

- (1) Landscaped setbacks for surface parking and exterior development areas;
  - (2) Interior parking lot landscaping; and
  - (3) Landscaping in existing building setbacks.
  - (4) This exception expires December 31, 2015.
2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made that are over the threshold of Subparagraph D.2.a., below, the site must be brought into conformance with the development standards listed in Subparagraph D.2.b. The value of the alterations is based on the entire project, not individual building permits.
- a. Thresholds triggering compliance. The standards of Subparagraph D.2.b., below, must be met when the value of the proposed alterations on the site, as determined by BDS, is more than \$131,150. The following alterations and improvements do not count toward the threshold:
    - (1) Alterations required by approved fire/life safety agreements;
    - (2) Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;
    - (3) Alterations required by Chapter 24.85, Interim Seismic Design Requirements for Existing Buildings;
    - (4) Improvements to on-site stormwater management facilities in conformance with Chapter 17.38, Drainage and Water Quality, and the Stormwater Management Manual; and
    - (5) Improvements made to sites in order to comply with Chapter 21.35, Wellfield Protection Program, requirements.
  - b. Standards which must be met. Development not complying with the development standards listed below must be brought into conformance or receive an adjustment.
    - (1) Landscaped setbacks for surface parking and exterior improvement areas;
    - (2) Pedestrian circulation systems, as set out in the pedestrian standards that apply to the site;
    - (3) Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with 33.266.220, Bicycle Parking. Sites that do not have accessory surface parking or are inside the Central City Core Area or Lloyd District, as shown on Map 510-8, are not required to meet this standard for long-term bicycle parking, but are required to meet this standard for short-term bicycle parking;
    - (4) Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;

- (5) Landscaping in existing building setbacks;
  - (6) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
  - (7) Screening; and
  - (8) Required paving of surface parking and exterior storage and display areas.
  - (9) Exception: Where landscaping in the following areas was conforming after March 16, 2001, and before July 8, 2005, it is exempt from the requirements of D.2.b.1, 4, and 5, above:
    - Landscaped setbacks for surface parking and exterior development areas;
    - Interior parking lot landscaping; and
    - Landscaping in existing building setbacks.
    - This exception expires December 31, 2015.
- c. Area of required improvements.
- (1) Generally. Except as provided in D.2.c(2), below, required improvements must be made for the entire site.
  - (2) Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant must meet the following:
    - The signed ground lease – or excerpts from the lease document – must be submitted to BDS. The portions of the lease must include the following:
      - The term of the lease. There must be at least one year remaining on the ground lease; and
      - A legal description of the boundaries of the lease.
    - The boundaries of the ground lease must be shown on the site plan submitted with the building permit application;
    - The area of the lease must include all existing and any proposed development that is required for, or is used exclusively by, uses within the area of the lease; and
    - Screening is not required along the boundaries of ground leases that are interior to the site.

- d. Timing and cost of required improvements. The applicant may choose one of the following options for making the required improvements:
- (1) Option 1. Under Option 1, required improvements must be made as part of the alteration that triggers the required improvements. However, the cost of required improvements is limited to 10 percent of the value of the proposed alterations. It is the responsibility of the applicant to document the value of the required improvements. When all required improvements are not being made, the applicant may choose which of the improvements listed in Subparagraph D.2.b to make. If improvements to nonconforming development are also required by regulations in a plan district or overlay zone, those improvements must be made before those listed in Subparagraph D.2.b.
  - (2) Option 2. Under Option 2, the required improvements may be made over several years, based on the compliance period identified in Table 258-1. However, by the end of the compliance period, the site must be brought fully into compliance with the standards listed in Subparagraph D.2.b. When this option is chosen, the following applies:
    - Before a building permit is issued, the applicant must submit the following to BDS:
      - Application. An application, including a Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in subparagraph D.2.b.
      - Covenant. The City-approved covenant, which is available in the Development Services Center, is required. The covenant identifies development on the site that does not meet the standards listed in subparagraph D.2.b, and requires the owner to bring that development fully into compliance with this Title. The covenant also specifies the date by which the owner will bring the nonconforming development into full compliance. The date must be within the compliance periods set out in Table 258-1. The covenant must be recorded as specified in Subsection 33.700.060.B.
    - The nonconforming development identified in the Nonconforming Development Assessment must be brought into full conformance with the requirements of this Title within the compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than \$131,150. The compliance periods are based on the size of the site. The compliance periods are identified in Table 258-1.
    - By the end of the compliance period, the applicant or owner must request that the site be certified by BDS as in compliance with the standards listed in Subparagraph D.2.b. A permit documenting full conformance with these standards is required and must receive final inspection approval prior to BDS certification. If certification is not requested, or if the site is not fully in conformance by the end of the compliance period, no

additional building permits will be issued until the site is certified.

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

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

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

1. Discontinuance. If a nonconforming exterior development, such as an exterior storage area, is unused for 2 continuous years, the nonconforming rights are lost and a nonconforming exterior development may not be re-established. If the exterior development is unused for less than 2 continuous years, a nonconforming exterior development may be re-established, unless stated otherwise in Subsection D. above.
2. Destruction. When a structure or other development that has nonconforming elements is removed or intentionally destroyed, replacement structures and other development must comply with the development standards of the base zone, overlay zone and plan district. When a structure that has nonconforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the structure may be rebuilt using the same structure footprint. An adjustment is required to allow the replacement structure to be more out of compliance with the development standards than the previous structure. However, detached garages in residential zones are subject to the provisions for accessory structures of 33.110.250 and 33.120.280 (Single-Dwelling and Multi-Dwelling chapters, respectively).

