

Code Maintenance 2002
Amendments to
Title 33 Planning and Zoning
&
Title 32 Signs and Related
Regulations

City Council Adopted Report
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Amendments Effective July 1, 2002
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Section 1

Project Summary and Recommendation

Code Maintenance 2002 is a package of approximately 85 amendments to the Portland Zoning Code (Title 33) that have been selected by the Office of Planning and Development Review in consultation with the Bureau of Planning. The amendments were selected from a database of requests to amend the Zoning Code that have been submitted over the past several years by Office of Planning and Development Review and Bureau of Planning staff, staff from other city agencies, and customers in the City's Development Services Center.

Code Maintenance 2002 also contains approximately 15 amendments to Title 32, Signs and Related Regulations. The Sign Code amendments were selected from a list of suggestions and ideas resulting from the first year of enforcement of the new Sign Code adopted in December of 2000. As with amendments to Title 33, the amendments to Title 32 do not change existing policy.

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

Planning Commission Recommendations. On May 15, 2002, the City Council took the following actions:

- Adopted this report;
- Amended Title 33 (Planning and Zoning) and Title 32 (Signs and Related Regulations), as identified in this report; and
- Adopted the commentary on Code Maintenance 2002, included in this report, as legislative intent and further findings.

Section II

Background

Why undertake Code Maintenance 2002?

Code Maintenance 2002 is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. It is intended to correct and clarify the Zoning Code in order to improve its usability, without changing basic policy or intent. This adopted amendments package will be the most recent of the 14 major packages adopted by the City Council since the current Zoning Code was adopted in 1990.

Code Maintenance 2002 is also intended to address corrections and clarifications of the revised Sign Code adopted in December 2000. The amendments, for the most part, improve the usability of the Sign Code provisions and clarify policy intent. Chapters 32.24 through 32.36 of the Sign Code are considered to be Land Use regulations and subject to the amendment process of the Zoning Code. Amendments to other chapters are presented to provide the readers with a comprehensive package of adopted changes.

What is the source of the amendments contained in Code Maintenance 2002?

The adopted amendments were chosen from a database that contains amendment requests received from customers of the City, development review and policy staff, as well as the City Attorney's office and other service agency staff. The adopted amendments to Title 32, Signs and Related Regulations, are a result of suggestions and ideas from the public and staff that have developed during the first year of implementation.

How were the amendments contained in Code Maintenance 2002 selected?

A joint advisory team of planners from the Office of Planning and Development Review Land Use Review Division and the Bureau of Planning collaborated in developing the list of amendments for this package. Approximately 85 amendment requests to Title 33, Planning and Zoning, were selected from the database. Those that have been selected meet the following objectives:

- The amendment request is consistent with the objectives of the Blueprint 2000 process, which call for regulatory reform to provide a predictable, seamless delivery of the City development review functions;

- The amendment request improves the clarity and usability of the Zoning Code without changing the intent behind the specific regulation in question, and clarifies wording that may be open to interpretation;
- The amendment request addresses ongoing problems with administration of the existing Code language, and may result in a minor policy change with low significance; and
- The amendment request will help implement the City's Comprehensive Plan and be consistent with existing Policies and Objectives of that plan.

The amendments have been placed into the following three general categories:

- **Technical:** This category identifies inconsistent or ambiguous wording in the Code, typographical errors, or incorrect placement of lines on maps in the Code. Eighteen amendments are in this category.
- **Clarification:** These amendments are intended to clarify existing language so as to facilitate daily use and improve readability of the Code. This category contains 53 of the adopted amendments.
- **Minor Policy:** The 13 amendments in this category are intended to address ongoing problems with administration of the Code, which require immediate attention due to the importance of the issue, or the frequency the issue arises. The significance of these policy changes is considered low, while the benefits to the daily administration of the Code are considered high.

Most of the amendments for the Sign Code, proposed by the public and staff, have been included in this report. The selection criteria for the Sign Code amendments were similar to those for the Zoning Code. Amendments not included in this package were viewed as not improving the overall usability of the Sign Code. Of the amendments included, five are considered Technical; six are Clarification; and three include Minor Policy issues.

A table that summarizes the issues related to the amendments in Code Maintenance 2002, and identifies in which category each amendment is located, is included in the appendix of this report.

Section III

Summary of Minor Policy Amendments

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

Summary of Minor Policy Amendments to Title 33, Planning and Zoning

Page	Code Section	Amendment Summary	Policy Implication
22	33.110.245 Institutional Development Standards	Requires institutions in Single-Dwelling zones to meet the same standards for pedestrian circulation and screening of garbage collection areas that apply to institutions in Multi-Dwelling zones.	Institutions are typically subject to the standards for pedestrian circulation and garbage collection area screening that apply to uses allowed by right in the base zone. However, because such standards do not exist for uses allowed by right in Single-Dwelling zones, no such standards apply to institutions. The amendment establishes a minimum standard that is consistent with that required of institutions in Multi-Dwelling zones.
58	33.203.050 Accessory Home Occupations	Addresses the continuing problems with implementation and enforcement of the accessory home occupation regulations.	The use of subjective language in the existing development standards has made it difficult for OPDR to implement and enforce the standards. The amendments establish more objective standards that remain consistent with the original intent of the regulations.

Page	Code Section	Amendment Summary	Policy Implication
68	33.258.050.C.2 Expansion of Nonconforming Residential Uses	Allows by right limited expansion of nonconforming residential uses in the Industrial zones.	Existing regulations require expansions of any size to be approved through a Nonconforming Situation Review. The approval criteria for this review are generally intended to limit the impact of nonresidential expansions on surrounding allowed uses, and are not appropriate when applied to the expansion of residential uses. Limited expansions to nonconforming residential uses in Industrial zones will not result in impacts that adversely impact surrounding allowed uses.
80	33.266.130.C.1 Location of Vehicle Areas in CM and CS Zones	Existing standards <i>prohibit</i> the location of vehicle areas between a building and any street in the CS and CM zones. The amendment replaces the term <i>prohibited</i> with the term <i>not allowed</i> when the vehicle area already exists.	By replacing the term <i>prohibited</i> with the term <i>not allowed</i> , adjustments to the standard would be allowed in limited situations. On some sites where the vehicle area already exists, any expansion of an existing building results in the vehicle area being located between the addition and the street. The amendment allows applicants to submit through an adjustment review designs that continue to meet the intent of the standard.
116	33.510.210.E Central City Plan District: Approval Criteria for Residential Bonus Height	Deletes the approval criterion that requires the applicant to demonstrate the additional height is necessary to achieve the maximum amount of floor area devoted to housing. This approval criterion is replaced with one that requires the applicant to demonstrate the increased height will result in a project that better meets the applicable design guidelines.	The origin and intent of this approval criterion is unknown. As it reads, the bonus height can only be approved if 100% of the building's floor area is residential. This prevents use of the bonus for development that includes any floor area devoted to such uses as ground floor retail or parking.

Page	Code Section	Amendment Summary	Policy Implication
114	33.510.210.E Central City Plan District: Use of Residential Height Bonus and General Height Bonus	Allows the residential height bonus to be used in combination with the general height bonus as long as the resulting bonus height does not exceed 75 feet.	The purpose for not allowing both the general and residential height bonus provisions to be used on a project is to prevent an additional 120' in bonus height from being built (i.e., 45' general height bonus and 75' residential height bonus). However, this also prevents a project from achieving a 45' general height bonus, and a 30' residential height bonus.
124	33.515.280.C Columbia South Shore Plan District: Pre-Application Conference Requirements	Removes the pre-application conference requirement for Type II environmental reviews	Pre-application conferences are typically required only for Type III reviews. In 1995, the pre-application conference requirement for Type II environmental reviews was removed elsewhere in the Code as the benefits derived by the conference did not outweigh the cost and time of the conference.
132	33.730.020.I.2 33.730.030.H.2 Notice of an Appeal Hearing	Allows OPDR five <i>working</i> days to send a notice of appeal on a land use decision.	Existing language allows OPDR only five days (including weekends and holidays) to send the appeal, which is not sufficient particularly when an appeal is submitted on a Friday afternoon.
134	33.730.050.B 33.730.050.D Pre-Application Conference	Allows OPDR to schedule a pre-application conference up to 42 days from receipt of request (an increase from the current 14 days), and to mail the pre-application conference summary notes up to 21 days following the conference (increased from seven days).	This reflects current practice, and acknowledges the number and complexity of conferences now held, as well as the amount of required research.
176	33.920.250.C.2 33.920.500.C Use Categories: Kennels	Includes kennels that are limited to the boarding of cats and dogs in the Personal Service-Oriented subcategory of the Retail Sales And Service use category.	All kennels are currently included in the Agriculture use category, and are not allowed in the Commercial zones. However, kennels limited to the boarding of dogs and cats, with no breeding, are more typically associated with veterinarian offices, which are typically located in the Commercial zones.

Page	Code Section	Amendment Summary	Policy Implication
178	33.920.340.D.1 Waste-Related Uses	Clarifies when disposal of fill material is exempt from the Waste-Related use category.	Existing regulations exempt nondecomposable fill from this use category. However, fill may be nondecomposable yet still contain material that is classified by federal, state and local regulations to be a waste product. The amendment replaces the term <i>nondecomposable material</i> with the term <i>clean fill</i> , as defined in OAR.

