserve more than the required number or percentage of the trees on the site may use this amenity bonus option. The density bonus is 5 percent for each tree that is preserved in addition to those required to be preserved on the site. Each tree counted toward the bonus must be documented in an arborist report that the following are met:
  - a. Be at least 12 inches in diameter;
  - b. Not be dead, dying, or dangerous; and
  - c. Not be on the Nuisance Plants List.

**33.120.320 Inclusionary Housing**

The regulations pertaining to inclusionary housing are stated in Chapter 33.245, Inclusionary Housing.

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## Commentary

### **33.130 Commercial Zones Table of Contents**

Mandatory inclusionary housing requirements are being added to the zoning code as chapter 33.245. See page 19 for more details. This amendment adds the inclusionary housing reference section to the table of contents for this base zones chapter.

### Sections:

#### General

- 33.130.010 Purpose
- 33.130.020 List of the Commercial Zones
- 33.130.030 Characteristics of the Zones
- 33.130.040 Other Zoning Regulations

#### Use Regulations

- 33.130.100 Primary Uses
- 33.130.110 Accessory Uses
- 33.130.130 Nuisance-Related Impacts

#### Development Standards

- 33.130.200 Lot Size
- 33.130.205 Floor Area Ratio
- 33.130.210 Height
- 33.130.215 Setbacks
- 33.130.220 Building Coverage
- 33.130.225 Landscaped Areas
- 33.130.227 Trees
- 33.130.230 Ground Floor Windows
- 33.130.235 Screening
- 33.130.240 Pedestrian Standards
- 33.130.242 Transit Street Main Entrance
- 33.130.245 Exterior Display, Storage, and Work Activities
- 33.130.250 General Requirements for Residential and Mixed-Use Developments
- 33.130.253 Additional Requirements in the CM Zone
- 33.130.255 Trucks and Equipment
- 33.130.260 Drive-Through Facilities
- 33.130.265 Detached Accessory Structures
- 33.130.270 Fences
- 33.130.275 Demolitions
- 33.130.285 Nonconforming Development
- 33.130.290 Parking and Loading
- 33.130.295 Signs
- 33.130.305 Superblock Requirements
- 33.130.310 Recycling Areas
- 33.130.320 Inclusionary Housing

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## Commentary

### **33.130.205.B Floor Area Ratio**

Floor area ratio for residential uses will now be counted against the total allowable FAR. This change in regulation allows the standardization of the base and bonus structure and more clarity as to the relationship of the bonus FAR in relation to the inclusionary housing requirements. Previous development standards in some zones (such as CM and CS) did not count the residential floor area of a development against the total FAR maximums. In this situation, a mixed use or multi-family development project was limited primarily by maximum site coverage, minimum setbacks, and maximum height development standards. The base and bonus FAR approach works within the existing allowable height maximums.

### **33.130.205.D BONUS FAR**

The mandatory inclusionary housing bonus is for new buildings or additions to existing buildings with 20 or more dwelling units that trigger the requirements of 33.245, Inclusionary Housing.

The voluntary inclusionary housing bonus has been designed for projects that want additional FAR but fall under the thresholds for the mandatory inclusionary housing requirements (non-residential projects and residential projects with fewer than dwelling 20 units). The requirements of the voluntary bonus are consistent with the requirements of the mandatory inclusionary housing code (see 33.245). The in-lieu fee payment to the Affordable Housing Fund to access the voluntary housing bonus density will be set at the same rate on a per square basis as defined in Title 30 for the mandatory program in-lieu fee. The bonus will allow additional FAR up to the overall maximum stated in Table 130-3

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).

### 33.130.205 Floor Area Ratio

- A. Purpose.** Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. The bonus FAR options allow additional floor area as an incentive for providing affordable housing.
- B. FAR standard.** The floor area ratios are stated in Table 130-3 and apply to all ~~nonresidential~~ development. ~~Floor area for residential uses is not calculated as part of the FAR for the site and is allowed in addition to the FAR limits.~~
- C. Maximum increase in FAR.** An increase in FAR of more than 3 to 1 is prohibited. The total increased FAR includes FAR from transfers and additional FAR allowed from bonus provisions.
- D. Bonus FAR.** The following FAR bonus options are allowed in the commercial zones. Adjustments to this Subsection, or to the maximum floor area allowed through the following bonuses, are prohibited:
1. Mandatory inclusionary housing. Bonus FAR is allowed up to the maximum stated in Table 130-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.
  2. Voluntary inclusionary housing. Bonus FAR up to the maximum stated in Table 130-3 is allowed when affordable housing is provided as follows:
    - a. Bonus FAR is allowed when affordable dwelling units are provided at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated below and any administrative requirements. The letter must be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:
      - (1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
        - Inside the Central City and Gateway plan districts:
          - 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
          - 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.

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## Commentary

- Outside the Central City and Gateway plan districts until January 1, 2019:
  - 8 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 15 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
- The rates shown in Subsubparagraph D.2.a.(1) that apply inside the Central City and Gateway plan districts apply outside the Central City and Gateway plan districts on and after January 1, 2019.

(2) Off-site affordable dwelling units in a new building. When the affordable dwelling units will be provided by constructing new dwelling units off-site, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:

- 10 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 20 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

(3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off-site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus:

- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

b. Bonus FAR is allowed in exchange for payment into the Affordable Housing Fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). The Portland Housing Bureau collects and administers the Affordable Housing Fund, and determines the fee. PHB determines the fee per square foot and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from the PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

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## Commentary



**EE. Transfer of FAR from Landmarks.** Floor area ratios may be transferred from a site which contains a Landmark, as follows:

- ~~1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;~~
12. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by paragraph C.1 above;
23. Receiving site. The transfer must be to a site that is:
  - a. Zoned C or EX; and
  - b. Within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark;
34. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenant for the receiving site must meet the requirements of Section 33.700.060, Covenants with the City. The covenant for the Landmark transferring the density must meet the requirements of 33.445.610. D., Covenant.

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## Commentary

### Table 130-3

The Maximum Floor Area Ratio standards have been adjusted to account for the change in that residential uses will now be counted against the total allowable FAR. This change in regulation allows the standardization of the base and bonus structure and more clarity as to the relationship of the bonus FAR in relation to the inclusionary housing requirements.

The Maximum Floor Area Ratio with Bonus establishes the inclusionary housing bonus for individual base zones.

### 33.130.320 Inclusionary Housing

This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19.

<b>Table 130-3</b> <b>Summary of Development Standards in Commercial Zones</b>								
<b>Standard</b>	<b>CN1</b>	<b>CN2</b>	<b>CO1</b>	<b>CO2</b>	<b>CM</b>	<b>CS</b>	<b>CG</b>	<b>CX</b>
Maximum FAR (see 33.130.205)	<del>75</del> 1.5 to 1	<del>75</del> 1.5 to 1	<del>75</del> 1.5 to 1	2.5 to 1	<del>12.5</del> to 1 See 33.130.253	3 to 1	3 to 1	4 to 1
Maximum FAR with Bonus (see 33.130.210.C)	2.5 to 1	2.5 to 1	2.5 to 1	4 to 1	4 to 1	4 to 1	3.5 to 1	6 to 1
Maximum Height (see 33.130.210)	30 ft.	30 ft.	30 ft.	45 ft.	45 ft.	45 ft.	45 ft.	75 ft.
Min. Building Stbks (see 33.130.215) Street Lot Line or Lot Line Abutting an OS, RX, C, E, or I Zone Lot	0	0	0	0	0	0	0	0
Lot Line Abutting other R Zoned Lot	See Table 130-4	See Table 130-4	See Table 130-4	See Table 130-4	See Table 130-4	See Table 130-4	See Table 130-4	See Table 130-4
Garage Entrance Setback (see 33.130.250.E)	5/18 ft	5/18 ft	5/18 ft	5/18 ft	5/18 ft	5/18 ft	5/18 ft	5/18 ft
Max. Building Stbks (see 33.130.215) Street Lot Line Transit Street or Pedestrian District	None 10 ft.	None 10 ft.	None 10 ft.	None 10 ft.	10 ft. 10 ft.	10 ft. 10 ft.	None 10 ft.	None 10 ft.
Building Coverage (see 33.130.220)	Max. of 85% of site area	Max. of 65% of site area	Max. of 50% of site area	Max. of 65% of site area	Min. of 50% of site area	Min. of 50% of site area	Max. of 85% of site area	No Limit
Min. Landscaped Area (see 33.130.225)	15% of site area	15% of site area	15% of site area	15% of site area	None	None	15 % of site area	None
Ground Floor Window Stds. Apply (see 33.130.230)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pedestrian Requirements (see 33.130.240)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

### **33.130.320 Inclusionary Housing**

The standards pertaining to inclusionary housing are stated in Chapter 33.245, Inclusionary Housing.

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## Commentary

### **33.140 Employment and Industrial Zones Table of Contents**

Mandatory inclusionary housing requirements are being added to the zoning code as chapter 33.245. See page 19 for more details. This amendment adds the inclusionary housing reference section to the table of contents for this base zones chapter.

## 33.140 Employment and Industrial Zones

140

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### 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
- 33.140.130 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
- 33.140.227 Trees
- 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
- 33.140.265 Residential Development
- 33.140.270 Detached Accessory Structures
- 33.140.275 Fences
- 33.140.280 Demolitions
- 33.140.290 Nonconforming Development
- 33.140.295 Parking and Loading
- 33.140.300 Signs
- 33.140.310 Superblock Requirements
- 33.140.315 Recycling Areas
- 33.140.320 Inclusionary Housing

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## Commentary

### **33.140.205.D Bonus FAR**

The mandatory inclusionary housing bonus is for new buildings or additions to existing buildings with 20 or more dwelling units that trigger the requirements of 33.245, Inclusionary Housing.