**F. Sites that are nonconforming in parking spaces.** When a site is nonconforming in the number of required or allowed parking spaces, this subsection applies:

1. Minimum required parking spaces. If changes to a use or building are made that increase the number of required parking spaces over the existing situation, only the number of spaces relating to the increase need to be provided.
2. Maximum allowed parking spaces. If changes to a use or building are made, existing parking spaces that are in excess of the maximum may be retained if

- D. Exception for sites with an existing nonconforming use, allowed use, limited use, or conditional use.** The regulations of this subsection apply to sites with an existing nonconforming use, an allowed use, a limited use, or a conditional use. When alterations are made to a site that does not meet the standards of this section, and the alterations are over the threshold of Paragraph D.1, below, the site must be brought into conformance with the development standards listed in Subsections A, B, and C, above. The value of the alterations is based on the entire project, not individual building permits. The cost of the upgrades required by this chapter may be counted toward the cost of upgrades required by Subsection 33.258.070.D. However, the upgrades required by this chapter must be completed first.
1. **Thresholds triggering compliance.** The standards of Subsections A, B, and C must be met when the value of the proposed alterations on the site, as determined by BDS, is more than \$131,150. Alterations and improvements stated in 33.258.070.D.2.a do not count toward the threshold.
  2. **Area of required improvements.** Except as provided in 33.258.070.D.2.c(2), Exception for Sites With Ground Leases, required improvements must be made to the entire site.
  3. **Timing and cost of required improvements.** The timing and cost of the required improvements is specified in 33.258.070.D.2.d. However, where 33.258.070.D.2.d refers to the standards listed in Subparagraph 33.258.070.D.2.b, the standards of Subsections A, B, and C, above, are also included.

#### **33.440.240 Public Recreational Trails**

- A. Purpose.** Public recreational trails provide public access to and along both sides of the Willamette River. Public recreational trails are one of the tools used to comply with the public access requirements of the Comprehensive Plan and the Willamette Greenway Plan.
- B. Public recreational trail requirements.** All sites with a public recreational trail symbol shown on the Official Zoning Maps must comply with the requirements of Chapter 33.272, Public Recreational Trails, provide and install the official Greenway Trail signs as required by the Parks Bureau, and meet the trail design guidelines contained in the Willamette Greenway Plan.
- C. Recreational trails in the River Natural and River Water Quality zones.** Recreational trails must be designed to minimize disturbances on the natural environment of the River Natural and River Water Quality zoned lands.

#### **33.440.250 Public Viewpoints**

- A. Purpose.** Public viewpoints provide stopping places along the Greenway trail and the Willamette River where the public can view and enjoy the natural, scenic, recreational, and economic qualities of the Greenway. Public viewpoints are one of the tools used to comply with the public access requirements of the Comprehensive Plan and the Willamette Greenway Plan.

- B. Viewpoint requirements.** All sites designated with a viewpoint symbol on the Willamette Greenway Plan are required to provide a public viewpoint. The viewpoint must meet the viewpoint design guidelines contained in the Willamette Greenway Plan. In addition, the viewpoint must comply with the Use of Trail, Hours of Use, Trespass, and Trail Maintenance and Liability sections of Chapter 33.272, Public Recreational Trails. In order to qualify for the maintenance and liability provisions, the viewpoint must be located along the physically continuous trail segment.

### **33.440.260 View Corridors**

- A. Purpose.** View corridors provide visual access and connections to the river for neighborhoods and business districts who might otherwise be visually cut-off from the river. View corridors are generally extensions of existing public rights-of-way through to the river. View corridors are one tool used to comply with the public access requirements of the Comprehensive Plan and the Willamette Greenway Plan.
- B. Provision of corridors.** All view corridors identified in the Willamette Greenway Plan must meet the view corridor design guidelines contained in the Willamette Greenway Plan.

### **33.440.270 Nonconforming Uses and Development**

Nonconforming uses and development in the greenway zones are subject to the regulations and reviews of Chapter 33.258, Nonconforming Situations. The additional regulations stated below apply to development within or riverward of the greenway setback that is not river-dependent or river-related.

- A.** The development may continue.
- B.** The development may be changed to an allowed river-dependent or river-related development by right.
- C.** The development may be changed to another nonconforming development if within a building. If it is outdoors, it may not be changed to another nonconforming development.
- D.** The development may be expanded, but not within or riverward of the greenway setback.