**Summary of Minor Policy Amendments
to
Title 32, Signs and Related Regulations**

Page	Code Section	Amendment Summary	Policy Implication
190	32.22.020 32.24.010B 32.32.030D.1 Backed Signs; Changing Image Features	Clarifies the relationship between the measurement of backed signs and the limit per site of changing image features. The amendment prohibits use of the back provision.	The existing code is not clear regarding measurement of backed signs and changing image features. The amendments clarify that the backed sign provisions can not be used in calculating changing image feature area. This is consistent with the policy discussions during Signs 2000.
194	32.32.030.G Number of Portable Signs	For parking lot/structure uses, the amendment allows the use of vehicle entrances instead of building entrances to determine number of portable signs	The existing code determines the number of allowed portable signs (A-boards) based on number of building entrances. Where there are no public entrances, or the lot is dominated by a parking use, allowance for signs was unclear.
196	32.32.030.K.2 Illumination of temporary signs	The amendment allows indirect lighting to shine on locations where temporary signs might be located.	The existing code prohibits all lighting on temporary signs. Since temporary signs often do not need a permit for light that shines on a sign from another source, (indirect lighting is established by a simple and separate electrical permit), the prohibition was impractical.

Section IV

Project Schedule

February 12, 2002: On February 12, 2002, the Office of Planning and Development Review published *Code Maintenance 2002: Proposed Report and Recommendation*, which contained approximately 85 amendments to the Zoning Code (Title 33), and approximately 15 amendments to Signs and Related Regulations (Title 32). Copies of this report were made available to the public, and copies were delivered to each neighborhood coalition office.

February 27, 2002: An informational open house was held to allow the public to review this document and ask questions.

March 12, 2002: The Code Maintenance 2002 project was presented to the Planning Commission. Public testimony on the project was heard

April 9, 2002: The Planning Commission held a work session to further discuss the proposed amendments and consider public testimony. The Commission voted to forward a favorable recommendation on the amendments included in this report.

May 8, 2002 City Council considered the Planning Commission's recommendation and received public testimony on the amendments included in this report.

May 15, 2002 City Council adopted the Planning Commission's recommendation on the amendments included in this report.

Please contact Douglas Hardy, Project Manager for Code Maintenance 2002, at (503) 823-7816 (or via e-mail at dhardy@ci.portland.or.us) if you have questions regarding this document, or if you would like to receive copies of this report.

Section V

Adopted Code Amendments

How to read this section

This section is organized numerically by Code chapter and includes the adopted amendments to the chapters identified. Even-numbered pages contain commentary on the amendments. Odd-numbered pages show Code language with the adopted changes. Language added to the Codes is underlined. Language to be deleted is shown with a ~~strike through~~.

[Note: Some of the existing Code language included in this section reflects amended language adopted by City Council on September 26, 2001, as part of the Land Division Rewrite Project.]

Title 33 Planning and Zoning

**CHAPTER 33.10
LEGAL FRAMEWORK AND RELATIONSHIPS**

33.10.050 Official Zoning Maps

- A. Content of Official Zoning Maps.** This amendment modifies who maintains the Official Zoning Maps. Currently, the City Auditor is identified as having the responsibility of maintaining the Official Zoning Maps, even though the Auditor does not directly make changes to the maps, and does not distribute the maps to the public. (The Bureau of Planning is responsible for reflecting adopted zoning changes on the maps, and Printing and Distribution distributes the maps to the public on request.) As the Bureau of Planning is the chief bureau responsible for ensuring that the Official Zoning Maps are current, the amendment proposes that the Bureau of Planning maintain the maps.

**CHAPTER 33.10
LEGAL FRAMEWORK AND RELATIONSHIPS**

33.10.050 Official Zoning Maps

- A. Content of Official Zoning Maps.** The boundaries of the base zones, overlay zones, and plan districts are shown on the Official Zoning Maps of the City of Portland. The maps also show the location of historical landmarks, special street setbacks, and existing and planned public recreational trails. The Official Zoning Maps are a part of the zoning code, but are published separately. Maps that delineate areas subject to additional zoning regulations may be included in the zoning code, attached to the adopting ordinance, or adopted by reference. The ~~City Auditor~~ Bureau of Planning maintains the Official Zoning Maps.

CHAPTER 33.110
SINGLE-DWELLING ZONES

33.110.220 Setbacks

D. Exceptions to the required setbacks.

3. Environmental zone. Existing language allows the front building setback to be reduced to zero on sites containing an environmental zone. It is not clear how this regulation is to be applied, particularly given the subjective statement that the reduction is allowed if it "will reduce the amount of development in the environmental zone or avoid development in the environmental zone entirely."

As written, if development with a large footprint is proposed on a site with environmental zoning, the front setback will likely have to be reduced in order to keep the footprint out of the overlay zone. However, an applicant who specifically proposes development with a small footprint on the same site so as to avoid the environmental overlay would not be able to take advantage of the reduced front setback. As such, applying the regulations as written treats development unequally, and essentially penalizes development that may be more sensitive to the environmental resources on the site.

A principal intent of this setback reduction was to have development placed as far from the environmental overlay as possible so as to better protect the resources within the overlay. The amendments clarify this intent by deleting the subjective statement about allowing the setback reduction only if it reduces, or prevents, development in the environmental overlay zone. This also ensures that all development is treated equally.

**CHAPTER 33.110
SINGLE-DWELLING ZONES**

33.110.220 Setbacks

D. Exceptions to the required setbacks.

1-2. [No change]

3. Environmental zone. The front building setback may be reduced to zero ~~on~~ where any portion of the sites containing is in an environmental overlay zones. ~~if the reduction will reduce the amount of development in the environmental zone or avoid development in the environmental zone entirely.~~

5-6. [No change]

33.110.232 Street-Facing Facades in R10 through R2.5 Zones

- B. Where this standard applies.** Existing language states that for additions and alterations to existing development, the 15 percent window requirement on street-facing facades applies only to the addition or alteration. This wording requires that the addition or alteration have a minimum of 15 percent window area even if the remainder of the façade has, and will continue to have, at least 15 percent window area with the addition or alteration. As the intent of the standard is to have at minimum 15 percent of the *entire* street-facing façade in window area, the amendment clarifies that this standard may be applied either to the portion being altered or added, or to the entire street-facing facade.
- C. The standard.** Existing regulations need to be clearer about what qualifies as a window. The intent of this standard, as described in 33.110.232.A (Purpose), is to ensure a visual connection between the living area of the residence and the street. False window panels applied to the façade of a house, or glass block do not meet the purpose of this regulation. The amendment essentially reiterates language included in the purpose statement so as to clarify what qualifies as a window feature.

33.110.245 Institutional Development Standards

- C. The standards.** Both the Single- and Multi-Dwelling zones contain code sections that identify development standards that are unique to institutional development. If a particular development standard is not addressed in these sections, the regular development standards of the base zone apply. Development standards dealing with the screening of garbage collection areas and on-site pedestrian circulation systems are not included in the regulations that are specific to institutions. However, because the regular base zone development standards in Multi-Dwelling zones regulate both the screening of garbage collection areas and on-site pedestrian circulation, institutions are subject to these standards. Because the regular base zone standards in Single-Dwelling zones contain no such regulations, the same institution is not held to any screening or pedestrian standard. The amendment applies the same screening and pedestrian standards to institutions in Single-Dwelling zones that exist in Multi-Dwelling zones.

33.110.232 Street-Facing Facades in R10 through R2.5 Zones

- B. Where this standard applies.** The standard of this section applies to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones. Where a proposal is for an alteration or addition to existing development, the applicant may choose to apply the standard applies only either to the portion being altered or added, or to the entire street-facing facade. Development on flag lots or on lots ~~which~~ that slope up or down from the street with an average slope of 20 percent or more are exempt from this standard. In addition, subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.
- C. The standard.** At least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing a street lot line.

33.110.245 Institutional Development Standards

C. The standards.

1-7. [No change]

8. Garbage collection areas. All exterior garbage cans and garbage collection areas must be screened from the street and any adjacent properties. Trash receptacles for pedestrian use are exempt. Screening must comply with at least the L3 or F2 standards of Chapter 33.248, Landscaping and Screening.
9. Pedestrian standards. The on-site pedestrian circulation system must meet the standards of Section 33.120.255, Pedestrian Standards.

33.110.250 Accessory Structures

C. Setbacks.

2. Vertical structures.

- a. Description. This amendment corrects an outdated reference to the sign regulations.

3. Uncovered horizontal structures.

- b. Setback standard.

- (2) Full projection allowed. Prior to March 2000, stairways and wheelchair ramps that led to the front door of a building were allowed to encroach fully into required building setbacks. As the term "front door" is not defined, it was replaced in March 2000 with the defined term, "main entrance." However, because of the way "main entrance" is defined in the Zoning Code, this change inadvertently allows stairways and wheelchair ramps to encroach into any setback. This is exacerbated by the fact that in multi-tenant buildings, there may be several main entrances. The result is to allow an unlimited number of stairways and wheelchair ramps, at heights more than 2.5 feet above grade, to be located in any setback.