The voluntary inclusionary housing bonus has been designed for projects that want additional FAR but fall under the thresholds for the mandatory inclusionary housing requirements (non-residential projects and residential projects with fewer than dwelling 20 units). The requirements of the voluntary bonus are consistent with the requirements of the mandatory inclusionary housing code (see 33.245). The in-lieu fee payment to the Affordable Housing Fund to access the voluntary housing bonus density will be set at the same rate on a per square basis as defined in Title 30 for the mandatory program in-lieu fee. The bonus allows additional FAR up to the overall maximum stated in Table 140-3

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).

### 33.140.205 Floor Area Ratio

- A. Purpose.** Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development.
- B. The floor area standards.** The FARs are stated in Table 140-3. The FARs apply to all nonresidential development in all of the zones and to residential uses in the EX zone. The FAR standards of plan districts supersede the FAR standards of this chapter.
- C. Maximum increase in FAR.** An increase in FAR of more than 3 to 1 is prohibited. The total increased FAR includes FAR from transfers and additional FAR allowed from bonus provisions.
- D. Bonus FAR.** In the EX zone, bonus FAR is allowed as follows. Sites in the other employment and industrial zones are not eligible to use the bonus options. Adjustments to this Subsection, or to the maximum floor area allowed through the following bonuses, are prohibited:
1. Mandatory inclusionary housing. Bonus FAR is allowed up to the maximum stated in Table 140-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.
  2. Voluntary inclusionary housing. Bonus FAR up to the maximum stated in Table 140-3 is allowed when affordable housing is provided as follows:
    - a. Bonus FAR is allowed when affordable dwelling units are provided at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated below and any administrative requirements. The letter must be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:
      - (1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
        - Inside the Central City and Gateway plan districts:
          - 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
          - 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.

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## Commentary



- Outside the Central City and Gateway plan districts until January 1, 2019:
  - 8 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 15 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
- The rates shown in Subsubparagraph D.2.a.(1) that apply inside the Central City and Gateway plan districts apply outside the Central City and Gateway plan districts on and after January 1, 2019.

(2) Off-site affordable dwelling units in a new building. When the affordable dwelling units will be provided by constructing new dwelling units off-site, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:

- 10 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 20 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

(3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off-site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that that is taking advantage of this FAR bonus option:

- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

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## Commentary

- b. Bonus density or FAR is allowed in exchange for payment into the Affordable Housing Fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). The Portland Housing Bureau collects and administers the Affordable Housing Fund, and determines the fee. PHB determines the fee per square foot and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

**CE. Transfer of FAR from Landmarks in the EX Zone.** Floor area ratios may be transferred from a site zoned EX that contains a Landmark as follows:

- ~~1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;~~
- 12. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by paragraph C.1 above;
- 23. Receiving site. The transfer must be to a site that is:
  - a. Zoned C or EX; and
  - b. Within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark; and
- 34. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenant for the receiving site must meet the requirements of Section 33.700.060, Covenants with the City. The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.

**DF. Transfer of FAR from Landmarks in the EG Zones.** Floor area ratios may be transferred from a site zoned EG1 or EG2 that contains a Landmark as follows:

- ~~1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;~~
- 12. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Paragraph D.1 above;
- 23. Receiving site. The transfer must be to a site that is:
  - a. Zoned EG1 or EG2; and

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## Commentary

### Table 140-3

The 5:1 Maximum FAR allowance for the EX zone reflects early implementation of the CM3 base and bonus allowances identified in the Mixed Use Zones Project. Central City EX base allowances reflect specific plan district bonuses outside the base zone.

### 33.140.320 Inclusionary Housing

This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19.

- b. Within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark; and

34. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenant must meet the requirements of Section 33.700.060, Covenants with the City. The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.

<b>Table 140-3 Development Standards</b>						
Standard	EG1	EG2	EX	IG1	IG2	IH
Maximum FAR (see 33.140.205)	3 to 1	3 to 1	3 to 1	no limit	no limit	no limit
Maximum FAR with Inclusionary Housing Bonus (see 33.140.205.C)	NA	NA	5 to 1	NA	NA	NA
Maximum Height (see 33.140.210)	45 ft.	no limit	65 ft	no limit	no limit	no limit
Min. Building Setbacks Street Lot Line (see 33.140.215)	5 ft.	25 ft.	0	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	See Table 140-4	15 ft.	See Table 140-4	See Table 140-4	15 ft.	15 ft.
Max. Building Stbks (see 33.140.215) Transit Street or Pedestrian District	10 ft.	None	10 ft.	None	None	None
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

### **33.140.320 Inclusionary Housing**

The standards pertaining to inclusionary housing are stated in Chapter 33.245, Inclusionary Housing.

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## Commentary

### **33.266.110 Minimum Require Parking Spaces**

The Planning and Sustainability Commission discussed the impact of parking regulations on project feasibility with increasing costs to comply with the Inclusionary Housing Program requirements. This zoning code amendment removes minimum parking requirements for residential projects close to transit (those located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service) that are expected to have lower car ownership rates and less dependence on the automobile.

An additional zoning code amendment adds an exemption from minimum parking requirements for affordable housing units in projects that are further than 1500 feet from a transit station, or more than 500 feet from a transit street with 20-minute peak hour service.

### 33.266.110 Minimum Required Parking Spaces

- A. Purpose.** The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. ~~Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities.~~ Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.
- B. Minimum-number of parking-spaces required.**
1. Minimum for sites located close to transit. There is no minimum parking requirement for sites located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service.
  2. Minimum for sites located far from transit. For sites located more than 1500 feet from a transit station, or more than 500 feet from a transit street with 20-minute peak hour service, the minimum number of parking spaces required is stated in Table 266-1.
  - ~~1. The minimum number of parking spaces for all zones is stated in Table 266-1. Table 266-2 states the required number of spaces for use categories. The standards of Tables 266-1 and 266-2 apply unless specifically superseded by other portions of the City Code.~~
  3. Joint use parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed only if the uses and housing types to which the parking is accessory are allowed in the zone where the parking is located. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to BDS as part of a building or zoning permit application or land use review:
    - a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;
    - b. The location and number of parking spaces that are being shared;
    - c. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and

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## Commentary

### **33.266.110 D.8 Exceptions to the minimum number of parking spaces**

This regulation exempts parking requirements for affordable units that are built far from transit. The intention of this exception is reduce parking requirements for the affordable units in a proposal to help offset the cost of providing the affordable units through inclusion in the incentive package as identified by the Portland Housing Bureau.



- d. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

**C. Carpool parking.** For office, industrial, and institutional uses where there are more than 20 parking spaces on the site, the following standards must be met:

1. Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 AM on weekdays. More spaces may be reserved, but they are not required.
2. The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.
3. Signs must be posted indicating these spaces are reserved for carpool use before 9:00 AM on weekdays.

**~~D. Minimum for sites well served by transit.~~** For sites located less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service, the minimum parking requirement standards of this subsection apply. Applicants meeting these standards must provide a map identifying the site and TriMet schedules for all transit routes within 500 feet of the site. The minimum number of parking spaces is:

- ~~1. Household Living uses. The minimum number of parking spaces required for sites with Household Living uses is:~~
  - ~~a. Where there are up to 30 units on the site, no parking is required;~~
  - ~~b. Where there are 31 to 40 units on the site, the minimum number of parking spaces required is 0.20 spaces per unit;~~
  - ~~c. Where there are 41 to 50 units on the site, the minimum number of parking spaces required is 0.25 spaces per unit; and~~
  - ~~d. Where there are 51 or more units on the site, the minimum number of parking spaces required is 0.33 spaces per unit.~~
- ~~2. All other uses. No parking is required for all other uses.~~

**DE. Exceptions to the minimum number of parking spaces.**

- 1.-7. [No change]
8. No parking is required for sites located less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service that provide on-site or off-site affordable dwelling units as required by 33.245, Inclusionary Housing, or voluntarily provide on-site or off-site affordable dwelling units as specified in the following bonus options. This exception does not apply when a fee-in-lieu of affordable housing is paid. This exception only applies to the site that triggers the requirements of 33.245, or the site that is taking advantage of one of the FAR bonus options listed below:
  - a. 33.120.205.F.2;
  - b. 33.130.205.D.2;
  - c. 33.140.205.D.2;
  - d. 33.526.230.C.2.

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## Commentary

Tables 266-1 and 266-2 are included for reference

9. No parking is required for affordable dwelling units that are located on sites that are 1500 feet or more from a transit station or 500 feet or more from a transit street with 20-minute peak hour service if the affordable dwelling units are provided as required by Chapter 33.245, Inclusionary Housing, or voluntarily provided as specified in the following bonus options. This exception does not apply when a fee-in-lieu of affordable housing is paid. This exception only applies to the site that triggers the requirements of 33.245, or the site that is taking advantage of one of the FAR bonus options listed below:
- a. 33.120.205.F.2;
  - b. 33.130.205.D.2;
  - c. 33.140.205.D.2
  - d. 33.526.230.C.2.

<b>Table 266-1</b>	
<b>Minimum Required and Maximum Allowed Parking Spaces By Zone [1], [2]</b>	
<b>Zone</b>	<b>Requirement</b>
OS, RF - RH, IR, CN2, CO2, CG, EG, I	Minimum is Standard A in Table 266-2. Maximum is Standard B in Table 266-2.
EX	Minimum – None, except: Household Living: minimum of 0 for 1 to 3 units, 1 per 2 units for four+ units, and SROs exempt...  Maximum is Standard A in Table 266-2, except: 1) Retail, personal service, repair-oriented - Maximum is 1 per 200 sq. ft. of net building area. 2) Restaurants and bars - Maximum is 1 per 75 sq. ft. of net building area. 3) General office – Maximum is 1 per 400 sq. ft. of net building area. 4) Medical/Dental office – Maximum is 1 per 330 sq. ft. of net building area.
CN1	Minimum – None. Maximum of 1 space per 2,500 sq. ft. of site area.
CM, CS, RX, CX, CO1	Minimum – None, except: Household Living: minimum of 0 for 1 to 30 units, 0.2 per unit for 31-40 units, 0.25 per unit for 41-50 units, and 0.33 per unit for 51+ units. Maximum is Standard B in Table 266-2.