## **Greenway Review**

### **33.440.300 Purpose**

Greenway review ensures that all proposed changes to a site are consistent with the Willamette Greenway Plan, the Willamette Greenway design guidelines and, where applicable, the water quality element of Title 3 of Metro's Urban Growth Management Functional Plan. The purpose of greenway review is to ensure that:

- Development will not have a detrimental impact on the use and functioning of the river and abutting lands;
- Development will conserve, enhance and maintain the scenic qualities and natural habitat of lands along the river;
- Development will conserve the water surface of the river by limiting structures and fills riverward of the greenway setback;

- (1) Exception for sites with an existing nonconforming use, allowed, use, limited use, or conditional use. The following regulations apply to sites with an existing nonconforming use, an allowed use, a limited use, or a conditional use. When alterations are made to a site that does not meet the landscaping standards of B.2.b, above, and the alterations are over the threshold of B.2.b(2) below, the site must be brought into conformance with the development standards of this B.2.b, above. The value of the alterations is based on the entire project, not individual building permits. The cost of the upgrades required by this chapter may be counted toward the cost of upgrades required by Subsection 33.258.070.D. However, the upgrades required by this chapter must be completed first.
  - (2) Thresholds triggering compliance. The standards of B.2.b, above, must be met when the value of the proposed alterations on the site, as determined by BDS, is more than \$131,150. Alterations and improvements stated in 33.258.070.D.2.a do not count toward the thresholds.
  - (3) Area of required improvements. Except as provided in 33.258.070.D.2.c(2), Exception for Sites With Ground Leases, required improvements must be made to the entire site.
  - (4) Timing and cost of required improvements. The timing and cost of the required improvements is specified in 33.258.070.D.2.d. However, where 33.258.070.D.2.d refers to the standards listed in 33.258.070.D.2.b, the standards of B.2.b, above, are also included.
- c. Side building setbacks. Buildings, garages, and covered accessory structures are not allowed within the side building setbacks within the first 100 feet from the designated resource. No more than 80 percent of the length of any site can be occupied by structures, excluding fences, as measured parallel to the scenic corridor. This standard applies to an entire attached housing project rather than to individual units.
  - d. Screening. All garbage cans, garbage collection areas, and mechanical equipment (including heat pumps, air conditioners, emergency generators, and water pumps) must be screened from view or not visible from the designated scenic corridor. Small rooftop mechanical equipment, including vents, need not be screened if the total area of such equipment does not exceed 10 square feet per structure.
  - e. Fences and hedges. The total maximum height of fences, hedges, and berms within the street setback, or first 20 feet from the designated resource if there is no street setback, is 3 1/2 feet. This provision does not apply to any required screening and buffering.
  - f. Signs. The sign standards are stated in Title 32, Signs and Related Regulations.
  - g. Preservation of trees. The provisions of Chapter 33.248, Landscaping and Screening, apply to this subsection. This provision does not apply if the property is regulated by state statutes for forest management practices. All trees over 6 inches in diameter that are within the street setback (or first 20 feet if no setback exists) must be retained unless removal conforms to one or more of the following standards:

- (1) The tree is located within the footprint of proposed structures, within 5 feet of a structure, or an arborist finds, through root exploration, that the location of a proposed structure will cause the tree to die;
  - (2) The tree is determined by an arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property;
  - (3) The tree is within a water, sewer or other utility easement;
  - (4) The tree is within a proposed roadway or City-required construction easement, including areas devoted to curbs, parking strips or sidewalks, or vehicle areas;
  - (5) The tree is within 10 feet of a Radio Frequency Transmission Facility that is a public safety facility;
  - (6) The tree is at least 6 and up to 9 inches in diameter and does not meet any of the other standards of this subparagraph, but is replaced within the front setback (or first 20 feet if no setback has been established) by a tree listed in the *Scenic Resources Protection Plan*; or
  - (7) The tree is more than 9 and up to 12 inches in diameter and does not meet any of the other standards of this subparagraph, but is replaced within the front setback (or first 20 feet if no setback has been established) with landscaping that meets one of the following options:
    - Option A: The tree is replaced by 3 trees listed in the *Scenic Resources Protection Plan*: or
    - Option B: The tree is replaced by 2 trees and 1 plant listed in the *Scenic Resources Protection Plan*.
- h. Replacement landscape material. The size of replacement landscape material required by Subsections B.2.g(6) and (7), above, is as follows:
- (1) Trees: Broadleaf trees must be at least 2 inches in diameter at the time of planting. Conifer trees must be at least 5 feet in height at the time of planting.
  - (2) Other plants. Other plants must be in a least a five gallon container or the equivalent in ball and burlap.

In addition to these provisions, property owners and others are encouraged to make every effort to locate buildings, easements, parking strips, sidewalks and vehicle areas to preserve the maximum number of trees.

### **33.480.050 Tree Removal Review**

Trees that do not qualify for removal under Subsection 33.480.040.B.2.g, above, may be removed if approved through tree review as provided in Chapter 33.853, Tree Review. Tree removal in areas with an Environmental overlay zone is subject to environmental review rather than tree review.

17. Nonconforming situations:

- a. Required improvements.
  - (1) Paved areas in Environmental Overlay Zones. When the value of proposed alterations on the site, as determined by BDS, is more than \$131,150, paved areas that do not meet plan district regulations must be removed from environmental zoned areas. The value of the alterations is based on the entire project, not individual building permits.
  - (2) Unpaved exterior areas. When development is proposed or alterations are made to a site, unpaved exterior improvements must comply fully with development standards.
  - (3) The cost of meeting the standards of B.17.a(1) and (2), above, may be counted toward the cost of upgrades required by Subsection 33.258.070.D. However, the requirements of B.17.a(1) and (2) must be met first.
- b. Area of required improvements. Except as provided in 33.258.070.D.2.c(2), Exception for Sites With Ground Leases, required improvements must be made to the entire site.
- c. Timing and cost of required improvements. The timing and cost of the required improvements is specified in 33.258.070.D.2.d. However, where 33.258.070.D.2.d refers to the standards listed in subparagraph 33.258.070.D.2.b, the standards of B.17.a(1) and (2), above, are also included.
- d. Removal of existing bridges, utilities, or public improvements is not required.