The amendment modifies the existing standard by allowing stairways and wheelchair ramps (more than 2.5 feet above grade) that lead to only one entrance on the street-facing façade of the building to encroach fully within the required setback. This returns the standard to what was originally intended.

(Note that this amendment does not affect existing regulations that allow stairs, ramps and other uncovered horizontal structures that are no more than 2.5 feet above grade to encroach fully into required setbacks. Nor does this amendment affect the existing regulation that allows on lots that slope down from the street vehicular and pedestrian bridges that are no more than 2.5 feet above the average sidewalk elevation.)

33.110.250 Accessory Structures

C. Setbacks.

2. Vertical structures.
 - a. Description. Vertical structures are items such as flag poles, trellises and other garden structures, play structures, radio antennas, satellite receiving dishes, and lamp posts. Fences are addressed in 33.110.255 below. Signs regulations are addressed in Chapter 33.286 Title 32, Signs and Related Regulations.
 - b. Setback standard. [No change]
3. Uncovered horizontal structures.
 - a. Description. [No change]
 - b. Setback standard.
 - (1) Minor projection allowed. [No change]
 - (2) Full projection allowed. The following structures are allowed in required building setbacks, as follows:
 - Structures that are no more than 2-1/2 feet above the ground are allowed in all building setbacks;
 - On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation are allowed in all building setbacks; and
 - Stairways and wheelchair ramps that lead to ~~the main one~~ entrance on the street-facing facade of a building are allowed in street setbacks.
4. Covered accessory structures. [No change]

33.110.250 Accessory Structures

- D. Building coverage for detached covered accessory structures.** Although the heading of this section uses the defined term "building coverage," the regulation itself uses the undefined term "footprint." The amendment clarifies this regulation by replacing the term "footprint" with the term "building coverage." The term "building coverage" is consistently used throughout the Zoning Code to regulate the bulk and dominance of structures and structure types on sites.
- E. Special standards for garages.**
2. Existing detached garages. Existing regulations allow garages that are nonconforming due to their location in a required setback to be rebuilt on the existing footprint, and even expanded. It is not clear whether rebuilt garages are required to meet all development standards of the base zone, excepting setbacks. If, for example, someone proposes to rebuild a garage on the existing footprint, but the maximum building coverage requirements are not met, or the location of the garage does not meet current base zone design guidelines, would an adjustment be necessary? It is also not clear what development standards apply when expansions are made to these nonconforming garages.

The amendment clarifies that when solely rebuilding the garage on the footprint of the existing garage, with no expansions, the rebuilt garage does not have to comply with other standards of the base zone, except for building height. This is essentially saying that the rebuilt garage is allowed as it is not bringing any development standard further out of compliance. The restriction on building height is included to ensure that the roof of the rebuilt garage does not exceed the maximum height limit. (The walls of the rebuilt garage are already limited to 10 feet in height.)

Likewise, the amendment clarifies that for additions to nonconforming garages where the combined dimensions of the existing footprint and addition do not exceed 12 feet by 18 feet (i.e., a small, one car garage), the development standards of the chapter, other than building height, do not apply. While the limited addition may increase the nonconforming character of the detached garage, by for example, increasing the overall building coverage on the site, this increase is so slight as to be imperceptible. On the contrary, for additions to garages where the combined footprint of the existing garage and the addition is greater than 12 feet by 18 feet, the standards of the chapter would apply.

3. Side and rear setbacks. This paragraph identifies requirements that must be met in order for detached garages to be allowed in side and rear building setbacks. The amendment adds a fourth condition that clarifies no part of the garage may be used for living space.

33.110.250 Accessory Structures

D. Building coverage for detached covered accessory structures.

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

E. Special standards for garages.

1. [No change]
2. Existing detached garages.
 - a. Rebuilding. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. The garage walls may be up to 10 feet high, excluding the portion of the wall within a gable. The rebuilt garage is not required to comply with other standards of this chapter except for building height.
 - b. Additions. An addition may be made to ~~these types of garages a detached garage that is nonconforming due to its location in a setback as follows:~~
 - (1) if ~~the addition expanded garage~~ complies with the all other standards of this section chapter; or
 - (2) if ~~the combined size of the existing foundation and any the additions is no larger than 12 feet wide by 18 feet deep. The garage walls of the addition may be up to 10 feet high, excluding the portion of the wall within a gable. The expanded garage is not required to comply with other standards of this chapter except for building height.~~
3. Side and rear setbacks. In the R7, R5 and R2.5 zones, detached garages are allowed in the side and rear building setbacks if all of the following are met.
 - a. The garage entrance is 40 feet from a front lot line, and if on a corner lot, 25 feet from a side street lot line;
 - b. The garage has dimensions ~~which~~ that do not exceed 24 feet by 24 feet; ~~and~~
 - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.
- 4-5. [No change]

CHAPTER 33.120
MULTI-DWELLING ZONES

33.120.100 Primary Uses

- B. Limited uses.** In the RH zone, Retail Sales and Service, and Office uses are allowed in limited circumstances. In the RX zone, additional floor area may be occupied by Community Service and Schools uses. Generally, these uses are allowed if they are limited to an identified percentage of the residential building's floor area, or if contained on the ground floor.

"Floor area" is defined in Chapter 33.910 (Definitions) as the total portion of a building, measured from the exterior faces, that is above ground. Floor area does not include the portion of buildings where the elevation of the floor is four feet or more below the lowest elevation of an adjacent right-of-way (i.e., basements).

It is not clear from existing regulations in Chapter 33.120 whether Retail Sales and Service, Office, Community Service and Schools uses, when located in the basement of a building, are allowed above and beyond the floor area limitations, given that the definition of floor area excludes basements.

The purpose for limiting the amount of nonresidential uses in the RH and RX zones is to ensure that these uses do not sacrifice the overall residential neighborhood image and character. These use restrictions, in combination with the floor area restrictions, are also intended to ensure adequacy of public services for the residential neighborhood. If up to 20 percent of a residential building may by right be used for commercial purposes, and an additional 20 percent used for Community Service or Schools, allowing space in the basement to also be used for nonresidential purposes will likely impact the residential character of the neighborhood. (Furthermore, from a technical perspective, because the regulation states that up to 20 percent of the floor area of the development may be used for Retail Sales and Service or Office, and because a basement does not meet the definition of floor area, nonresidential uses may not be located in the basement.)

The amendment replaces the term "floor area" with the term "net building area," which is currently defined in Chapter 33.910 as gross building area, excluding parking areas. ("Gross building area" is generally defined as the total floor area of a building both above and below ground.)

**CHAPTER 33.120
MULTI-DWELLING ZONES**

33.120.100 Primary Uses

B. Limited uses. Uses allowed in these zones subject to limitations are listed in Table 120-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 120-1.

1. Group Living. [No change]
2. Retail Sales And Service and Office uses in the RH zone. This regulation applies to all parts of Table 120-1 that have note [2].
 - a. Purpose. [No change]
 - b. Regulations. Retail Sales And Service and Office uses are allowed as a conditional use if they meet the following regulations.
 - (1) The uses are allowed in new multi-dwelling developments only. Conversion of existing structures is prohibited;
 - (2) The uses are limited to 20 percent of the ~~floor area~~ net building area of the development, ~~exclusive of parking area~~. More than 20 percent of the net building area used for Retail Sales And Service, or Office is prohibited; and
 - (3) The site must be located within 1,000 feet of a light rail station or stop.
- 3-4. [No change]
5. Community Service and Schools in RX. This regulation applies to all parts of Table 120-1 that have note [5]. Community Service and Schools uses are allowed by right up to 20 percent of the ~~floor area exclusive of parking area~~ net building area; or on the ground floor of a multi-dwelling development, whichever is greater. If ~~they~~ Community Service and Schools uses are over 20 percent or proposed for more than the ground floor, and are over 20 percent of the net building area, than a conditional use review is required. Short term housing and mass shelters have additional regulations in Chapter 33.285, Short Term Housing and Mass Shelters.

33.120.210 Lot Size

- C. Ownership of multiple lots.** This amendment clarifies existing language regarding when lots under common ownership in the Multi-Dwelling Zones may be segregated. Specifically, the amendment clarifies that the lot size standards do not have to be met after separation for lots or lots of record, as by definition, lots and lots of record were legal when created. The amendment also clarifies when a primary use must exist on at least one of the lots that is being segregated.

33.120.210 Lot Size

C. Ownership of multiple lots. Where more than one abutting lot or lot of record is in the same ownership, the ownership may be separated as follows:

1. If all requirements of this Title will be met after the separation, including lot size, density, and parking, the ownership may be separated;
2. If one or more of the lots or lots of record is substandard, the ownership may be separated if all requirements of this paragraph are met. This separation is allowed even if the lots or lots of record do not meet the minimum lot size standards of Table 120-3. Such lots and lots of record are legal, substandard lots.
 - a. There is a primary use on ~~any~~ at least one of the lots or lots of record, and the use has existed since December 31, 1980. ~~Abutting~~ If none of the lots or lots of record ~~with no~~ have a primary use, they may not be separated; and
 - b. Lots or lots of record with a primary uses on at least one of them may be separated as follows:
 - (1) The separation must occur along the original lot lines;
 - (2) Lots or lots of record with primary uses on them may be separated from lots or lots of record with other primary uses; and
 - (3) Lots or lots of record with primary uses on them may be separated from lots or lots of record without primary uses.