[1] Regulations in a plan district or overlay zone may supersede the standards of this table.

[2] Uses subject to a Conditional Use or Impact Mitigation Plan review may establish different parking minimum and maximum requirements through the review.

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## Commentary

**Table 266-2**  
**Parking Spaces by Use [2]**  
**(Refer to Table 266-1 to determine which standard applies.)**

Use Categories	Specific Uses	Standard A	Standard B
<b>Residential Categories</b>			
Household Living		1 per unit, except SROs exempt and in RH, where it is 0 for 1 to 3 units and 1 per 2 units for four + units	None
Group Living		1 per 4 residents	None
<b>Commercial Categories</b>			
Retail Sales And Service	Retail, personal service, repair oriented	1 per 500 sq. ft. of net building area	1 per 196 sq. ft. of net building area
	Restaurants and bars	1 per 250 sq. ft. of net building area	1 per 63 sq. ft. of net building area
	Health clubs, gyms, lodges, meeting rooms, and similar. Continuous entertainment such as arcades and bowling alleys	1 per 330 sq. ft. of net building area	1 per 185 sq. ft. of net building area
	Temporary lodging	1 per rentable room; for associated uses such as restaurants, see above	1.5 per rentable room; for associated uses such as restaurants, see above
	Theaters	1 per 4 seats or 1 per 6 feet of bench area	1 per 2.7 seats or 1 per 4 feet of bench area
Office	General office	1 per 500 sq. ft. of net building area	1 per 294 sq. ft. of net building area
	Medical/Dental office	1 per 500 sq. ft. of net building area	1 per 204 sq. ft. of net building area
Quick Vehicle Servicing		1 per 500 sq. ft. of net building area	1 per 196 sq. ft. of net building area
Vehicle Repair		1 per 750 sq. ft. of net building area [1]	1 per 500 sq. ft. of net building area
Commercial Parking		None	None
Self-Service Storage		1 per resident manager's facility, plus 3 per leasing office, plus 1 per 100 leasable storage spaces in multi-story buildings.	2 per resident manager's facility, plus 5 per leasing office, plus 1 per 67 leasable storage spaces in multi-story buildings.
Commercial Outdoor Recreation		20 per acre of site	30 per acre of site
Major Event Entertainment		1 per 8 seats	1 per 5 seats

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## Commentary

<b>Table 266-2</b> <b>Parking Spaces by Use [2]</b> <b>(Refer to Table 266-1 to determine which standard applies.)</b>			
<b>Use Categories</b>	<b>Specific Uses</b>	<b>Standard A</b>	<b>Standard B</b>
<b>Industrial Categories</b>			
Manufacturing And Production		1 per 750 sq. ft. of net building area [1]	1 per 500 sq. ft. of net building area
Warehouse And Freight Movement		1 per 750 sq. ft. of net building area for the first 3,000 sq. ft. of net building area and then 1 per 3,500 sq. ft. of net building area thereafter [1]	1 per 500 sq. ft. of net building area for the first 3,000 sq. ft. of net building area and then 1 per 2,500 sq. ft. of net building area thereafter
Wholesale Sales, Industrial Service, Railroad Yards		1 per 750 sq. ft. of net building area [1]	1 per 500 sq. ft. of net building area
Waste-Related		See note [2]	See note [2]
<b>Institutional Categories</b>			
Basic Utilities		None	None
Community Service		1 per 500 sq. ft. of net building area	1 per 196 sq. ft. of net building area
Parks And Open Areas		Per CU review for active areas	Per CU review for active areas
Schools	Grade, elementary, middle, junior high	1 per classroom	1.5 per classroom
	High school	7 per classroom	10.5 per classroom
Medical Centers		1 per 500 sq. ft. of net building area	1 per 204 sq. ft. of net building area
Colleges		1 per 600 sq. ft. of net building area exclusive of dormitories, plus 1 per 4 dorm rooms	1 per 400 sq. ft. of net building area exclusive of dormitories, plus 1 per 2.6 dorm rooms
Religious Institutions		1 per 100 sq. ft. of main assembly area	1 per 67 sq. ft. of main assembly area
Daycare		1 per 500 sq. ft. of net building area	1 per 330 sq. ft. of net building area

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## Commentary



<b>Table 266-2</b> <b>Parking Spaces by Use [2]</b> <b>(Refer to Table 266-1 to determine which standard applies.)</b>			
<b>Other Categories</b>			
Agriculture		None	None
Aviation		See note [2]	See note [2]
Detention Facilities		See note [2]	See note [2]
Mining		See note [2]	See note [2]
Radio Frequency Transmission Facilities	Personal wireless service and other non-broadcast facilities	None	None
	Radio or television broadcast facilities	2 per site	None
Rail Lines & Utility Corridors		None	None

Notes:

[1] For uses in an EG or I zone, if the site size is 5,000 sq. ft. or less, no more than 4 spaces are required. Where the site size is between 5,001 and 10,000 sq. ft., no more than 7 spaces are required.

[2] Uses subject to a Conditional Use or Impact Mitigation Plan review may establish parking minimum and maximum requirements through the review.

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## Commentary

### 33.510.200 Floor Area Ratios

- A. Purpose.** The maximum floor area ratio (FAR) standards are intended to accomplish several purposes of the Central City Plan. These include coordinating private development with public investments in transportation systems and other infrastructure, limiting and stepping down building bulk to the Willamette River, residential neighborhoods, and historic districts. While consistent with these purposes, the floor area ratios are intended to be the largest in the Portland region.
- B. Floor area ratio standard.**
1. Generally. The maximum floor area ratios for all sites in the Central City plan district are shown on Map 510-2 at the end of this chapter. Floor area ratios greater than shown on Map 510-2 are prohibited unless allowed by Subsections C. through G., below, or by 33.510.210.
  2. Goose Hollow. The minimum floor area ratio in the Goose Hollow subdistrict is 1 to 1.
  3. Specified sites in the West End Subarea. In the area shown on Map 510-14, the following regulations apply:
    - a. Maximum. The maximum floor area ratio is 6 to 1. If at least 33 percent of floor area is in residential use, the maximum floor area ratio is 9 to 1.
    - b. Minimum. The minimum floor area ratio is 2 to 1.
  4. South Waterfront Subdistrict. In the South Waterfront Subdistrict, floor area used for automated parking is not counted towards maximum FAR for the site. The automated parking facility must rely on a mechanical system instead of a vehicle operator to transport vehicles to a storage space within the facility.
- C. Limit on increased floor area.**
1. Generally. Except as provided under C.2.through C.5, below, increases in FAR, whether by transfers of floor area or bonus floor area options, of more than 3 to 1 are prohibited;
  2. In the portion of the West End subarea that is not shown on Map 510-14, the following applies. There is no maximum to the amount of bonus floor area that may be earned. However, the total floor area on a site, including bonus floor area and transferred floor area, may not be more than 12 to 1. Adjustments are prohibited.
  3. South Park Blocks frontages. Transfers of floor area to RX-zoned sites on the Park Block frontages shown on Map 510-13 are prohibited. This prohibition applies to all RX-zoned sites on the Park Block frontages, including those within the West End subarea.

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## Commentary

4. South Waterfront subdistrict. In the South Waterfront Subdistrict the following applies:
  - a. Generally. Except as allowed under Subparagraphs 4.b. and c., below, no more than 2:1 FAR may be earned on a site through the use of bonuses. There is no maximum to the amount of floor area that may be transferred to a site. However, the total floor area on a site, including bonus floor area and transferred floor area, may not be more than 9 to 1, except as allowed under C.4.c, below. Adjustments to the regulations of this paragraph are prohibited.
  - b. An FAR of more than 2 to 1 may be earned on a site through the use of bonuses if at least 1 to 1 FAR is earned on the site through the use of the open space bonus option, open space fund bonus option, or South Waterfront Willamette River Greenway bonus option. However, the total floor area on the site, including bonus floor area and transferred floor area, may not be more than 9 to 1.
  - c. The total floor area on a site, including bonus floor area and transferred floor area, may be more than 9 to 1 if all of the following are met:
    - (1) The floor area above the 9 to 1 ratio must be transferred from the South Waterfront Greenway Area; and
    - (2) The portion of the South Waterfront Greenway Area that floor area is being transferred from must have been dedicated to the City since September 1, 2002.
5. North Pearl Subarea. In the North Pearl Subarea bonus options target area, shown on Map 510-4, the following applies:
  - a. An FAR increase of more than 3 to 1 may be earned on a site through the following provisions. However, the total floor area on a site may not be more than 9 to 1, except as allowed under 5.b below. Adjustments to the regulations of this paragraph are prohibited:
    - (1) Floor area bonuses;
    - (2) Transfers from the site of an historic resource meeting Subsection H. below.
  - b. The total floor area on a site, including bonus floor area and transferred floor area, may be more than 9 to 1 if the floor area above the 9 to 1 ratio is transferred from the site of an historic resource as specified in Subsection H. below.

**D. Transfer of floor area within a project.** In the CX and EX zones, floor area, including bonus floor area, may be transferred between abutting lots within a site or sites being developed jointly. This also applies to lots within a site which would be abutting but for a right-of-way. Floor area transfers are subject to the following restrictions:

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## Commentary

1. If the site is within the Downtown subdistrict as shown on Map 510-1, floor area may be transferred between abutting lots within a site or sites being developed jointly provided the lots are within the same block. Floor area transfers across rights-of-way are prohibited in the Downtown subdistrict.
2. Buildings on each site may not exceed the height limit established for that site by the regulations of this chapter;
3. If bonus floor area is included in the transfer, those facilities to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit for the other lot; and
4. The property owner(s) must execute a covenant with the City which is attached to and recorded with the deed of both the lot transferring and the lot receiving the floor area reflecting the respective increase and decrease of potential floor area. The covenant must meet the requirements of 33.700.060.