**33.508.340 CS/PIC Environmental Review**

- A. Purpose of the review.** Environmental review of uses and development in the Environmental zones is intended to provide adequate protection for the identified natural resources. The review provides for flexibility and reasonable development opportunities when development is sensitive to the special environmental concerns of the site. Within the CS/PIC plan district, the applicant should be aware that if an archaeological resource exists on an area to be removed from environmental zones, the protection measures of 33.508.295 still apply.
- B. Modifying Environmental Zone boundaries.** Environmental zone boundaries may be modified by the City as the result of and concurrent with approving development in a natural resource area. The boundaries may be modified for either of the two situations stated below. All other requests for boundary changes are processed as a change of an overlay zone, as stated in Chapter 33.855, Zoning Map Amendments.
  1. Creation of new resource areas. The Environmental Protection zone will be expanded as part of the environmental review to include areas identified for mitigation.

2. Loss of existing resource areas. The environmental zone may be removed from an existing natural resource zoned EC where approved development will eliminate the natural resource. The zoning designation will not be removed until after all required mitigation measures have been completed.

**C. Procedures.** All required reviews are processed through a Type II procedure.

**D. Approval criteria.**

1. Fill or destruction of a natural resource in an EC zone will be approved if the review body finds that:
  - a. All resource values listed in Figure 2-3 of the *Natural Resources Protection Plan for the Columbia South Shore* being altered or destroyed will be replaced through mitigation. If the mitigation site is within a protected resource, values that already exist do not count towards mitigation.
  - b. The mitigation area is in the Columbia South Shore plan district or the Cascade Station/Portland International Center plan district and abuts or is within a protected resource.
  - c. If the mitigation area abuts a protected resource, the mitigation area will be at least 110 percent of the size and values of the altered resource area.
  - d. If the mitigation area is within a protected resource:
    - (1) The mitigation area will be at least 330 percent of the size of the altered area; and will replace at least 110 percent of the values of the altered resource area; and
    - (2) Mitigation will be provided for all resource values lost, including those lost in the protected resource as part of mitigation efforts.
  - e. The maintenance plan insures the maintenance and protection of resource mitigation areas and associated functions and values for 5 years after success has been achieved. The 5-year period will begin when the Bureau receives and approves a report from the applicant that describes the manner in which mitigation success has been achieved. Success shall be defined in the approved mitigation plan to include:
    - (1) Full achievement of required resource values; and
    - (2) Compliance with development standards of Section 33.508.330.
  - f. Except for public improvement projects undertaken by the City, a performance guarantee which meets the requirements of Section 33.700.050, Performance Guarantees, for construction, monitoring, and maintenance of the mitigation site in accordance with the mitigation plan will be filed with the City Auditor prior to issuance of any development or building permit.

**G. South Waterfront height opportunity area.**

1. Purpose. In the core of the South Waterfront Subdistrict, additional building heights may be appropriate to support the goals of the South Waterfront Plan. The regulations of this subsection are intended to:
  - Support the growth of a Science & Technology Quarter in the Central City;
  - Provide diverse housing opportunities;
  - Support the density goals of the subdistrict while ensuring quality design;
  - Create additional opportunities for visual access through the subdistrict;
  - Promote the development of slender towers with an east-west orientation;
  - Develop an exceptional and varied skyline enhancing the district's setting against the Tualatin Hills to the west and the Cascade range to the east;
  - Establish and maintain a pedestrian environment with access to sunlight;
  - Contribute to the district's urban variety, adding visual interest at the pedestrian level and from vantage points outside of the district;
  - Create an urban form that is visually permeable; and
  - Continue to maintain all protected public views and view corridors, on the east and west side of the Willamette River, as identified in adopted plans.
2. Additional building height may be requested as a modification through design review as follows:
  - a. The site must be in the height opportunity area shown on Map 510-16;
  - b. The maximum height that may be approved is 325 feet, including projections, roof top mechanical equipment, radio and television antennas, and any other structures that project above the roof of the building;
  - c. One of the following must be met:
    - (1) The average floor-to-floor height in the building is at least 16 feet and floors of the building above 75 feet are 25,000 square feet in area or less; or
    - (2) Floors of the building above 75 feet are 10,000 square feet in area or less;
    - (3) Adjustments to the standards of this subparagraph are prohibited; however, modifications through design review may be requested as follows:
      - A modification to the 25,000 square foot limitation in G.2.c(1) may be requested;
      - A modification to the 10,000 square foot limitation in G.2.c(2) may be requested if the north-south dimension of the building above 75 feet is 112 feet or less. The north-south dimension is measured as specified in 33.510.252.A.3.e. However, modifications to allow floors larger than 12,500 square feet are prohibited;

- d. The portion of the proposed building that is greater than 250 feet in height must be at least 200 feet from the portion of any other existing or approved building that is greater than 250 feet in height, and that used the provisions of this subsection to achieve additional height. Approved buildings are those with an unexpired design review approval. Adjustments to this standard are prohibited; however, modifications to the 200 foot minimum distance requirement may be requested through design review. In reviewing such a request, the review body will consider the results of the *South Waterfront Public Views and Visual Permeability Assessment* for the proposal;
- e. Where a block is less than 80,000 square feet in area, only one building on the block may use the provisions of this subsection. Where a block is at least 80,000 square feet in area but less than 120,000, only two buildings on the block may use the provisions of this subsection. Where a block is at least 120,000, only three buildings on the block may use the provisions of this subsection.