33.120.220 Setbacks

B. Building Setback Standard.

1. Exceptions to the required minimum building setbacks.
 - a. Setback averaging. The amendment deletes the term "building" from the phrase, "may be reduced to the average of the respective building setbacks on the abutting lots," in order to clarify that the setback reduction may only be used for like structures. For example, the setback for a deck may only be reduced to the average setback of decks on the abutting lots, or the setback for a porch may only be reduced to the average setback of porches on the abutting lots. This is further clarified through an amendment to 33.930, Measurements.
 - b. Environmental zone. Existing language allows the front building setback to be reduced to zero on sites containing an environmental zone. It is not clear how this regulation is applied, particularly given the subjective statement that the reduction is allowed if it "will reduce the amount of development in the environmental zone or avoid development in the environmental zone entirely."

As written, if someone proposes development with a large footprint on a site with environmental zoning, the front setback will likely have to be reduced in order to keep the footprint out of the overlay zone. However, an applicant who specifically proposes development with a small footprint on the same site in order to avoid the environmental overlay, would not be able to take advantage of the reduced front setback. As such, applying the regulations as written treats development unequally, and essentially penalizes development that may be more sensitive to the environmental resources on the site.

A principal intent of this setback reduction was to have development placed as far from the environmental overlay as possible so as to better protect the resources within the overlay. To this end, the amendments clarify this intent by deleting the subjective statement about allowing the setback reduction only if it reduces, or prevents, development in the environmental overlay zone. This ensures that all development is treated equally.

33.120.220 Setbacks

B. Building setback standard. The required minimum or maximum building setbacks, if any, are stated in Tables 120-3 and 120-4, and apply to all buildings and structures on the site except as specified in this section. Transit street setbacks apply only to buildings. Setbacks for parking areas are in Chapter 33.266.

1. Exceptions to the required minimum building setbacks.
 - a. Setback averaging. Outside of pedestrian districts and along non-transit streets, the front building setback and the setback of decks, balconies, and porches may be reduced to the average of the respective ~~building~~ setbacks on the abutting lots. See Chapter 33.930, Measurements, for more information.
 - b. Environmental zone. The required front building setback may be reduced to zero ~~on~~ where any portion of the sites containing is in an environmental overlay zones, ~~if the reduction will reduce the amount of development in the environmental zone or avoid development in the environmental zone entirely.~~
 - c. Split zoning. [No change]

33.120.220 Setbacks

B. Building Setback Standard.

2. Maximum building setbacks from a transit street or a street in a pedestrian district.
 - a. Measurement.
 - (2) This amendment removes a confusing reference about reducing minimum setbacks along transit streets and in pedestrians districts. There are no required minimum setbacks from transit streets or in pedestrian district in the Multi-Dwelling Zones.

33.120.232 Street-Facing Facades

- B. Where these standards apply.** Existing language states that for additions and alterations to existing building, the 15 percent window requirement on street-facing facades applies only to the addition or alteration. This wording requires that the addition or alteration have a minimum of 15 percent window area even if the remainder of the façade has, and will continue to have, at least 15 percent window area with the addition or alteration. As the intent of the standard is to have at minimum 15 percent of the *entire* street-facing façade in window area, the amendment clarifies that this standard *may* be applied only to the addition or alteration. This allows the applicant the option of limiting the window standard either to the addition or alteration, itself, or applying it o the entire street-facing façade.

Existing regulations also need to be clearer about what qualifies as a window. The intent of this standard, as described in 33.120.232.A (Purpose), is to ensure a visual connection between the living area of the residence and the street. False window panels applied to the façade of a house, or glass block do not meet the purpose of this regulation. The amendment essentially reiterates language included in the purpose statement so as to clarify what qualifies as a window feature.

33.120.235 Landscaped Areas

- A. Purpose.** This amendment clarifies in the purpose statement that the landscape standards apply to all residential development, both single- and multi-dwelling. It is clear from commentary in the 1991 rewrite of the Zoning Code that the amount of required landscaping was intended to balance the amount of building coverage allowed by the zone, regardless of the use on the property. This clarification is consistent with current practice in implementing the landscape standards.

33.120.220 Setbacks

B. Building Setback Standard.

2. Maximum building setbacks from a transit street or a street in a pedestrian district apply only to buildings and are regulated as follows.
 - a. Measurement.
 - (2) Where there is no curb, the setback is measured from the lot line, and ~~both the minimum and maximum setbacks are~~ is reduced by 6 feet.

33.120.232 Street-Facing Facades

B. Where these standards apply. The standards of this section apply to the street-facing facades of buildings that include any residential uses. The requirements of Paragraph B.1, below, apply to houses, attached houses, manufactured homes, and duplexes. Subdivisions and PUDs that received preliminary plan approval between September 9, 1990, and September 9, 1995, are exempt from ~~Paragraph B.1, below.~~ The requirements of Paragraphs B.2 and B.3, below, apply to all other residential structures, including those that include more than one use. Where a proposal is for an alteration or addition to existing development, the applicant may choose to apply the standards of this section apply only either to the portion being altered or added, or to the entire street-facing facade.

1. Houses, attached houses, manufactured homes, and duplexes. At least 15 percent of the area of each façade that faces a street lot line must be windows or doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing the street property line. Development on flag lots or on lots ~~which~~ that slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.
2. Other residential structures. [No change]
3. RX and IR zones. [No change]

33.120.235 Landscaped Areas

A. Purpose. The standards for landscaped areas are intended to enhance the overall appearance of ~~multi-dwelling residential~~ multi-dwelling residential developments and institutional campuses in multi-dwelling zones. The landscaping improves the residential character of the area, breaks up large expanses of paved areas and structures, provides privacy to the ~~multi-dwelling residents and to the abutting residents,~~ and provides separation from streets. It also helps in reducing stormwater run-off by providing a permeable surface.

33.120.280 Accessory Structures

C. Setbacks.

2. Vertical structures.

- a. Description. This amendment corrects an outdated reference to sign regulations.

3. Uncovered horizontal structures.

- b. Setback standard.

- (2) Full projection allowed. Prior to March 2000, stairways and wheelchair ramps that led to the front door of a building were allowed to encroach fully into required building setbacks. As the term "front door" is not defined in the Zoning Code, it was replaced in March 2000 with the defined term, "main entrance." However, because of the way "main entrance" is defined, this change inadvertently allows stairways and wheelchair ramps to encroach into any setback. This is exacerbated by the fact that in multi-tenant buildings, there may be several main entrances. The result is to allow an unlimited number of stairways and wheelchair ramps, at heights more than 2.5 feet above grade, to be located in any setback.

The amendment modifies the existing standard by allowing stairways and wheelchair ramps (more than 2.5 feet above grade) that lead to only one entrance on the street-facing façade of the building to encroach fully within the required setback. This returns the standard to what was originally intended.

(Note that this amendment does not affect existing regulations that allow stairs, ramps and other uncovered horizontal structures that are no more than 2.5 feet above grade to fully encroach into required setbacks. Nor does this amendment affect the existing regulation that allows on lots that slope down from the street vehicular and pedestrian bridges that are no more than 2.5 feet above the average sidewalk elevation.)

33.120.280 Accessory Structures

C. Setbacks.

1. Mechanical structures. [No change]
2. Vertical structures.
 - a. Description. Vertical structures are items such as flag poles, trellises and other garden structures, play structures, radio antennas, satellite receiving dishes, and lamp posts. Fences are addressed in Section 33.120.285 below. Signs regulations are addressed in Chapter 33.286 Title 32, Signs and Related Regulations.
3. Uncovered horizontal structures.
 - a. Description. Uncovered horizontal structures are items such as decks, stairways, wheelchair ramps, swimming pools, hot tubs, tennis courts, and boat docks that are not covered or enclosed.
 - b. Setback standard.
 - (1) [No change]
 - (2) Full projection allowed. The following structures are allowed in required building setbacks, as follows:
 - Structures that are no more than 2-1/2 feet above the ground are allowed in all building setbacks;
 - On lots that slope down from the street, vehicular or pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation are allowed in all building setbacks; and
 - Stairways and wheelchair ramps that lead to ~~the main one~~ entrance on the street-facing facade of a building are allowed in street setbacks.
4. [No change]

33.120.280 Accessory Structures

- D. Building coverage for detached covered accessory structures.** Although the heading of this section uses the defined term "building coverage," the regulation itself uses the undefined term "footprint." The amendment clarifies this regulation by replacing the term "footprint" with the term "building coverage." The term "building coverage" is consistently used throughout the Zoning Code to regulate the bulk and dominance of structures and structure types on sites.
- E. Special standards for garages.**
- Existing detached garages. Existing regulations allow garages that are nonconforming due to their location in a required setback to be rebuilt on the existing footprint, and even expanded. It is not clear whether rebuilt garages are required to meet all development standards of the base zone, excepting setbacks. If, for example, someone proposes to rebuild a garage on the existing footprint, but the maximum building coverage requirements are not met, or the location of the garage does not meet current base zone design guidelines, would an adjustment be necessary? It is also not clear what development standards apply when expansions are made to these nonconforming garages.