**E. SRO housing transfer of floor area.**

1. Purpose. Transfer of floor area ratio potential from sites occupied by single room occupancy housing (SROs) is allowed in order to encourage the development of new SROs and reduce market pressure for removal of existing SROs.
2. Allowable floor area transfers.
  - a. The owners of qualifying sites may sell the rights to their unused floor area potential. The rights to the floor area may be used anywhere in the Central City plan district.
  - b. Floor area increases transferred to a site are limited to that allowed by Subsection C. above.
  - c. The SRO property owner must execute a covenant with the City which reflects the decrease of potential floor area. The covenant must require future continuation and maintenance of the SRO housing in conformance with the standards of this subsection. The covenant must meet the requirements of 33.700.060.
3. Qualifying SRO projects and restrictions.
  - a. Vacant, existing, and new SRO housing developments located in a CX or EX zone qualify for the floor area transfer. Vacant, existing, and new SRO housing developments located in the RX zone qualify for the floor area transfer if the sending and receiving sites are located in the RX zone, or if the sending site is within the RX zone and the receiving site is in the CX or EX zone. At least 60 percent of the floor area of the SRO structure must be used for housing.
  - b. For existing SRO housing, the building must be in full compliance with the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon) at the time of transfer of the development rights. If not, the structure must be brought into compliance before an occupancy permit is issued for a development using the transferred floor area.

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## Commentary



- c. For proposed new SRO housing, the excess floor area rights may be transferred prior to construction if done as part of a development proposal to which the floor area is being transferred. The SRO units must receive an occupancy permit in advance of issuing an occupancy permit for any other part of the development.
- d. The SRO structure may not be demolished or converted to other uses unless the number of SRO units lost will be replaced either on the site or at another location in the Central City plan district. SRO units being provided at another site must receive an occupancy permit in advance of issuing an occupancy permit for a new use on the former SRO site or issuing a demolition permit for the site. In addition, the decreased floor area potential on the SRO site continues.

**F. Transfer of residential floor area.**

- 1. Purpose. Transfer of floor area ratio potential from sites occupied by residential development is allowed in order to reduce market pressure for removal of existing housing.
- 2. Allowable floor area transfers.
  - a. The owners of qualifying sites may transfer the rights to their unused floor area potential. The rights to the floor area may be used anywhere in the Central City plan district.
  - b. Floor area transferred to a site is limited to that allowed by 33.510.200.C.
  - c. The sending residential property owner must execute a covenant with the City that reflects the decrease of potential floor area. The covenant must require future continuation and maintenance of the housing in conformance with the standards of this subsection. The covenant must meet the requirements of 33.700.060.

**G. Transfer of floor area within the South Waterfront Subdistrict.** In the South Waterfront Subdistrict, floor area, including bonus floor area, may be transferred between sites. The sites are not required to be abutting; however, both the sending site and the receiving site must be located within the South Waterfront Subdistrict. Floor area transfers are subject to the following:

- 1. Buildings on each site may not exceed the height limit established for that site by the regulations of this chapter;
- 2. If bonus floor area is included in the transfer, those facilities to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit for buildings taking advantage of the bonus floor area; and
- 3. The property owners must execute a covenant with the City that is attached to and recorded with the deed of both the sending and receiving sites reflecting the respective increase and decrease of potential floor area. The covenant must meet the requirements of 33.700.060.

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## **Commentary**

### **33.510.200.I Neighborhood Facilities**

This amendment reflects direction identified in the Central City 2035 Plan.

**H. Transfer of floor area from Historic Resources in specified areas.**

1. Where these regulations apply. These regulations apply to sites located in the Pearl Development Transfer Opportunity Area on Map 510-20.
2. Sites eligible to transfer floor area. Sites eligible to transfer floor area must be located within the area shown on Map 510-20 and must contain:
  - a. A landmark;
  - b. A contributing resource in an Historic District; or
  - c. A Rank I, II, or III resource listed in the City's Historic Resource Inventory.
3. Sites eligible to receive floor area. A site within the area shown on Map 510-20 is eligible to receive floor area from the historic resources listed above in H.2.
4. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City that is attached to and recorded with the deed. The covenants may not be revoked or rescinded. The covenants must include the following:
  - a. Both sites. The covenant for each site must reflect the respective increase and decrease of potential floor area. The covenant must meet the requirements of Section 33.700.060, Covenants with the City.
  - b. Sending site. The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.
5. Exception for Landmarks. Landmarks located in the Pearl Development Transfer Opportunity Area on Map 510-20 may elect to transfer floor area to a receiving site outside of the area on Map 510-20 if they meet the standards of 33.130.205.C or 33.140.205.C.
6. Adjustments. Adjustments and modifications to these regulations are prohibited.

**I. Neighborhood facilities ~~within the North Pearl Subarea.~~**

1. Purpose. This regulation encourages creation of facilities to serve those who live in the Central City and work in the North Pearl Subarea. These facilities are necessary elements of a neighborhood.
2. Standards. ~~In the North Pearl Subarea,~~ Floor area used for specified neighborhood facilities is not counted towards maximum FAR for the site. The specified neighborhood facilities are public schools, public community centers, daycare facilities for children, and public libraries. To qualify for this provision, the following requirements must be met:
  - a. Schools. Floor area to be used for public schools does not count towards maximum FAR for the site if the school will be operated by or for a public school district.

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## Commentary

### **33.520.210.B.1 Floor Area and Height Bonus Options General Regulations**

This code is being deleted to apply Inclusionary Housing requirements to capture the addition of 20 or more units to an existing residential structure, and a conversion of a warehouse to a residential or mixed use building as long as the residential portion of the building is 20 or more units.

- b. Daycare. Floor area to be used for daycare facilities for children does not count towards maximum FAR for the site. Applicants may choose to either earn bonus FAR under 33.510.210.C.23, or to have the daycare not counted towards maximum FAR for the site under this subsection. Both provisions may not be used on a site.
- c. Libraries. Floor area to be used for public libraries does not count towards maximum FAR for the site if the library will be operated by the Multnomah County Library or does not charge membership fees.
- d. Public community centers. Floor area to be used for community centers does not count towards maximum FAR for the site. Public community centers are not for exclusive use by residents of a site and their guests.
- e. All facilities. All neighborhood facilities must meet the following:
  - (1) The floor area of the facility must be reserved for the exclusive use of the neighborhood facility for at least 10 years from the date a certificate of occupancy is issued for the qualifying floor area. No uses other than those listed in this subsection are allowed.
  - (2) The applicant must document that there is a binding agreement with an operator for each facility. This documentation must be submitted with the application for design review; and
  - (3) The property owner must execute a covenant with the City which is attached to an recorded with the deed of the site. The covenant must ensure that the owner will reserve the floor area as specified in I.2.e(1). The covenant must comply with the requirements of Section 33.700.060.

### **33.510.210 Floor Area and Height Bonus Options**

**A. Purpose.** Floor area and height bonus options are offered as incentives to encourage facilities and amenities that implement the Central City Plan.

**B. General regulations.**

- 1. The bonus options are only allowed in situations where stated. ~~Only new developments are eligible for the bonuses unless specifically stated otherwise.~~ Exceptions to the requirements and the amount of bonus floor area or height earned are prohibited.
- 2. Projects may use more than one bonus option unless specifically stated otherwise. Bonuses may be done in conjunction with allowed transfers of floor area.
- 3. The maximum floor area increase that may be earned through the bonus options must be within the limits for overall floor area increases stated in 33.510.200.C.
- 4. Buildings using bonus floor area must not exceed the maximum height limits shown on Map 510-3 unless eligible for bonus height.

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## Commentary

**33.510.210.B.5** The residential bonus option is being deleted, so this hierarchy will no longer be relevant. In its place a hierarchy the prioritizes the inclusionary housing FAR bonuses over the other FAR bonus and transfer options is added.

5. ~~In residential bonus target areas, as shown on Map 510-4, the residential bonus option must be used before any other bonus. A bonus floor area ratio of at least 1.5 to 1 from the residential bonus option must be earned before the project qualifies for other bonus options.~~
  5. Except as required by Paragraph B.6., for projects that trigger the requirements of 33.245, Inclusionary Housing, bonus floor area of at least 3 to 1 must be earned from the mandatory inclusionary housing bonus options before qualifying for other bonus or transfer options. For projects that do not trigger 33.245, Inclusionary Housing, floor area of at least 3 to 1 must be earned from the voluntary inclusionary housing bonus option or be transferred through a historic resource transfer before qualifying for other bonus or transfer options.
  6. If any portion of the site is in the Greenway bonus target area, as shown on Map 510-4, the South Waterfront Willamette River Greenway bonus option must be used before any other bonus. Bonus floor area of at least 7,500 square feet from the South Waterfront Willamette River Greenway bonus option must be earned before the project qualifies for other bonus options.
- C. Bonus floor area options.** Additional development potential in the form of floor area is earned for a project when the project includes any of the specified features listed below. The bonus floor area amounts are additions to the maximum floor area ratios shown on Map 510-2.
1. Mandatory inclusionary housing. For projects in the CX, EX and RX zones that trigger the requirements of 33.245, Inclusionary Housing, an additional FAR of 3 to 1 is earned. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.
  2. Voluntary inclusionary housing. Projects that voluntarily provide affordable housing earn bonus FAR as follows:
    - a. An additional FAR of 3 to 1 is earned for projects that voluntarily provide affordable housing at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated above and any administrative requirements. The letter is required to be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:

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## Commentary

### **33.510.210.F.2 Voluntary inclusionary housing bonus**

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).