Applications for land divisions of sites that include a building that has used the provisions of this subsection must show how the land division will not move the site out of conformance with this subsection.

- f. The applicant must contribute \$9.20 to the South Waterfront Public Open Space Fund (SWPOSF) for every square foot of floor area over 250 feet in height. The contribution to the SWPOSF must be made before the building permit is issued for the building. Contributions to the fund used to earn bonus floor area under 33.510.210.C.18, Open space fund bonus option, do not count towards meeting this requirement. Adjustments to this standard are prohibited.
- g. The applicant must request advice from the Design Commission as described in 33.730.050.F. The design advice request must be submitted before the request for a pre-application conference. In providing their advice to the applicant, the Design Commission will consider protection and enhancement of public views from both the east and west, as identified in adopted plans; development of a diverse, varied and visually interesting skyline; and creation of a district that is visually permeable. These factors will be considered at different scales, including the site of the proposal, the site and adjacent blocks, and the subdistrict as a whole.

#### **H. North Pearl Subarea height opportunity area.**

1. Purpose. In the North Pearl Subarea, additional building height may be appropriate to support the goals of the North Pearl Plan. The regulations of this subsection:
  - Promote the use of development bonus and transfer provisions to create and support a range of community amenities to serve the diversity of residents and employees in the Central City;
  - Create a skyline and urban form that is visually permeable by providing visual access to locations within and beyond the subarea;
  - Encourage the development of taller buildings that may accommodate a range and diversity of land uses;
  - Result in a dynamic and varied skyline and urban form that contributes to the health, vibrancy, and livability of urban living;

- c. Where the development site is larger than 10,000 square feet and up to 15,000 square feet, the FAR is increased by 0.5.
15. Affordable Housing Replacement Fund bonus option. Contributors to the Affordable Housing Replacement Fund (AHRF) receive floor area bonuses. For each \$18.50 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. Below-grade parking bonus option. In the West End subarea, where parking on the site is located below grade, a bonus of two additional square feet of floor area is earned for each square foot of below-grade parking. To qualify for this bonus, the following requirements must be met:
    - a. Except as allowed by Subparagraph C.15.c., all parking on the site must be below grade. This includes both commercial and accessory parking;
    - b. Where accessory parking is off-site, it must be below grade; and
    - c. One parking space per 5,000 square feet of site area may be on the ground floor of the building if both the parking spaces and any vehicles parked there are completely screened from all adjacent rights-of-way. These spaces do not qualify for bonus floor area.
  17. Open Space bonus option. In the South Waterfront Subdistrict, 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. Open space that will earn bonus floor area under 33.510.210.C.9, South Waterfront Willamette River Greenway bonus option, may not be used to earn additional floor area under this bonus. To qualify for this bonus, the following requirements must be met:
    - a. Size and dimensions. The open space must include at least 2,500 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; 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;
  - 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; and
  - e. The bonus floor area may be used only in the South Waterfront Subdistrict.
18. Open space fund bonus option. Contributors to the South Waterfront Public Open Space Fund (SWPOSF) receive floor area bonuses. For each \$18.50 contributed to the SWPOSF, one square foot of bonus floor area is earned. To qualify for this bonus, the following requirements must be met:
- a. The applicant must submit with the application for land use review a letter from Portland Parks and Recreation documenting the amount that has been contributed to the SWPOSF;
  - b. The bonus floor area may be used only in the South Waterfront Subdistrict; and
  - c. The SWPOSF is to be collected and administered by Portland Parks and Recreation. The funds collected may be used only within the South Waterfront Subdistrict of the Central City plan district, either for acquisition, improvement, or maintenance of public open space or for bank restoration or improvement projects along the Willamette River.
19. Efficient family size unit housing bonus option. In the North Pearl Subarea shown on Map 510-1, new development that is designed for family housing receives bonus floor area. Adjustments and modifications to these standards are prohibited.
- a. Number of units. The proposal must include at least 20 efficient family size units.
  - b. Size and bonus. The bonus earned varies with the size of the unit, as follows:
    - (1) Units with three bedrooms that have no more than 1,200 square feet of floor area earn an additional 3 square feet of floor area for each square foot of area in the unit.
    - (2) Units with two bedrooms that have no more than 1,000 square feet of floor area earn an additional 2 square feet of floor area for each square foot of area in the unit.
  - c. Outdoor play area. The proposal must include an outdoor play area that is at least 1,400 square feet in area and is designed so that a 25-foot x 25-foot square will fit entirely within it. No portion of this area may be shared with any vehicle area. Outdoor play areas may be sited within plazas, courtyards, rooftop gardens, or similar open area features and may contain play equipment, sports courts, hard or soft surface areas, or other features that accommodate or facilitate play.