The amendment clarifies that when solely rebuilding the garage on the footprint of the existing garage, with no expansions, the rebuilt garage does not have to comply with other standards of the base zone, except for building height. This is essentially saying that the rebuilt garage is allowed as it is not bringing any development standard further out of compliance. The restriction on building height is included to ensure that the roof of the rebuilt garage does not exceed the maximum height limit. (The walls of the rebuilt garage are already limited to 10 feet in height.)

Likewise, the amendment clarifies that for additions to nonconforming garages where the combined dimensions of the existing footprint and addition do not exceed 12 feet by 18 feet (i.e., a small, one car garage), the development standards of the chapter, other than building height, do not apply. While the limited addition may increase the nonconforming character of the detached garage, by for example, increasing the overall building coverage on the site, this increase is so slight as to be imperceptible. On the contrary, for additions to garages where the combined footprint of the existing garage and the addition is greater than 12 feet by 18 feet, the standards of the chapter would apply.

- Side and rear setbacks. This paragraph identifies requirements that must be met in order for detached garages to be allowed in side and rear building setbacks. The amendment adds a fourth condition that clarifies no part of the garage may be used for living space.

33.120.280 Accessory Structures

D. Building coverage for detached covered accessory structures.

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

E. Special standards for garages.

1. [No change]
2. Existing detached garages.
 - a. Rebuilding. A detached garage that is nonconforming due to its location in a setback, may be rebuilt on the footprint of the existing foundation, if the garage was originally constructed legally. The garage walls may be up to 10 feet high, excluding the portion of the wall within a gable. Except for building height, other standards of this chapter do not apply.
 - b. Additions. An addition may be made to ~~these types of garages a detached garage that is nonconforming due to its location in a setback as follows:~~
 - (1) if ~~the addition expanded garage~~ ~~complies meets the all other~~ standards of this ~~section~~ chapter; or
 - (2) if ~~the combined size of the existing foundation and any the~~ additions is no larger than 12 feet wide by 18 feet deep. The walls of the addition may be up to 10 feet high, excluding the portion of the wall within a gable. Except for building height, other standards of this chapter do not apply.
3. Side and rear setbacks. In the R3 through RX zones, detached garages are allowed in the side and rear building setbacks if all of the following are met:
 - a. The garage entrance is 40 feet from a front lot line, and if on a corner lot, 25 feet from a side street lot line;
 - b. The garage has dimensions ~~which~~ that do not exceed 24 feet by 24 feet; ~~and~~
 - c. The garage walls are no more than 10 feet high, excluding the portion of the wall within a gable; and
 - d. The structure in which the garage is located contains no space for living, sleeping, eating, cooking or sanitation.
- 4-5. [No change]

CHAPTER 33.130
COMMERCIAL ZONES

33.130.030 Characteristics of the Zones

- E. **Mixed Commercial/Residential zone.** The amendment proposes limited modifications to this paragraph so that it more closely reflects what the development standards require. None of the development standards in the CM zone requires the mixed-uses to be contained within a single building, and while it may be desired, none of the development standards of the CM zone requires the nonresidential uses to be located on the first floor, with residences above.

33.130.215 Setbacks

B. **Building setback standard.**

3. Exceptions to the building setbacks.
- a. **Setback averaging.** To be consistent with the allowance in the Single- and Multi-Dwelling zones, the amendment allows the street setback for decks, balconies and porches to also be reduced to the average setback of like structures on abutting lots.

The amendment also deletes the term "building" from the phrase, "may be reduced, but not increased, to the average of the existing respective distances of building setbacks on abutting lots," so as to clarify that the setback reduction may only be used for like structures. For example, the setback for a deck may only be reduced to the average setback of decks on abutting lots, or the setback for a porch may only be reduced to the average setback of porches on the abutting lots. This is further clarified through an amendment to 33.930, Measurements.

**CHAPTER 33.130
COMMERCIAL ZONES**

33.130.030 Characteristics of the Zones

- E. Mixed Commercial/Residential zone.** The Mixed Commercial/Residential (CM) zone promotes development that combines commercial and housing uses ~~in~~ on a single ~~building~~ site. This zone allows increased development on busier streets without fostering a strip commercial appearance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Other uses are allowed to provide a variety of uses that may locate in existing buildings. Development ~~will~~ is intended to consist primarily of businesses on the ground floor with housing on upper stories. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners.

33.130.215 Setbacks

- B. Building setback standard.** The required minimum and maximum building setbacks, if any, are stated in Table 130-3. However, the minimum and maximum setbacks along transit streets or in pedestrian districts are stated in Table 130-5. The setback standards apply to all buildings and structures on the site except as specified in this section. Setbacks for exterior development are stated in 33.130.245 below, and for parking areas in Chapter 33.266.

1-2. [No change]

3. Exceptions to the building setbacks.

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

b. Split zoning. No change.

4. [No change]

33.130.215 Setbacks

D. Extensions into required building setbacks.

1. Minor projections of features attached to buildings.
 - b. Full projection allowed. Existing language allows uncovered stairways and wheelchair ramps that lead to the *front door* of a building to encroach fully into required building setbacks. In March 2000, the undefined term "front door" was replaced with the defined term "main entrance" in similar regulations found in the Single- and Multi-Dwelling zones.

As was done previously in the Single- and Multi-Dwelling zones, the amendment replaces the term "front door" with the term "entrance on the street-facing facade" in the Commercial zones. Additionally, the amendment clarifies that uncovered stairways and wheelchair ramps that are more than 2.5 feet above grade are allowed to encroach fully within a required street setback when leading to *one* entrance on the street-facing facade of the building. This prevents the unintended allowance of an unlimited number of stairways or ramps located within a required setback.

(Note that this amendment does not affect existing regulations that allow stairs, ramps and other uncovered horizontal structures that are no more than 2.5 feet above grade to encroach fully into required setbacks. Nor does this amendment affect the existing regulation that allows on lots that slope down from the street vehicular and pedestrian bridges that are no more than 2.5 feet above the average sidewalk elevation.)

2. Detached accessory structures. This amendment corrects an outdated reference to sign regulations.

33.130.215 Setbacks

D. Extensions into required building setbacks.

1. Minor projections of features attached to buildings.
 - a. Minor projections allowed. [No change]
 - b. Full projection allowed. In addition to Subparagraph a. above, the following features are allowed to project farther into required building setbacks:
 - (1) Canopies, marquees, awnings, and similar features may fully extend into a street setback;
 - (2) Uncovered stairways and wheelchair ramps that lead to ~~the front door~~ one entrance on the street-facing facade of a building may fully extend into a street setback;
 - (3) Uncovered decks and stairways that are no more than 2-1/2 feet above the ground may fully extend into a required building setback; and
 - (4) On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation may fully extend into a required building setback.
 - c. Projections not allowed. [No change]
2. Detached accessory structures. The setback standards for detached accessory structures are stated in 33.130.265 below. Fences are addressed in 33.130.270 below. Signs ~~regulations~~ are ~~addressed~~ in ~~Chapter 33.286~~ Title 32, Signs and Related Regulations.

33.130.240 Pedestrian Standards

- C. **CN1, CO1, CM, and CG zones.** This amendment clarifies that the required landscaping in the street setback area is required only between the building and the property line. As the regulation now reads, a portion of this landscaping would be required within the public right-of-way. Title 33 has no authority to impose development standards in the public right-of-way in these situations.

33.130.245 Exterior Display, Storage, and Work Activities

- D. **Exterior work activities.** This paragraph identifies specific exterior work activities that are allowed in commercial zones. However, several of the identified activities are not considered exterior work activities. For example, the definition of exterior work activities in Chapter 3.910 (Definitions) explicitly states that exterior eating areas, outdoor recreation and outdoor markets are not considered exterior work activities. (Nor are these activities defined as exterior display or exterior storage.) Additionally, this paragraph identifies surface commercial parking lots as an exterior work activity. However, in Chapter 33.920 (Use Categories), commercial parking is explicitly identified as a use, and not an exterior activity. Under the amendment, the activities in this paragraph, except for commercial parking lots, that are not considered exterior work activities are relocated to a new paragraph entitled, "Other Exterior Activities." Reference to commercial parking lots is deleted. The base zone use standards will continue to regulate where commercial parking lots may locate.

33.130.250 General Requirements for Residential and Mixed-Use Developments

- D. **Street-facing facades.** Existing language states that for additions and alterations to existing building, the 15 percent window requirement on street-facing facades applies only to the addition or alteration. This wording requires that the addition or alteration have a minimum of 15 percent window area even if the remainder of the façade has, and will continue to have, at least 15 percent window area with the addition or alteration. As the intent of the standard is to have at minimum 15 percent of the *entire* street-facing façade in window area, the amendment clarifies that this standard *may* be applied only to the addition or alteration. This allows the applicant the option of limiting the window standard either to the addition or alteration, itself, or applying it to the entire street-facing façade.

Existing regulations also need to be clearer about what qualifies as a window. The intent of this standard, as described in 33.130.250.D.1 (Purpose), is to ensure a visual connection between the living area of the residence and the street. False window panels applied to the façade of a house, or glass block do not meet the purpose of this regulation. The amendment essentially reiterates language included in the purpose statement so as to clarify what qualifies as a window feature.