- (1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
- 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
- (2) Off-site affordable dwelling units in a new building. When the affordable dwelling units will be provided by constructing new dwelling units off-site, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:
- 10 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
  - 20 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.
- (3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off- site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:
- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
  - 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

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## Commentary

### **33.510.210.C.1 Residential floor area bonus**

This bonus was adopted in 1990 as a means to promote new residential development in the Central City. To encourage a return of residential development in the city center, the residential floor area bonus was developed. Although now viewed as a “give away” to those already proposing to develop a condo or apartment tower, in the 1990's this was a means to increase residential densities and provide a financial incentive for development whose success was uncertain at best.

This bonus has been used at least 51 times and has resulted not only in the creation of thousands of new units, but also the creation of new neighborhoods, such as the Pearl District, but also encouraged new housing in older communities such as the West End and Goose Hollow.

As residential development in the Central City is now a common if not the predominate use being developed, there no longer exists a need to incent housing for the sake of housing alone. Thus, this bonus is proposed to be eliminated and new bonuses addressing the growing and significant need for affordable housing is proposed to take its place.

- b. Bonus FAR is allowed in exchange for payment into the Affordable Housing Fund. Up to 3 to 1 FAR can be earned by paying into the fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). The Portland Housing Bureau collects and administers the Affordable Housing Fund, determines the fee per square foot, and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

~~1. Residential bonus option.~~

- a. ~~In specified areas, proposals that include Residential uses receive bonus floor area. New development and alterations to existing development are eligible for this bonus.~~
  - (1) ~~In the CX and EX zones outside of the South Waterfront Subdistrict and the North Pearl Subarea, for each square foot of floor area developed and committed as housing, a bonus of 1 square foot of additional floor area is earned, up to an additional floor area ratio of 3 to 1. Sites in the required residential opportunity areas are eligible for this bonus.~~
  - (2) ~~In the CX and EX zones in the North Pearl Subarea, for each square foot of floor area developed and committed as housing, a bonus of 1 square foot of additional floor area is earned, up to an additional floor area ratio of 2 to 1.~~
- b. ~~The additional floor area may be used entirely for housing or partially for nonresidential uses. Projects that include housing built under building permits issued prior to July 1, 1998 may commit up to 2/3 of the bonus floor area to nonresidential uses. Projects built under building permits issued after July 1, 1998 may commit up to 1/2 of their bonus floor area to nonresidential uses.~~
- c. ~~Residential portions of mixed use projects using this bonus must be completed and receive an occupancy permit in advance or at the same time as an occupancy permit for any nonresidential portion of the project. The property owner must execute a covenant with the City ensuring continuation and maintenance of the housing by the property owner. The covenant must comply with the requirements of 33.700.060.~~

[Renumber 2. through 14. to be 3. through 15.]

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## Commentary

~~15. Affordable Housing Replacement Fund bonus option. Contributors to the Affordable Housing Replacement Fund (AHRF) receive floor area bonuses. For each \$22.10 contributed to the AHRF, one square foot of bonus floor area is earned, up to a maximum of two square feet per square foot of site area. To qualify for this bonus, the following requirements must be met:~~

- ~~a. The applicant must submit with the development application a letter from the Portland Development Commission (PDC) documenting the amount that has been contributed to the AHRF;~~
- ~~b. The bonus floor area may be used only in the Central City plan district.~~
- ~~c. The Affordable Housing Replacement Fund is to be collected and administered by the Portland Development Commission (PDC). The funds collected may be used only within the Central City plan district, either for acquisition, rehabilitation, remodeling or construction of housing affordable to those households earning no more than 60 percent of area median income.~~

[16. through 19. No Change]

- D. General bonus heights.** Bonus height is also earned at certain locations in addition to the bonus floor area achieved through the bonus options. Bonus height is in addition to the maximum heights of Map 510-3. Qualifying areas, shown on Map 510-3, are located such that increased height will not violate established view corridors, the preservation of the character of historical districts, the protection of public open spaces from shadow, and the preservation of the City's visual focus on important buildings (such as the Union Station Clock Tower).

The height bonus allowed is based on the floor area bonuses and transfers listed in Paragraph D.1., below. The amount of bonus height awarded is specified in Paragraphs D.2. and D.3., below.

1. The height bonus allowed is based on the following:
  - a. The floor area bonus options of Subsection 33.510.210.C., above;
  - b. The transfer of floor area from sites occupied by SROs, as allowed by Subsection 33.510.200.E; and
  - c. The transfer of floor area from sites of Historic Landmarks, as allowed by the regulations of the base zones.
2. In areas qualifying for a height bonus, on sites up to 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule:
  - a. For achieving a bonus floor area ratio of at least 1 to 1, but less than 2 to 1, a height bonus of 15 feet is earned.
  - b. For achieving a bonus floor area ratio of at least 2 to 1, but less than 3 to 1, a height bonus of 30 feet is earned.

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## Commentary

### **33.510.210.E.3.a Bonus height option for housing**

This subparagraph is being amended to remove a reference to C.1, which is the residential floor area bonus option. That bonus option is being deleted and replaced with the inclusionary housing bonus options.

- c. For achieving a bonus floor area ratio of 3 to 1, a height bonus of 45 feet is earned.
- 3. In areas qualifying for a height bonus, on sites larger than 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule. The height bonus is applied only to the building where the bonus floor area is achieved or transferred, not to the entire site:
  - a. For achieving bonus floor area of at least 40,000 square feet, but less than 80,000 square feet, a height bonus of 15 feet is earned.
  - b. For achieving bonus floor area of at least 80,000 square feet, but less than 120,000 square feet, a height bonus of 30 feet is earned.
  - c. For achieving bonus floor area of 120,000 square feet or more, a height bonus of 45 feet is earned.

**E. Bonus height option for housing.**

- 1. Generally. In the bonus height areas, building heights may be allowed to be greater than shown on Map 510-3 if the bonus height is for housing. Although this subsection allows the review body to approve bonus height, the review body may also require reconfiguration of the building, including reducing its height, and may approve all, some or none of the bonus height requested, based on application of the criteria in E.4, below.
- 2. Standard. The maximum height bonus that may be allowed is 75 feet.
- 3. Relationship to Subsection D.
  - a. On sites shown on Map 510-3 as eligible for general and housing height bonuses, both the bonus height options of this subsection and Subsection D., above may be used. However, if both options are used, the combined bonus height may not exceed 75 feet. Bonus height in excess of the maximum allowed through Subsection D., above, must be used exclusively for housing, ~~and may not be used to qualify for the residential floor area bonus option in Subsection C.1., above;~~
  - b. On sites shown on Map 510-3 as eligible for housing height bonuses, only the housing height bonus of this subsection may be used.
- 4. Approval Criteria. The approval of the bonus height is made as part of the design review of the project. The bonus height may be approved if the review body finds that the applicant has shown that all of the following criteria have been met:
  - a. The increased height will not violate an established view corridor;
  - b. If the site is within 500 feet of an R zone, the proposed building will not cast shadows that have significant negative impacts on dwelling units in R zoned lands;

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## Commentary



- c. If the site is shown on Map 510-3 as eligible for the Open Space (OS) performance standard, the project must meet the performance standards of Subsection 33.510.205.E.;
- d. If the site is on a block adjacent to the Yamhill or Skidmore Fountain/Old Town Historic Districts, the project must meet the performance standards of Subsection 33.510.205.D.;
- e. The increased height will result in a project that better meets the applicable design guidelines; and
- f. Approval of the increased height is consistent with the purposes stated in Subsection 33.510.205.A.

**F. Bonus height option for high ceilings in the West End.** In the West End subarea, proposals where any of the residential floor-to-ceiling heights exceed 8 feet receive bonus height. Each floor that has a ceiling height of more than 8 feet may receive up to four feet of bonus height; for each foot of floor-to-ceiling height over 8 feet, an additional foot of height is allowed above that shown on Map 510-3. To be eligible for this bonus, the floors where this bonus is earned must be in residential use, and at least 75 percent of ceiling square footage must qualify for the bonus that is being sought.

For example, the height bonus for a ten story, totally residential building where 3 floors have 10-foot ceilings ( $3 \times 2 = 6$ ), two floors have 12-foot ceilings ( $2 \times 4 = 8$ ), two floors have 14-foot ceilings ( $2 \times 4 = 8$ ) and three floors have 8-foot ceilings ( $3 \times 0 = 0$ ), the height bonus allowed would be 22 feet.