- Trees and shrubs must be planted in clusters of at least 3.
- (2) Planting requirements without trees:
- At least 8 species of groundcover plants must be used; and
  - Fifty percent of any seed mix used must be grass and 50 percent flowers when measured by area covered.
- d. If cover and species requirements are not met within one year from issuance of any occupancy permit or final inspection, replanting is required and the requirements of this section must be met within one year of replanting.
- e. Plants used for revegetation may also count towards other landscaping requirements.
3. Herbicides used for removal of vegetation must be listed by the U.S. Environmental Protection Agency as appropriate for application in aquatic areas and use must be in accordance with directions for application.
4. Areas cleared of vegetation must be reseeded or replanted within one year of vegetation removal.
5. All development or activities which disturb ground or remove vegetation must conform to Chapter 24.70, Clearing, Grading, and Erosion Control, and to the *Erosion Control Technical Guidance Handbook*. In addition, the following standards must be met:
- a. Wet weather. All development between November 1 and April 30 of any year, which disturbs more than 500 square feet of ground, requires wet weather measures described in the *Erosion Control Technical Guidance Handbook*. These measures must be met until issuance of any occupancy permit or final inspection;
  - b. Maintenance. Erosion control measures must be maintained until 90 percent of all disturbed ground is covered by vegetation;
  - c. Self inspection. Areas where the ground is disturbed must be inspected by or under the direction of the owner at least once every 7 calendar days, within 24 hours of any storm event greater than one-half inch of rain in any 24-hour period, or at any time when water runoff occurs. These measures must be met until issuance of any occupancy permit or final inspection; and
  - d. Record keeping. Records must be kept of all inspections. Instances of measurable erosion must be recorded with a brief explanation of corrective measures taken. This record must be available to the City and retained until final inspection.
6. Stormwater discharge must pass through water quality facilities which conform to Chapter 17.38, Drainage and Water Quality.
7. Stormwater discharge into a mitigation area is not allowed unless it is part of the mitigation plan.

8. Except for stormwater discharges, industrial or sanitary discharges, including wastewater and overflow, into the slough system is not allowed.
9. Construction and ongoing maintenance for overhead or underground utilities, including sanitary sewer connections to individual properties and stormwater outfalls, cannot affect more than a 25-foot-wide corridor across the resource. These activities cannot result in the killing or removal of trees over 6 inches in diameter, measured 4-1/2 feet above the ground.
10. Road improvements across the slough must be by bridge unless a water control structure is a necessary part of the design.
11. Water quality monitoring facilities may be up to 100 square feet in area.
12. In Employment and Industrial zones, new lots completely within the environmental protection zone are exempt from minimum lot size and shape requirements of Chapter 33.614 and chapter 33.615. All other new lots must meet the minimum size and shape requirements of Chapter 33.614 and Chapter 33.615, outside of land zoned environmental protection.
13. Location and design of any trail or recreation facilities must conform to standards of the Columbia South Shore plan district. All new trail easements must be in the outer 25 feet of the environmental zone, except as necessary to connect to existing easements or trails on adjacent sites.
14. Construction of the trail or recreation facilities cannot result in the removal of trees more than 6 inches in diameter, measured 4-1/2 feet above the ground, and are not required to be located within wetlands subject to state or federal regulations.
15. Staging areas for slough and drainageway maintenance may have up to 5,000 square feet of gravel, paving, structures, or other ground-disturbing uses or activities exclusive of an access road. Access roads within an environmental zone may be up to 300 feet in length.
16. Water levels in the slough will be maintained at an elevation of between 5 and 10 feet mean sea level in order to preserve wetlands that are protected by an Environmental zone. An exception to this standard is for maintenance or emergency situations when a lower level is necessary.
17. Nonconforming situations
  - a. Required improvements.
    - (1) Paved areas in Environmental Overlay Zones. When the value of proposed alterations on the site, as determined by BDS, is more than \$131,150, paved areas that do not meet plan district regulations must be removed from environmental zoned areas. The value of the alterations is based on the entire project, not individual building permits.
    - (2) Unpaved exterior areas. When development is proposed or alterations are made to a site, unpaved exterior improvements must comply fully with development standards.

**CHAPTER 33.560  
NORTH CULLY PLAN DISTRICT**

(Added by Ord. No. 165190, effective 4/10/92. Amended by: Ord. No. 167650, effective 6/10/94;  
Ord. No. 181357, effective 11/9/07.)

Sections:

- 33.560.010 Purpose
  - 33.560.020 Where the Regulations Apply
  - 33.560.030 Procedures
  - 33.560.040 Submittal Requirements
  - 33.560.050 Approval Criteria
  - 33.560.060 Amendments to an Approved Development Plan
- Map 560-1 North Cully Plan District

**33.560.010 Purpose**

The regulations of the North Cully Plan District are intended to ensure compatible redevelopment of certain large parcels as set forth in the Cully Neighborhood Plan. These parcels are developed with gravel pits, a number of smaller, older single family dwellings and trailer parks with redevelopment probable in the next two decades. Properties should be developed in a cohesive pattern in order to encourage compatible development with the neighborhood to the south. North Cully Development review is a master plan review which will ensure compatibility and cohesive design.

**33.560.020 Where the Regulations Apply**

The regulations for North Cully Development review apply to development within the North Cully Plan District. The boundaries are shown on Map 560-1 at the end of this chapter and on the official zoning map. New construction, building additions and land divisions within the Plan District are regulated by this chapter. Sites under 5 acres and improvements with a value less than \$179,650 and modifications to existing single family dwellings and trailer park facilities are exempt from review.

**33.560.030 Procedures**

Requests for a North Cully Development review are processed through a Type III procedure.