33.130.240 Pedestrian Standards

- C. CN1, CO1, CM, and CG zones.** In the CN1, CO1, CM, and CG zones, the land between a building and a street lot line must be landscaped to at least the L1 level and/or hard-surfaced for use by pedestrians. This area may be counted towards any minimum landscaped area requirements. Vehicle areas and exterior display, storage, and work activities, if allowed, are exempt from this standard.

33.130.245 Exterior Display, Storage, and Work Activities

A-C. [No change]

D. Exterior work activities. Exterior work activities are prohibited in the commercial zones except for the following uses: restaurants, plant nurseries, entertainment and recreation uses that are commonly performed outside, sales of motor vehicle fuels, and car washes, commercial surface parking lots, and outdoor markets which are allowed.

E. Other exterior activities. The following exterior activities are allowed in the commercial zones: outdoor eating areas, plant nurseries, entertainment and recreation uses that are commonly performed outside, and outdoor markets.

E F. Paving. [No change]

33.130.250 General Requirements for Residential and Mixed-Use Developments

D. Street-facing facades.

1. [No change]
2. Where this standard applies. The standard of this subsection applies to houses, attached houses, manufactured homes, and duplexes in commercial zones. Where a proposal is for an alteration or addition to existing development, the applicant may choose to apply the standard applies only either to the portion being altered or added, or to the entire street-facing facade. Development on flag lots or on lots which that slope up or down from the street with an average slope of 20 percent or more are exempt from this standard.
3. The standard. At least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing the street lot line.

CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES

33.140.100 Primary Uses

B. Limited uses.

3. EG commercial limitation. This amendment corrects two errors in the Retail Sales And Service, and Office use limitations in the EG zones. Existing language reads that Retail Sales And Service and Office are limited in size **per use**. As written, this would allow multiple Retail Sales And Service, and Office uses on a site, as long as each use is not in excess of 60,000 square feet. This was never the intent of the regulations adopted as part of the Title 4 compliance project in 1999. (Title 4 is generally intended to limit the amount of retail commercial sales in industrial and employment zones.) Instead, retail uses were intended to be limited to those that support employment and industrial uses in the zone. Allowing multiple commercial uses on a site by site basis, even when each use is limited in size, would not be consistent with this intent as it would allow mini-malls on a site. (Additionally, prior to the 1999 amendments, Retail Sales And Service uses were limited in area on a site basis. To allow multiple retail uses, each of 60,000 square feet, on a site would be liberalizing the amount of Retail Sales And Service uses in the zone, and inconsistent with Title 4.) Consistent with the legislative intent of the regulation, the amendment clarifies that the Retail Sales And Service and Office use limitations are **per site**, and not **per use**.

(The Planning Commission's recommended report on the Title 4 amendments that was submitted to City Council in 1999 contained language that limited the amount of commercial uses in the EG zone **per site**. City Council instructed the Planning Bureau to amend Planning Commission's recommendation as it related to regulations in the IG zones, but requested no changes to the recommended language for the EG zones. The subsequent changes the Planning Bureau made to the recommended language for regulations in the EG zone were intended only to improve clarity and ensure consistency in format. The changes were not intended to change the substance of the Planning Commission's recommended language.)

In limiting the size of Retail Sales And Service, and Office uses, the existing Code states that such uses are limited to 60,000 square feet, **and** the floor area ratio for each use is not more than 1:1. This would allow on sites larger than 60,000 square feet substantially more than 60,000 square feet of Retail Sales And Service and Office uses without Conditional use review. The amendment recommends replacing the term "and" with the term "or." This is consistent with how the regulation reads in subparagraph 3.b, and elsewhere in this section. Again, the term "or" was used in the Planning Commission's recommendation to City Council, and the term was inadvertently changed as part of the rewrite intended to improve the clarity and consistency of format.

**CHAPTER 33.140
EMPLOYMENT AND INDUSTRIAL ZONES**

33.140.100 Primary Uses

B. Limited uses. Uses allowed that are subject to limitations are listed in Table 140-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 140-1.

1-2. [No change]

3. EG commercial limitation. This regulation applies to all parts of Table 140-1 that have a [3].

a. Limited uses.

(1) Office uses are allowed if the FAR ~~for each use~~ is not more than 1:1 per site, except ~~in~~ for historic landmarks. ~~in~~ On sites with historic landmarks, the FAR may be up to 2:1.

(2) Retail Sales And Service uses are allowed if the floor area plus the exterior display and storage area ~~of each use~~ is not more than 60,000 square feet, ~~and or~~ the FAR ~~for each use~~ is not more than 1:1 per site, whichever is less, except ~~in~~ for historic landmarks. ~~in~~ On sites with historic landmarks, Retail Sales And Service uses are allowed if the floor area plus the exterior display and storage area ~~of each use~~ is not more than 60,000 square feet, ~~and or~~ the FAR ~~for each use~~ is not more than 2:1 per site, whichever is less.

b. Conditional uses.

(1) Retail Sales And Service uses where the floor area plus the exterior display and storage area ~~of each use~~ is more than 60,000 square feet, or the FAR is more than 1:1, are a conditional use, except in historic landmarks. In historic landmarks, Retail Sales And Service uses where the floor area plus the exterior display and storage area ~~of each use~~ is more than 60,000 square feet, or the FAR is more than 2:1 per site, are a conditional use.

4-15. [No change]

33.140.215 Setbacks

B. The setback standards.

3. Exceptions to the building setbacks.

- a. Setback averaging. To be consistent with the allowance in the Single- and Multi-Dwelling zones, the amendment allows the street setback for decks, balconies and porches to also be reduced to the average setback of like structures on abutting lots.

The amendment also deletes the term "building" from the phrase, "may be reduced to the average of the existing respective distances of building setbacks on abutting lots," so as to clarify that the setback reduction may only be used for like structures. For example, the setback for a deck may only be reduced to the average setback of decks on abutting lots, or the setback for a porch may only be reduced to the average setback of porches on the abutting lots. This is further clarified through an amendment to 33.930, Measurements.

33.140.215 Setbacks

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

1-2. [No change]

3. Exceptions to the building setbacks.

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

b. Split zoning. [No change]

4. [No change]

33.140.215 Setbacks

D. Extensions into required building setbacks.

1. Minor projections of features attached to buildings.
 - b. Full projection allowed. Existing language allows uncovered stairways and wheelchair ramps that lead to the *front door* of a building to encroach fully into required building setbacks. In March 2000, the undefined term "front door" was replaced with the defined term "main entrance" in similar regulations found in the Single- and Multi-Dwelling zones.

As was done previously in the Single- and Multi-Dwelling zones, the amendment replaces the term "front door" with the term "entrance on the street-facing facade" in the Employment and Industrial zones. Additionally, the amendment clarifies that uncovered stairways and wheelchair ramps that are more than 2.5 feet above grade are allowed to encroach fully within a required street setback when leading to *one* entrance on the street-facing facade of the building. This prevents the unintended allowance of an unlimited number of stairways or ramps located within a required setback.

(Note that this amendment does not affect existing regulations that allow stairs, ramps and other uncovered horizontal structures that are no more than 2.5 feet above grade to encroach fully into required setbacks. Nor does this amendment affect the existing regulation that allows on lots that slope down from the street vehicular and pedestrian bridges that are no more than 2.5 feet above the average sidewalk elevation.)

2. Detached accessory structures. This amendment corrects an outdated reference to sign regulations.

33.140.215 Setbacks

D. Extensions into required building setbacks.

1. Minor projections of features attached to buildings.
 - a. Minor projections allowed. [No change]
 - b. Full projection allowed. In addition to Subparagraph a. above, the following features are allowed to project farther into required building setbacks:
 - (1) Canopies, marquees, awnings, and similar features may fully extend into a street setback;
 - (2) Uncovered stairways and wheelchair ramps that lead to ~~the front door~~ one entrance on the street-facing façade of a building may fully extend into a street setback;
 - (3) Uncovered decks and stairways that are no more than 2-1/2 feet above the ground may fully extend into a required building setback; and
 - (4) On lots that slope down from the street, vehicular and pedestrian entry bridges that are no more than 2-1/2 feet above the average sidewalk elevation may fully extend into a required building setback.
 - c. Projections not allowed. [No change]
2. Detached accessory structures. The setback standards for detached accessory structures are stated in 33.140.270 below. Fences are addressed in 33.140.275 below. Signs regulations are ~~addressed in Chapter 33.286~~ Title 32, Signs and Related Regulations.

33.140.265 Residential Development

E. Street-facing facades.

2. Where the standard applies. Existing language states that for additions and alterations to existing development, the 15 percent window requirement on street-facing facades applies only to the addition or alteration. This wording requires that the addition or alteration have a minimum of 15 percent window area even if the remainder of the façade has, and will continue to have, at least 15 percent window area with the addition or alteration. As the intent of the standard is to have at minimum 15 percent of the *entire* street-facing façade in window area, the amendment clarifies that this standard *may* be applied only to the addition or alteration. This allows the applicant the option of limiting the window standard either to the addition or alteration, itself, or applying it to the entire street-facing façade.
3. The standard. Existing regulations also need to be clearer about what qualifies as a window. The intent of this standard, as described in 33.130.250.D.1 (Purpose), is to ensure a visual connection between the living area of the residence and the street. False window panels applied to the façade of a house, or glass block do not meet the purpose of this regulation. The amendment essentially reiterates language included in the purpose statement so as to clarify what qualifies as a window feature.