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

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## Commentary

Map 510-4

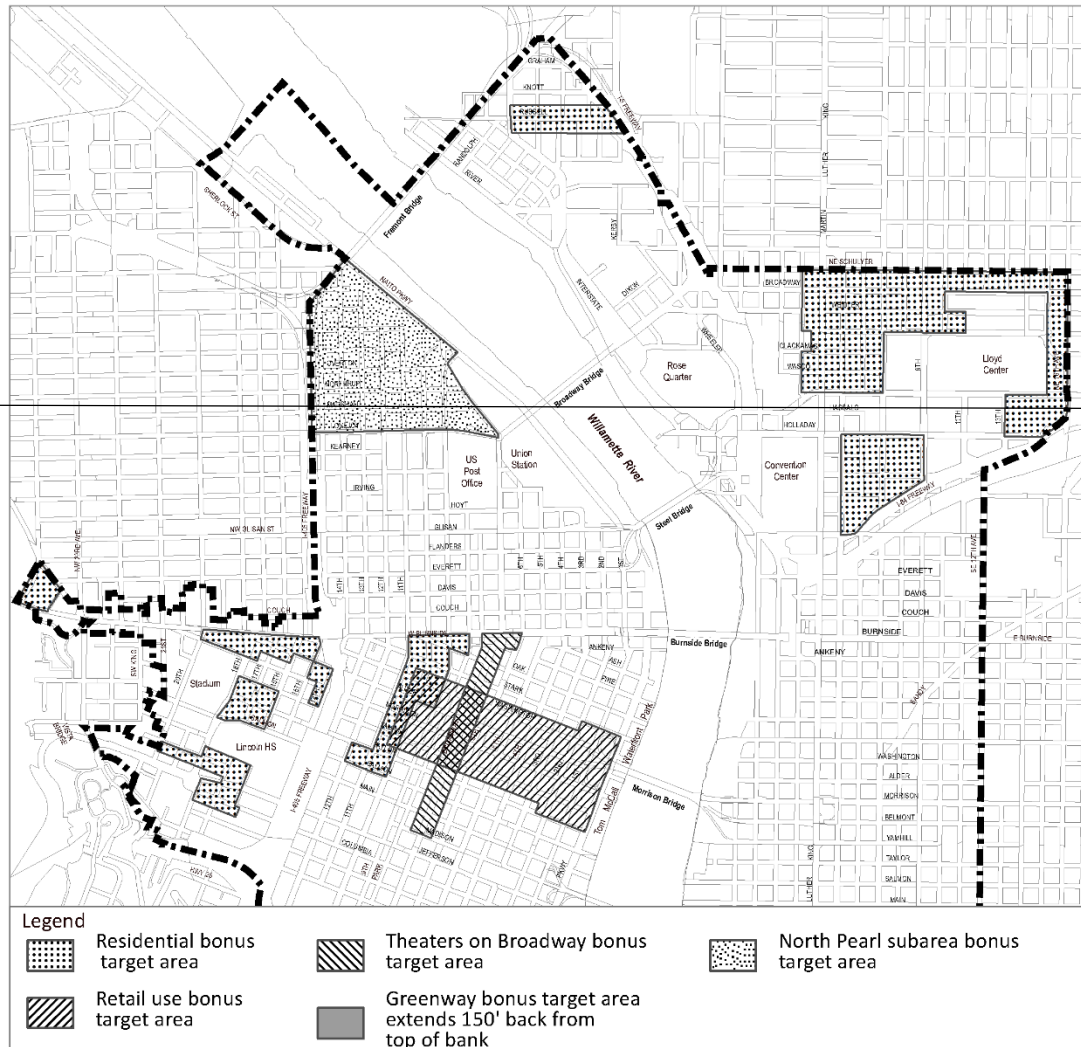
This map 510-4 is being deleted. A new version of the map is shown on page 89.

# Bonus Options Target Areas

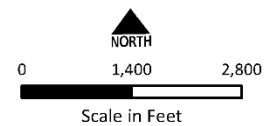
# Map 510-4

Map 1 of 2

Map Revised March 1, 2015



Central City Plan District boundary



Bureau of Planning and Sustainability  
Portland, Oregon

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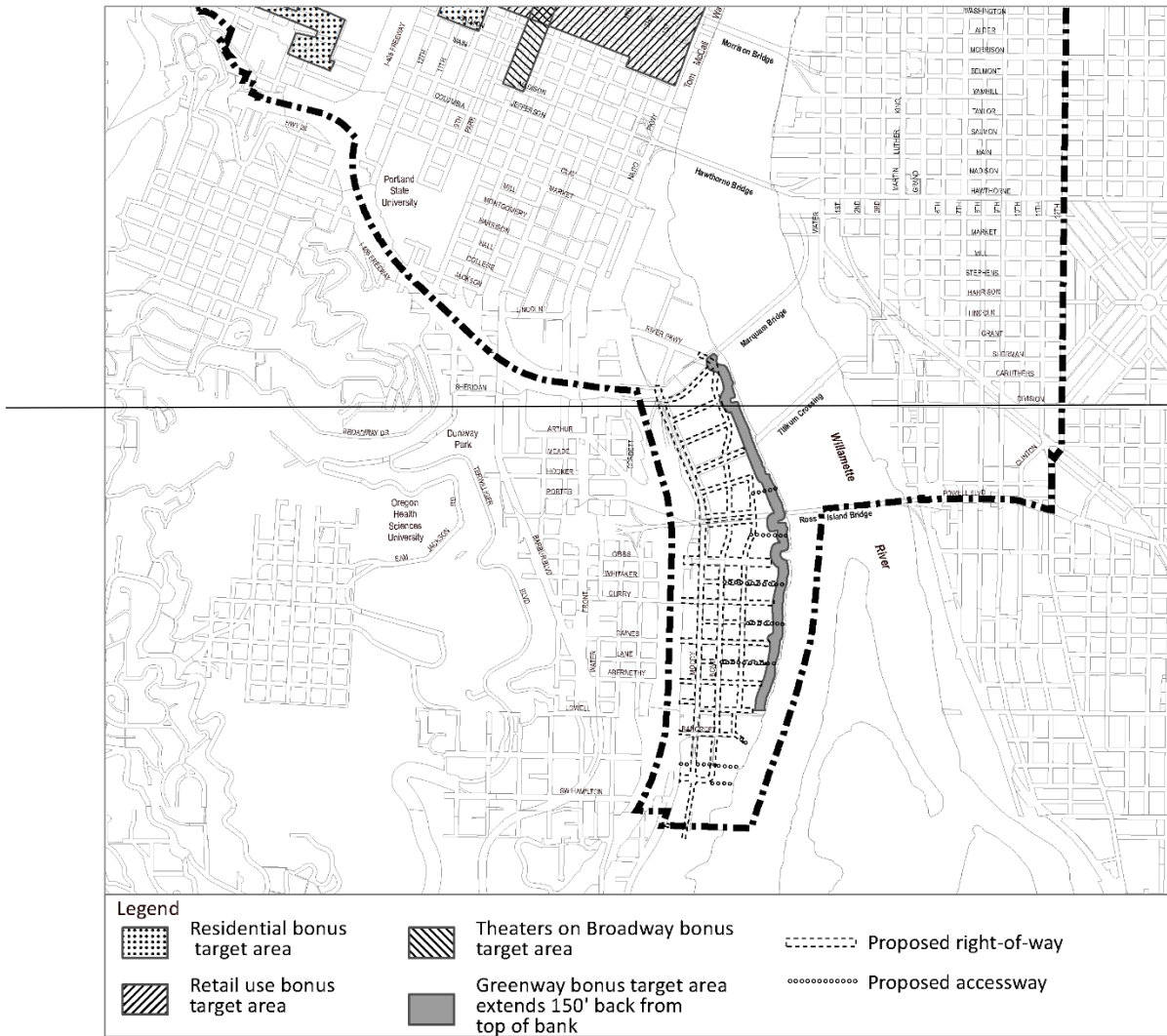
## Commentary

# Bonus Options Target Areas

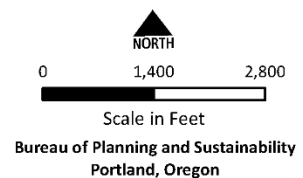
# Map 510-4

Map 2 of 2

Map Revised March 1, 2015



Central City Plan District boundary



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## Commentary

### Map 510-4

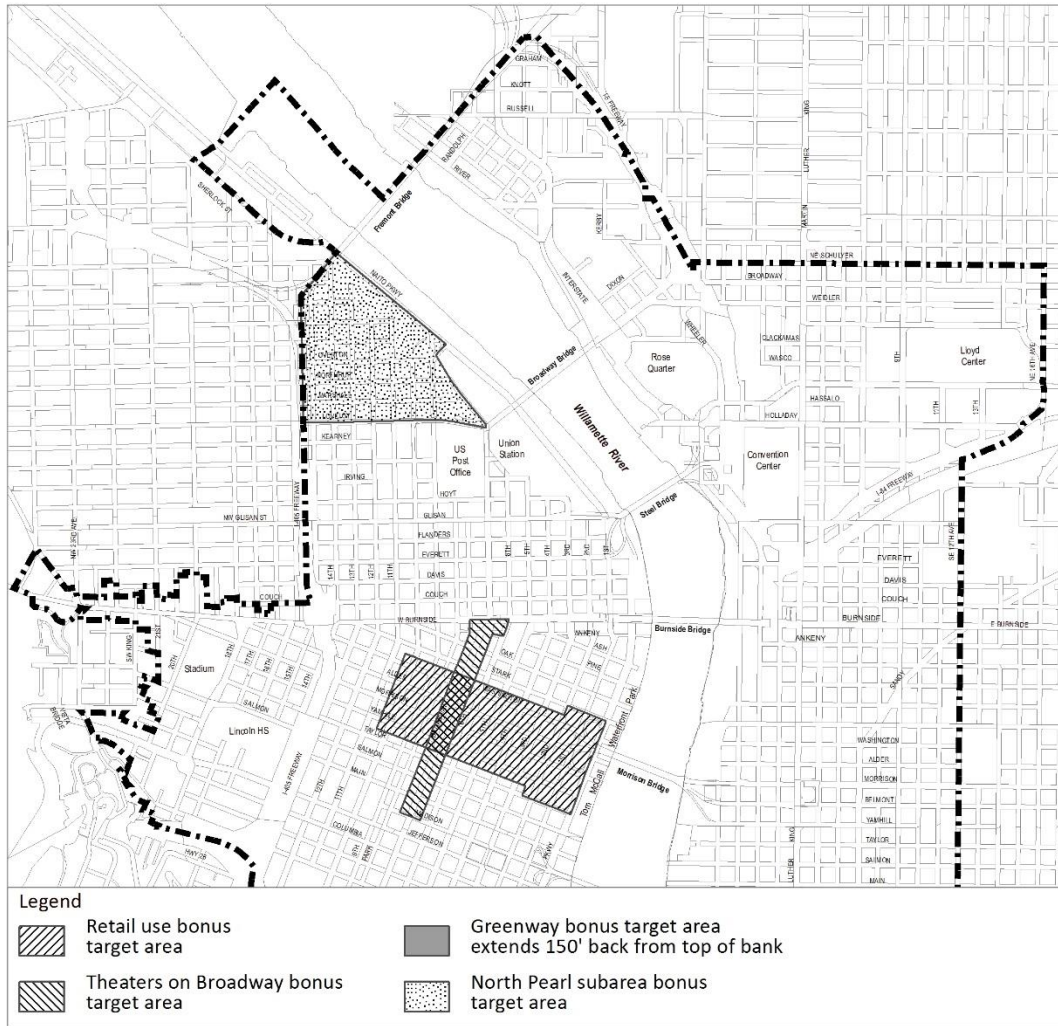
This is a new map 510-4 that does not show the residential bonus target area because that bonus has been deleted.