**33.560.040 Submittal Requirements**

All North Cully Development review applications must comply with 33.730.060, Application Requirements, and the following:

- A. General statement.** Applications must include a narrative which describes the development plans for the duration of the development plan and an explanation of how the proposed plan meets the Cully Neighborhood Plan.
- B. Boundaries of the use.** All application submittals must show the current boundaries and possible future boundaries of the development for the duration of the development plan. The boundaries must show all the adjacent properties owned or under the control of the applicant.

- C. Uses and functions.** All applications must include a description of present and proposed uses.
- D. Site plan.** All applications must include a site plan, showing the existing and proposed temporary and permanent buildings and other structures, the pedestrian and vehicular circulation system, parking areas, open spaces, and other improvements required by the zoning regulations. All development plans must show the paved areas, landscaping, physical constraints including soil or geologic instability or anomalies. Conceptual plans for possible future uses will be included when possible, but will require an amendment to the approved plan if the location of facilities is changed or not included in the approval decision.
- E. Urban services.** All application submittals must show the location and size of urban services. Urban services include but are not limited to: water, stormwater, sewers, streets, fire hydrants and private utilities. Applicants should work with the affected service agency to resolve service concerns prior to application. Utilities should be underground wherever possible.
- F. Land divisions.** All application submittals must show how land divisions will not fragment the site or cause piecemeal development. A separate land division application will be required. Land divisions will not be approved prior to the North Cully Development review. A concurrent land division application is encouraged.
- G. Other reviews.** If other reviews are required, the North Cully Development review master plan must include information on any other discretionary reviews. If requested as part of the plan approval, all applicable criteria must be met.
- H. Area south of NE Killingsworth.** Excavation or mining and filling of sites located south of NE Killingsworth will terminate by December 2002. If excavation or filling activities are proposed to continue past this date, the site will be subject to North Cully Development review.

### **33.560.050 Approval Criteria**

All North Cully Development review applications must meet the following approval criteria.

- A.** The applicable goals and objectives of the adopted neighborhood plan will be met.
- B.** The boundaries of the North Cully Development review application coincide with one of the subareas as shown in the adopted Cully Neighborhood Plan or adequate rationale is provided for any deviation.
- C.** The uses proposed are allowed in the base zone and overlay zones.
- D.** Public services for water supply, streets, police and fire protection are capable of serving the proposed development and sanitary waste disposal, stormwater disposal systems, streets and traffic circulation meet the requirements of Title 17.
- E.** The development plan shows a completely developed site which is compatible with the surrounding area. In a phased development, the code requirements will be met at each phase in development.
- F.** Any land division proposed as part of the application must facilitate the goals and objectives of the adopted Cully Neighborhood Plan and must not cause piecemeal or fragmented development.

**CHAPTER 33.825  
DESIGN REVIEW**

(Amended by: Ord. No. 169987, effective 7/1/96; Ord. No. 171219, effective 7/1/97; Ord. No. 171589, effective 11/1/97; Ord. No. 174325, effective 5/5/00; Ord. No. 175204, effective 3/1/01; Ord. No. 175837, effective 9/7/01; Ord. Nos. 175965 and 176333, effective 7/1/02; Ord. No. 176469, effective 7/1/02; Ord. 176742, effective 7/31/02; Ord. No. 177701, effective 8/30/03; Ord. No. 177920, effective 11/8/03; Ord. No. 178423, effective 6/18/04; Ord. No. 178452, effective 7/10/04; Ord. No. 178509, effective 7/16/04; Ord. No. 179092, effective 4/1/05; Ord. No. 181357, effective 11/9/07; Ord. No. 182072, effective 8/22/08.)

Sections:

- 33.825.010 Purpose
- 33.825.025 Review Procedures
- 33.825.035 Factors Reviewed During Design Review
- 33.825.040 Modifications That Will Better Meet Design Review Requirements
- 33.825.055 Approval Criteria
- 33.825.065 Design Guidelines
- 33.825.075 Relationship to Other Regulations
- Map 825-1 Area Where Models of Proposals Are Required
- Map 825-2 Albina Community Plan Area
- Map 825-3 Outer Southeast Community Plan Area
- Map 825-4 Southwest Community Plan Area

**33.825.010 Purpose**

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area and to promote quality development near transit facilities. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

**33.825.025 Review Procedures**

This section lists procedures for design review for proposals in design overlay zones. These procedures also apply where design review is required by the regulations of a plan district or overlay zone, or as a condition of approval of a quasi-judicial decision. Procedures for design review vary with the type of proposal being reviewed and the design district in which the proposal's site is located.

The procedures stated in this section supersede procedural and threshold statements in the City's adopted design guidelines documents.

- A. Procedures for design review.** Procedures for design review vary with the type of proposal being reviewed and the design district in which the site is located. Design review in some design districts requires an additional procedural step, the Neighborhood Contact requirement, as set out in Section 33.700.025, Neighborhood Contact. Some proposals in the Central City plan district must provide a model of the approved proposal, as set out in Paragraph A.5, below.