33.140.265 Residential Development

E. Street-facing facades.

1. Purpose. [No change]
2. Where this standard applies. The standard of this subsection applies to houses, attached houses, manufactured homes, and duplexes in the ~~e~~Employment and ~~i~~Industrial zones. Where a proposal is for an alteration or addition to existing development, the applicant may choose to apply the standard ~~applies only either~~ to the portion being altered or added, or to the entire street-facing façade. Development on flag lots or on lots ~~which that~~ slope up or down from the street with an average slope of 20 percent or more are exempt from this standard.
3. The standard. At least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing a street lot line.

CHAPTER 33.203
ACCESSORY HOME OCCUPATIONS

33.203.020 Description of Type A and Type B Accessory Home Occupations

- B. Type B.** The intent of the accessory home occupation standards is to allow only residents of the home to operate a home occupation, thus the term "accessory home occupation." While this requirement is included in the regulations describing a Type A home occupations, it is missing from the requirements describing Type B home occupations. The amendment includes this requirement.

33.203.030 Use-Related Regulations

C. Additional Type B home occupation regulations.

2. Nonresident employees. The existing regulations state that only one nonresident employee is allowed with a Type B home occupation. What is not clear is whether a Type B home occupation may have several nonresident employees, as long as no more than one employee is on the site at any one time. The amendment includes new language that states employee shifts are not allowed, even when only one employee is at the site at any one time. To allow employee shifts would intensify the use by increasing both the number of people and vehicles coming to and from the site. Existing regulations included in 33.203.030.B.2, which prohibit home occupations from serving as a headquarters or dispatch center where employees come to the site and are dispatched elsewhere, are intended to address this same issue. The purpose of this regulation is to limit the impacts on the surrounding residential neighborhood that would result from potentially numerous employees coming to and from the residential home. To allow employee shifts would undermine the intent of this regulation by essentially allowing an unlimited number of employees over a period of time, and could be comparable to the impacts of allowing a dispatch center.

**CHAPTER 33.203
ACCESSORY HOME OCCUPATIONS**

33.203.020 Description of Type A and Type B Accessory Home Occupations

There are two types of home occupations, Type A and Type B. Uses are allowed as home occupations only if they comply with all of the requirements of this chapter.

- A. Type A.** No change.
- B. Type B.** A Type B home occupation is one where the residents use their home as a place of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.
- C-D.** [No change]

33.203.030 Use-Related Regulations

- A. Allowed uses.** [No change]
- B. Prohibited uses.** [No change]
- C. Additional Type B home occupation regulations.** The following additional regulations apply to Type B home occupations.
 - 1. [No change]
 - 2. Nonresident employees. One nonresident employee is allowed with a Type B home occupation provided no customers come to the site at any time. Home occupations ~~which~~ that have customers coming to the site at any time are not allowed to have nonresident employees. For the purpose of this Chapter, the term "one nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation. The term "one nonresident employee" does not allow employee shifts, with each shift staffed by a different employee, even when only one nonresident employee is at the site at any one time. Adjustments to this subsection are prohibited.
 - 3-5. [No change]

33.203.050 Impact-Related Standards

- D. Trucks and vehicles.** Existing language limits the number of trucks that are used in association with a home occupations. It is unclear whether there is a limitation on the number of other types of vehicles that are associated with the accessory home occupation. The amendment proposes to replace the reference to trucks with the term "vehicle." This better protects the residential appearance and character of the neighborhood by limiting the number of vehicles of any type that are associated with the accessory home occupation. This limit applies only to vehicles that are used in conjunction with the accessory home occupation, either by the resident or an employee.
- E. Deliveries.** Vehicles used for delivery or pick-up of supplies and products is presently limited to those "normally servicing residential neighborhoods." Again, this is a vague term that is difficult to implement as a standard. This phrase is replaced with an objective standard that states delivery vehicles may not include heavy vehicles. Heavy vehicles are presently defined in Chapter 33.910 (Definitions) as trucks such as truck tractors that have two or more rear axles. This type of truck is not typically used for deliveries in residential neighborhoods.

33.203.050 Impact-Related Standards

A-C. [No change]

D. ~~Trucks and v~~ Vehicles. No more than one ~~truck, associated with~~ vehicle may be used in association with the home occupation, ~~may be parked at the site.~~ The maximum size of ~~truck~~ the vehicle used in association with the home occupation that is allowed on-site is a light truck. ~~This is the same as for all residential uses in residential zones.~~

E. Deliveries. Truck deliveries or pick-ups of supplies or products, associated with ~~business activities~~ the home occupation, are allowed at the home only between 8 am and 5 pm. Vehicles used for delivery and pick-up ~~are limited to those normally servicing residential neighborhoods~~ may not include heavy trucks.

**CHAPTER 33.218
COMMUNITY DESIGN STANDARDS**

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

E. Main entrance.

3. Covered balcony. This amendment clarifies that the area that must be covered is the balcony itself, and not the area beneath the balcony.

N. Additional standards for historic resources.

5. Vertical building proportions in Eliot, Irvington, and Lair Hill. The reference to the Lair Hill conservation district is deleted from this section as it was replaced in 1998 by the South Portland historic district. (It is not necessary to replace the reference to Lair Hill with South Portland as the Community Design Standards may not be used in historic districts.)

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

P. Additional standards for historic resources.

7. Vertical building proportions in Eliot, Irvington, and Lair Hill. The same reference to the Lair Hill conservation district is deleted from this section.

CHAPTER 33.218
COMMUNITY DESIGN STANDARDS

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

The standards of this section apply to development of new primary and attached accessory structures in single-dwelling zones.

E. Main entrance.

1-2. [No change]

3. Covered balcony. ~~For Attached houses, have the option of providing a~~ covered balcony on the same facade as the main entrance may be provided instead of a front porch. The covered ~~area provided by portion of the balcony~~ must be at least 48 square feet and a minimum of 8 feet wide ~~and no more than 15 feet above grade.~~ The floor of the covered balcony must be no more than 15 feet above grade, and must be accessible from the interior living space of the house.

4-5. [No change]

N. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-4. [No change]

5. Vertical building proportions in Eliot, ~~and Irvington, and Lair Hill.~~ In the Irvington, ~~and Eliot, and Lair Hill~~ Conservation Districts, the front facade of each primary structure must have vertical proportions. New development must meet one of the following standards:

a-b. [No change]

6-7. [No change]

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

P. Additional standards for historic resources. The following standards are additional requirements for conservation districts and conservation landmarks.

1-6. [No change]

7. Vertical building proportions in Eliot, ~~and Irvington, and Lair Hill.~~ In the Eliot, ~~and Irvington, and Lair Hill~~ Conservation Districts, the front facade of each primary structure must have vertical proportions. New development must meet one of the following standards:

a-b. [No changes.]

**CHAPTER 33.248
LANDSCAPING AND SCREENING**

33.248.020 Landscaping and Screening Standards

B. L2, low screen.

C. L3, high screen.

To ensure that the aesthetic purpose of required landscape screening is not lost, the amendment clarifies that both required and nonrequired fences or walls must be placed interior to the required L2 and L3 landscape area when along street lot lines. This standard is consistent with that already found in the L2, L3 and L4 landscape standards for *required* walls or screens.

**CHAPTER 33.248
LANDSCAPING AND SCREENING**

33.248.020 Landscaping and Screening Standards

Subsections A. through H. state the different levels of landscaping and screening standards to be applied throughout the City. The locations where the landscaping or screening is required and the depth of the landscaping or screening are stated in various places throughout the eCode. **All** landscaping and screening required by this Title must comply with all of the provisions of this chapter, unless specifically superceded. The landscaping standards are generally in a hierarchical order. The landscaping standards are minimums; higher standards can be substituted as long as all fence or vegetation height limitations are met. Crime prevention and safety should be remembered when exceeding the landscaping standards (height and amount of vegetation may be an issue).

A. L1, general landscaping. [No change]

B. L2, low screen.

1. [No change]
2. Required materials. The L2 standard requires enough low shrubs to form a continuous screen 3 feet high and 95 percent opaque year around. In addition, one tree is required per 30 lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A 3 foot high masonry wall or a berm may be substituted for the shrubs, but the trees and ground cover plants are still required. When applied along street lot lines, ~~the any required or nonrequired screen, or wall, or fence~~ is to be placed along the interior side of the landscaped area. See Figure 248-2.

C. L3, high screen.

1. [No change]
2. Required materials. The L3 standard requires enough high shrubs to form a screen 6 feet high and 95 percent opaque year around. In addition, one tree is required per 30 lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A 6 foot high masonry wall may be substituted for the shrubs, but the trees and ground cover plants are still required. When applied along street lot lines, ~~the any required or nonrequired screen, or wall, or fence~~ is to be placed along the interior side of the landscaped area. See Figure 248-3.