## Bonus Options Target Areas

## Map 510-4

Map 1 of 2

Map Revised XXXXXX XX, 201X



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## Commentary

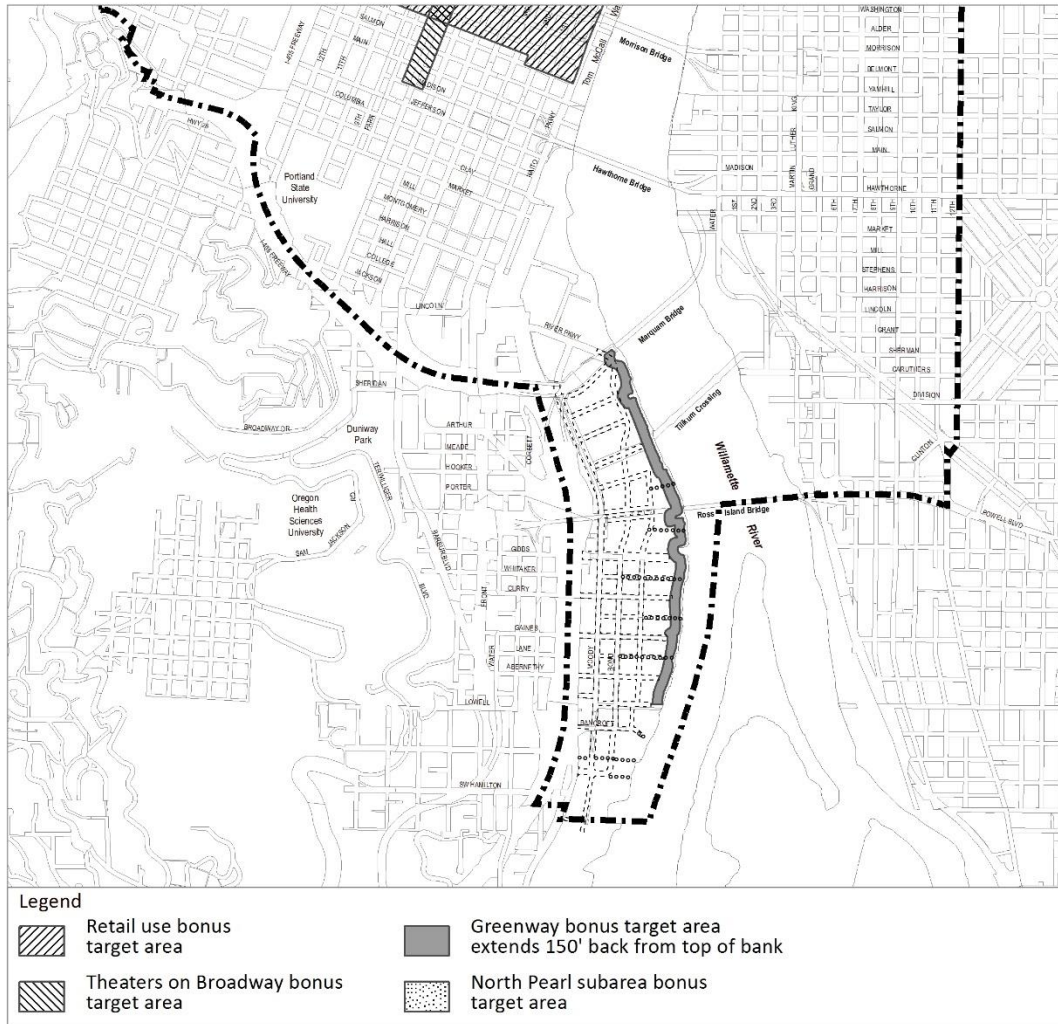


# Bonus Options Target Areas

# Map 510-4

Map 2 of 2

Map Revised XXXXXX XX, 201X



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## Commentary

### **33.526.230 Gateway Plan District FAR and Height Bonus Options**

Like the Central City plan district, the Gateway plan district has its own maximum FAR and FAR bonus system that supersedes the base zone bonus and transfer options. To ensure that the automatic and voluntary inclusionary housing bonuses are available in the Gateway plan district, they are being added to this section.

### 33.526.220 Floor Area Ratio

- A. Purpose.** These regulations encourage intense development throughout the plan district with a higher level of intensity occurring around light rail stations. This increased development reinforces Gateway's role as a regional center. In addition, the standards ensure a minimum level of development on some sites.
- B. Maximum floor area ratio.** The maximum floor area ratios (FAR) allowed are shown on Map 526-3 at the end of this chapter.
  - 1. On sites with a maximum FAR of 6:1 or less where at least 80 percent of the proposed floor area on the site will be in Residential uses, an additional 2:1 FAR is allowed.
  - 2. FARs greater than shown on Map 526-3 or allowed by Paragraph B.1 are prohibited unless allowed by Section 33.526.230.
- C. Minimum floor area ratio.** The minimum floor area ratio (FAR) for new development is shown on Map 526-3.
- D. Limit on increased floor area.** Increases in FAR, whether by transfers of floor area or bonus floor area options, of more than 3 to 1 are prohibited.

### 33.526.230 Floor Area and Height Bonus Options

- A. Purpose.** Floor area and height bonus options are offered as incentives to encourage facilities and amenities that are desired around the light rail stations and on sites with a Gateway Master Plan.
- B. General regulations.**
  - 1. Eligible sites. The mandatory inclusionary housing and voluntary inclusionary housing bonus options may be used in the R3, R2, R1, RH, commercial and EX zones in the Gateway plan district. The other bonus options may be used only in areas shown on Map 526-5, and on sites with a Gateway Master Plan.~~The residential bonus option may be used only in those areas on sites in a C or E zone.~~
  - 2. New floor area. Only new floor area is eligible for the bonuses unless specifically stated otherwise. Exceptions to the requirements and the amount of bonus floor area or height earned are prohibited.
  - 3. Number of bonus options. Proposals may use more than one bonus option unless specifically stated otherwise. Bonuses may be done in conjunction with allowed transfers of floor area.
  - 4. Maximum floor area increase. The maximum floor area increase that may be earned through the bonus options must be within the limits for overall floor area increases stated in 33.526.220.D.

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## Commentary

5. Maximum height increase. Buildings using bonus floor area must not exceed the maximum height limits shown on Map 526-2 unless eligible for bonus height.

**C. Bonus floor area options.** Additional development potential in the form of floor area is earned for a project when the project includes any of the features listed below. The bonus floor area amounts are additions to the maximum floor area ratios shown on Map 526-3.

~~1. Residential bonus option.~~

- ~~a. Proposals providing housing receive bonus floor area. New development and alterations to existing development are eligible for this bonus. For each square foot of floor area developed and committed as housing, a bonus of 1 square foot of additional floor area is earned, up to an additional floor area ratio of 3 to 1.~~
- ~~b. The additional floor area may be used entirely for housing or partially for nonresidential uses.~~
- ~~c. Residential portions of mixed-use projects using this bonus must be completed and receive an occupancy permit in advance or at the same time as an occupancy permit for any nonresidential portion of the project. The property owner must execute a covenant with the City ensuring continuation and maintenance of the housing by the property owner. The covenant must comply with the requirements of 33.700.060, Covenants with the City.~~

1. Mandatory inclusionary housing. Projects that trigger the requirements of 33.245, Inclusionary Housing earn an additional FAR of 3 to 1. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.

2. Voluntary inclusionary housing. Projects that voluntarily provide affordable housing earn bonus FAR as follows:

- a. An additional FAR of 3 to 1 is earned for projects the voluntarily provide affordable housing at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated above and any administrative requirements. The letter is required to be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:

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## Commentary

### **33.526.230.C.2 Voluntary inclusionary housing bonus**

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).

- (1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
- 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  - 20 percent of the total number of new dwelling units or bedrooms on site must be affordable to those earning no more than 80 percent of the area median family income.
- (2) Off-site affordable dwelling units in a new building. When the affordable dwelling units will be provided by constructing new dwelling units off-site, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:
- 10 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
  - 20 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.
- (3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off- site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:
- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
  - 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.