1. Type III. The following proposals are processed through a Type III procedure:
  - a. Proposals in the Downtown Design District that are over 1,000 square feet in area, or require an exterior alteration and have a value over \$368,300;

- b. Proposals in the River District Design District that are over 1,000 square feet in area, are in a CX or OS zone, and have a value over \$368,300;
  - c. Proposals in the Terwilliger Parkway Design District that will be visible from Terwilliger Boulevard, other than single-dwelling development;
  - d. Proposals in the a, Alternative Design Density Overlay Zone, that are using the provisions of Section 33.405.050, Bonus Density for Design Review; or
  - e. Proposals in the following design districts with a value over \$1,841,650:
    - (1) Lloyd District;
    - (2) Central Eastside District;
    - (3) Goose Hollow District;
    - (4) River District;
    - (5) South Waterfront District;
    - (6) South Auditorium Plan District;
    - (7) Areas subject to design review within the Central City plan district, except Lower Albina;
    - (8) Macadam Design District; and
    - (9) Design overlay zones not included in a design district that has its own design guidelines, except for proposals listed in Paragraph A.2, below.
  - f. Proposals in the Gateway Design District that have a value over \$1,841,650, or will be included in a Gateway master plan.
2. Type II. The following proposals are processed through a Type II procedure:
- a. Proposals in the Downtown Design District that are up to 1,000 square feet in area, or require an exterior alteration with a value of \$368,300 or less;
  - b. Proposals in the River District Design District that are up to 1,000 square feet in area and are in a CX or OS zone, and have a value of \$368,300 or less;
  - c. Proposals in the design districts identified in Subparagraph 1.e that have a value of \$1,841,650 or less;
  - d. Proposals for single-dwelling developments in the Terwilliger Parkway Design District that will be visible from Terwilliger Boulevard;
  - e. Proposals in the Southwest Community Plan area's design overlay zones, except for the following proposals:
    - (1) Proposals in the Macadam Design District;

- a. Proposals for alterations of a landmark-designated interior public space if the value of the alteration is more than \$368,300 are processed through a Type III procedure.
  - b. Proposals for alterations of a landmark-designated interior public space if the value of the alteration is \$368,300 or less are processed through a Type II procedure;
  - c. Proposals for the installation of mechanical equipment on the exterior of a building are processed through a Type I procedure;
  - d. Proposals for the installation of new or replacement awnings are processed through a Type I procedure; and
  - e. The following proposals in C, E, I, and RX zones are processed through a Type I procedure:
    - (1) Signs less than 150 square feet in area; and
    - (2) Alteration of a facade when 500 square feet or less of the structure's facade is being altered;
  - f. Proposals for alterations to its exterior if the value of the alteration is more than \$368,300 are processed through a Type III procedure;
  - g. Proposals for alterations to its exterior if the value of the alteration is \$368,300 or less are processed through a Type II procedure.
3. For Conservation Landmarks, including those in Historic Districts or Conservation Districts:
    - a. Except as specified in B.3.b, below, proposals for alterations to its exterior are processed through a Type II procedure; and
    - b. The following proposals in C, E, I, and RX zones are processed through a Type I procedure:
      - (1) Signs less than 150 square feet in area; and
      - (2) Alteration of a facade when 500 square feet or less of the structure's facade is being altered.
  4. For Historic Districts.
    - a. Except as specified in B.4.d, below, proposals for the construction of a new structure within the district if the value of the construction is more than \$368,300 are processed through a Type III procedure;
    - b. Proposals for the construction of a new structure within the district if the value of the construction is \$368,300 or less are processed through a Type II procedure;
    - c. Proposals for alterations to the exterior of a structure that is not a Historic Landmark if the value of the construction is more than \$368,300 are processed through a Type III procedure;

- d. Proposals for alterations to the exterior of a structure that is not a Historic Landmark if the value of the construction is \$368,300 or less are processed through a Type II procedure;
  - e. The following proposals in C, E, I, and RX zones are processed through a Type I procedure:
    - (1) Signs less than 150 square feet in area; and
    - (2) Alteration of a facade when 500 square feet or less of the structure's facade is being altered.
5. For Conservation Districts.
- a. Except as specified in B.5.c, below, proposals for the construction of a new structure within the district are processed through a Type II procedure;
  - b. Proposals for alterations to the exterior of a structure that is not a Historic Landmark are processed through a Type II procedure;
  - c. The following proposals in C, E, I, and RX zones are processed through a Type I procedure:
    - (1) Signs less than 150 square feet in area; and
    - (2) Alteration of a facade when 500 square feet or less of the structure's facade is being altered.

**C. Phased proposals.**

- 1. For phased proposals. Applicants may submit design plans for a phase proposal, provided the application includes adequate information to allow review of all phases of the proposal, including anticipated timelines.
- 2. Benefits of a phased design plan. Development in conformance with an approved phased design plan does not have to go through a separate historic design review for each phase.
- 3. Procedure. A phased design plan application is reviewed using the same procedure and with the same guidelines as a historic design review for a specific development.

**D. Models of proposals in the Central City plan district.** For proposals located in the area of the Central City plan district shown on Map 825-1, a three dimensional cardboard model of a proposal located in a Historic District or Conservation District is required with an application for historic design review. This requirement applies only to new developments or changes in the bulk of existing buildings. The scale of the model must be 1 inch equals 50 feet. Before a building permit is issued, a three dimensional wooden model of the proposal as approved must be submitted to fit into the City's downtown model. This model must be at a scale of 1 inch equals 50 feet. The model requirements will be waived if the application does not involve a change in the bulk of buildings on a site for which the City possesses an accurate wooden model.