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## Commentary



- b. Bonus FAR is allowed in exchange for payment into the Affordable Housing Fund. Up to 3 to 1 FAR can be earned by paying into the fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). For sites where density is calculated in dwelling units, the amount of floor area purchased is converted to dwelling units at a rate of 1 dwelling unit per 800 square feet. The Portland Housing Bureau collects and administers the Affordable Housing Fund, determines the fee per square foot, and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.
- 23. Open Space bonus option. Proposals that provide open space that may be used by the public will receive bonus floor area. For each square foot of open space provided, a bonus of one square foot of additional floor area is earned. To qualify for this bonus, the following requirements must be met:
  - a. Size and dimensions. The open space must include at least 5,000 square feet of contiguous area;
  - b. Ownership and use. One of the following must be met:
    - (1) The open space must be dedicated to the City, subject to paragraph 2.d.; or
    - (2) A public access easement must be provided that allows for public access to and use of all the open space;
  - c. Maintenance. The property owner must execute a covenant with the City that ensures the installation, preservation, maintenance, and replacement, if necessary, of the open space features, and that meets the requirements of 33.700.060, Covenants with the City; and
  - d. Parks approval. The applicant must submit with the application for land use review a letter from Portland Parks and Recreation stating that the open space features meet the requirements of the bureau, and that the space is acceptable to the bureau.
- 34. Eco-roof bonus option. Eco-roofs are encouraged in the Gateway Regional Center because they reduce stormwater run-off, counter the increased heat of urban areas, and provide habitat for birds. An eco-roof is a rooftop stormwater facility that has been certified by the Bureau of Environmental Services (BES).
  - a. Bonus. Proposals that include eco-roofs receive bonus floor area as follows:
    - (1) Where the total area of the eco-roof is at least 10 percent but less than 30 percent of the building's footprint, each square foot of eco-roof earns one square foot of additional floor area.

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## Commentary

- (2) Where the total area of the eco-roof is at least 30 percent but less than 60 percent of the building's footprint, each square foot of eco-roof earns two square feet of additional floor area.
- (3) Where the total area of the eco-roof is at least 60 percent of the building's footprint, each square foot of eco-roof earns three square feet of additional floor area.
- b. Before an application for a land use review will be approved, the applicant must submit a letter from BES certifying that BES approves the eco-roof. The letter must also specify the area of the eco-roof.
- c. The property owner must execute a covenant with the City ensuring installation, preservation, maintenance, and replacement, if necessary, of the eco-roof. The covenant must comply with the requirements of 33.700.060, Covenants with the City.

**D. General bonus heights.** Bonus height is also earned in addition to the bonus floor area achieved through the bonus options. Bonus height is in addition to the maximum heights of Map 526-2. The height bonus allowed is based on the floor area bonuses and transfers listed in paragraph D.1., below. The amount of bonus height awarded is specified in paragraphs D.2. and D.3., below.

- 1. The height bonus allowed is based on the floor area bonus options of Subsection 33.526.230.C., above;
- 2. In areas qualifying for a height bonus, on sites up to 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule:
  - a. For achieving a bonus floor area ratio of at least 1 to 1, but less than 2 to 1, a height bonus of 15 feet is earned.
  - b. For achieving a bonus floor area ratio of at least 2 to 1, but less than 3 to 1, a height bonus of 30 feet is earned.
  - c. For achieving a bonus floor area ratio of 3 to 1, a height bonus of 45 feet is earned.
- 3. In areas qualifying for a height bonus, on sites larger than 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule. The height bonus is applied only to the building where the bonus floor area is achieved or transferred, not to the entire site:
  - a. For achieving bonus floor area of at least 20,000 square feet, but less than 80,000 square feet, a height bonus of 15 feet is earned.
  - b. For achieving bonus floor area of at least 40,000 square feet, but less than 120,000 square feet, a height bonus of 30 feet is earned.
  - c. For achieving bonus floor area of 80,000 square feet or more, a height bonus of 45 feet is earned.

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## Commentary

**E. Bonus height option for housing.**

1. Generally. In the areas eligible for bonus height shown on Map 526-5~~areas~~, building heights may be allowed to be greater than shown on Map 526-2 if the bonus height is for housing.
2. Standard. The maximum height bonus that may be allowed is 75 feet. Projects may use both the bonus height options of this subsection and Subsection D., above. However, if both options are used, the combined bonus height may not exceed 75 feet. Bonus height in excess of the maximum allowed through Subsection D., above, must be exclusively for housing,~~and may not be used to qualify for the residential floor area bonus option in Subsection C.1., above.~~
3. Approval criteria. The approval of the bonus height is made as part of the design review of the project. The bonus height will be approved if the review body finds that the applicant has shown that the following criteria have been met:
  - a. If the site is within 500 feet of an R zone, the proposed building will not cast shadows that have significant negative impacts on dwelling units in the R zone; and
  - b. The increased height will result in a project that better meets the applicable design guidelines.

**33.526.330 Gateway Master Plan**

- A. Purpose.** The Gateway master plan adds development potential and flexibility for projects in specified areas. A carefully considered master plan has the potential to ensure that new development moves sites in the plan district closer to the goals of the Gateway Regional Center, while allowing for flexibility, additional development capacity, and phasing of change. The additional development potential and flexibility are possible because the master plan demonstrates that the policy objectives of the Outer Southeast Community Plan are advanced and can be met in the long term. The Gateway master plan is an option; it is not a requirement.
- B. Flexibility achieved.** An approved Gateway master plan allows additional flexibility in any of the following situations:
1. Allocates allowed floor area to individual development sites that will not remain in the same ownership;
  2. Allows uses to be arranged on the site in the most appropriate manner by allowing uses to be located in zones where they are otherwise not permitted.
  - ~~3. Defers the building of any required housing;~~
  - ~~4~~3. Allows the development of required housing at an alternate location;
  - ~~5~~4. Defers the building of required open area;
  - ~~6~~5. Defers the construction of required streets, accessways, and other transportation elements; or
  - ~~7~~6. Allows applicants to take advantage of bonus options in 33.526.230.

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## Commentary

**C. Contents of a Gateway master plan.** In addition to the application requirements of Section 33.730.060, a Gateway master plan must contain the components listed below. The greater the level of detail in the plan, the less need for extensive reviews of subsequent phases. Conversely, the more general the details, the greater the level of review that will be required for subsequent phases. The plan must include:

1. Floor area. How allowable floor area will be distributed throughout the site. This can be shown by location of buildings, by subareas of the site, or by amount assigned to each lot. Floor area may be reallocated within the site.
2. Location of uses. The location of proposed uses on the site. If a use is allowed on the site, it may be located on a portion of the site where the zoning would otherwise not permit it. Regardless of use, the base zone development standards will apply.
3. Housing.
  - a. The location, density, and general type of housing to be built. If residential development is required by the base zone, the plan must show how the requirement will be met. ~~If the required housing is not proposed to be built in advance or concurrently with other development, the plan must demonstrate that the proposed location for housing is of suitable size and location for the required amount of housing. The plan must identify a schedule or development phase when the required housing will be built.~~
  - b. If the required housing is proposed for a location outside of the residentially-zoned area, the proposed site must meet the following requirements. The site must be under the applicant's control. The site must be vacant or used for surface parking, or have improvements with an assessed value less than one-third the value of the land. The site must be within the Gateway plan district and be zoned CX or EX. The proposed housing site must be of suitable size and location to be attractive for the required amount of housing.

4.-9. [No change]

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

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## Commentary

**33.580.100 Floor Area Ratios.** In plan districts that have area specific FAR limits, the plan district specific limits supersede the base zone FAR limits, but the remainder to the FAR regulations in the base zone still apply. This allows any FAR bonus or transfer options to be available in plan districts that do not have their own FAR bonus or transfer structures. In this case, a large portion of the South Auditorium plan district is also in the Central City plan district, and this amendment makes it clear that on those sites, it is the FAR bonus and transfer provisions of the Central City plan district that apply rather than the base zone options.



### **33.580.100 Floor Area Ratios**

Maximum floor area ratios for sites in the South Auditorium plan district are shown on Map 580-2. In the portion of the South Auditorium plan district that is also in the Central City plan district, the Central City floor area bonus and transfer options apply rather than any base zone bonus or transfer options. The maximum floor area ratio for all sites in the South Auditorium plan district are as stated by the floor area ratios (FARs) shown on Map 580-2.

# 5. Other implementation recommendations

## City Code Title 30 Changes and Administrative Rule

On December 21, 2016, City Council adopted Title 30 code changes and administrative rules for the implementation of a mandatory inclusionary housing program. The code changes and administrative rules include:

- Incentives for compliance with the mandatory or voluntary inclusionary housing program
- Fee-in-lieu schedules for opting out of the mandatory inclusionary housing program and purchasing bonus FAR
- Program detail regarding a build-off-site option for locating affordable options in another building in close proximity to the proposed development
- Policies and regulations with regard to quality, size, bedroom composition, and unit distribution for affordable units derived from a mandatory or voluntary inclusionary housing requirement
- Terms of affordability for units derived from a mandatory or voluntary inclusionary housing requirement

## Monitoring for code effectiveness

The Portland Housing Bureau and the Portland Bureau of Planning and Sustainability are directed to periodically monitor the effectiveness of the Inclusionary Housing Program in achieving underlying policies and consider adjustments in response to impacts on the development market, changing market conditions in the development market, and unintended consequences of these code amendments in relation to existing Comprehensive Plan and 2035 Comprehensive Plan Policies.

A monitoring and adaptation approach would provide for ongoing code effectiveness within a context of changing market conditions and development trends.

## Reconcile Adopted Zoning Code Changes with Implementation Projects

The Planning and Sustainability Commission recognizes the concerns of the Historic Landmarks Commission (PHLC) and ask that BPS staff work with the PHLC to evaluate and consider the impact of inclusionary housing density bonuses on Historic and Conservation Districts in the Central City 2035 Plan and future planning effort to reconcile the inclusionary housing bonus system with existing zoning designations and plan districts.

BPS staff is further directed to reconcile the density bonus in relation to the Inclusionary Housing Program incentive packages within the various plan districts across Portland that have development regulations, FAR limits, height limits, and, in some cases, existing bonus provisions that supersede base zone regulations. This work will be conducted in conjunction with a zoning code project in 2017 to amend the Mixed Use Zones Code and reconcile issues of height, bulk, and inclusionary housing requirements in plan districts that have not been addressed in the Inclusionary Housing Zoning Code Project. Additionally, BPS staff is directed to integrate Inclusionary Housing regulations into the Central City 2035 Plan legislative process in early 2017 for implementation of the 2035 Comprehensive Plan.