Commentary

33.248.020 Landscaping and Screening Standards (continued)

- H. **T1, Trees.** This amendment clarifies that the reference to the number of inches of trees that must be preserved or planted is to the diameter of the trees.

33.248.020 Landscaping and Screening Standards (continued)

H. T1, Trees.

1. Intent. [No change]
2. Tree requirement. This requirement may be met using any of the three options below. The applicant may choose to meet one or more of these options. Adjustments to this Subsection are prohibited. The options are:
 - a. Tree preservation. At least 2 inches of existing tree diameter per 1,000 square feet of site area must be preserved. On lots that are 3,000 square feet or smaller, at least 3 inches of existing tree diameter must be preserved per lot. This standard may be met using trees on the lot and within 5 feet of the edges of the lot. Trees within public and private rights-of-way may not be used to meet this standard. When this option is used, a tree preservation plan is required.
 - b. Tree planting. At least 2 inches of tree diameter per 1,000 square feet of site area must be planted. On lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot.
 - c. Tree Fund. This option may be used where site characteristics or construction preferences do not support the preservation or planting options.
 - (1) Fund use and administration. [No change]
 - (2) Calculation of required fund contributions. [No change]
 - (3) Required fund contribution. The applicant must contribute the following to the Tree Fund before a building permit will be issued:
 - For lots with 3,000 square feet or more of area, the cost to purchase and plant at least 2 inches of tree diameter per 1,000 square feet of site area; or
 - For lots with less than 3,000 square feet of area, the cost to purchase and plant at least 3 inches of tree diameter per lot.

33.248.040 Installation and Maintenance

C. Irrigation.

3. Option 3. The amendment clarifies that this option is intended to allow manual watering. Additionally, existing language ties compliance with the regulation to a temporary certificate of occupancy. This has historically proven a problem as all development does not require a certificate of occupancy, and temporary certificates of occupancy expire after 30 days. The amendment removes reference to the temporary certificate of occupancy, but still requires an inspection one year following final inspection to ensure that the landscaping has become established.

33.248.070 Completion of Landscaping. Similarly to the Option 3 irrigation requirements, this section relies on certificates of occupancy to enforce the standard. As mentioned above, certificates of occupancy are not required for all development. The amendment proposes replacing the term "certificate of occupancy" with the more inclusive term, "final inspection."

33.248.040 Installation and Maintenance

C. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All landscaped areas must provide an irrigation system, as stated in option 1, 2, or 3.

1. Option 1. [No change]
2. Option 2. [No change]
3. Option 3. Irrigation by hand. If the applicant chooses this option, ~~A temporary Certificate of Occupancy may be issued for one year, after which an inspection will be required one year after final inspection~~ to ensure that the landscaping has become established. An inspection fee, paid at the time of permit application, will be required.

33.248.070 Completion of Landscaping

The installation of any required landscaping may be deferred during the summer or winter months to the next planting season, but never for more than 6 months. ~~In this instance, a temporary certificate of occupancy may be issued prior to the installation of all required landscaping. In all instances, a~~ All required landscaping must be installed prior to ~~the issuance of a final certificate of occupancy~~ inspection.

CHAPTER 33.258
NONCONFORMING SITUATIONS

33.258.050 Nonconforming Uses

C. Expansions.

2. C, E, and I zones. Except for houseboats and houseboat moorages, residential uses are prohibited in the industrial zones. Existing residential uses in the Industrial zone are considered nonconforming uses, and any additions or alterations to these uses require a Type II Nonconforming Situation Review, regardless of the size of the addition or alteration. As such, a homeowner in an Industrial zone who wishes to build a dormer on the house, or bump out a wall to accommodate a bathroom or extra bedroom would be allowed to do so only if approved through a \$4,100 land use review.

The purpose for the Nonconforming Situation Review is generally to address the intensity of a nonconforming use, and its impacts on allowed uses in the particular zone. Factors that are considered in a Nonconforming Situation Review include hours of operation, noise, vibration, dust, odors, fumes, litter, vehicle trips and appearance. Expansion of an existing residential use, when there is no increase in the number of dwelling units, does not substantially increase the intensity of use as there would be no additional households living in the structure. Furthermore, such expansions do not generate the type of impacts that are considered in a Nonconforming Situation Review.

The amendment allows by right a 500 square foot expansion to nonconforming residential uses, as long as there is no increase in the number of dwelling units. This 500 square foot allowance represents approximately a 25 percent increase in the floor area of the average nonconforming residence in the City's Industrial zones.

The question was raised at the Planning Commission hearing whether the amendment is contrary to established policy that seeks to ensure nonconforming uses go away over time. City policy recognizes that zone changes may create nonconforming uses, and that these uses should have the opportunity to expand (subject to a Nonconforming Situation Review) if there are no adverse impacts on surrounding, conforming uses. Furthermore, as indicated in the purpose statement of this chapter, City policy imposes fewer restrictions on nonconforming situations that have minimal impacts on the surrounding area.

**CHAPTER 33.258
NONCONFORMING SITUATIONS**

33.258.050 Nonconforming Uses

C. Expansions.

2. C, E, and I zones. The standards stated below apply to all nonconforming uses in C, E, and I zones.
 - a. Except as allowed by Subparagraph C.2.b, below, Expansions of floor area or exterior improvements, when proposed within the property lines as they existed two years before the use became nonconforming, may be approved through a nonconforming situation review. The development standards of the base zone, overlay zone, and plan district must be met for the expansion.
 - b. In I zones, expansions of floor area for nonconforming Household Living uses, when proposed within the property lines as they existed two years before the use became nonconforming, are allowed if all of the following are met:
 - (1) The expansion will not increase the floor area by more than 500 square feet over the floor area that existed when the use became nonconforming. Expansions that increase the floor area by more than 500 square feet over the floor area that existed when the use became nonconforming may be requested through a nonconforming situation review;
 - (2) The expansion must comply with development standards of the base zone, overlay zone, and plan district; and
 - (3) The addition of new dwelling units is prohibited.
 - c. In I zones, expansions of exterior improvements for nonconforming Household Living uses are allowed if they comply with the development standards of the base zone, overlay zone, and plan district.
 - ~~b.d. [Reletter existing Subparagraph b to d]~~
 - e. ~~The addition of new residential units to a nonconforming residential use is prohibited.~~

33.258.070 Nonconforming Development

- D. **Development which must be brought into conformance.** Existing language in Subparagraph 2.d of this section states that required nonconforming upgrades costing more than 10 percent of the value of the proposed alterations do not have to be made. This is sometimes interpreted to mean that if the cost of the required upgrades equals, for example, 12 percent of the proposed alterations on the site, the upgrades do not need to be made. The intent of the regulation is to place a cap on the amount the applicant must spend on upgrades, not to exempt them from completing upgrades. The amendment clarifies the language so as to be consistent with the intent of the regulation.

33.258.070 Nonconforming Development

D. Development which that must be brought into conformance. The regulations of this subsection are divided into two types of situations, depending upon whether the use is also nonconforming or not. These regulations apply except where superseded by more specific regulations in the code.

1. [No change]
2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made ~~which 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-c. [No change]

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 changes ~~existing over~~ is limited to 10 percent of the value of the proposed alterations ~~do not have to be made~~. It is the responsibility of the applicant to document the value of the required improvements. When all required improvements are not being made, the priority for which improvements to make is the same as the order of improvements listed in Subparagraph D.2.b, above.
- (2) Option 2. [No change]

Commentary

33.258.080 Nonconforming Situation Review References are made throughout Chapter 33.258 that specify when a Nonconforming Situation Review is required. As such, the bulleted items in this section are redundant. Additionally, this section does not contain a complete listing of all situations in which a Nonconforming Situation Review is required. Towards streamlining the Code, the amendment deletes the introductory paragraph.

33.258.080 Nonconforming Situation Review

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

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

A-B. [No change]

**CHAPTER 33.262
OFF-SITE IMPACTS**

33.262.010 Purpose The amendment brings language in the purpose statement into conformance with the stated regulations of this chapter. While the purpose statement indicates the standards are intended for all zones that allow housing by right, as identified in Section 33.262.020 (Applying These Regulations), the standards apply in the OS zone, in which housing is a prohibited use, and do not apply in the EX zone, where housing is an allowed use. When adopted in 1991, the off-site impact standards were designed to protect more sensitive uses in zones (including the OS zone) from off-site impacts generated by nonresidential uses, while not discouraging the location and continued operation of nonresidential uses in the City's zone intended for the most intense mixture of residential, commercial and industrial uses (i.e., the EX zone).

**CHAPTER 33.262
OFF-SITE IMPACTS**

33.262.010 Purpose

The regulations of this chapter are designed to protect all uses in the R, C and OS zones ~~which allow housing by right~~ from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past.

**CHAPTER 33.266
PARKING AND LOADING**

33.266.120 Development Standards for Houses, Attached Houses, and Duplexes

C. Parking area locations.

3. Front yard restrictions. This standard limits the amount of paved parking area between the street lot line and the front building line, with the regulation illustrated in Figure 266-2. However, Figure 266-2 illustrates only how the regulation applies when the front building line is parallel to the street lot line, and when the street lot line is a straight line. The amendment clarifies in Figure 266-2 how the pavement limitation is calculated in other situations.

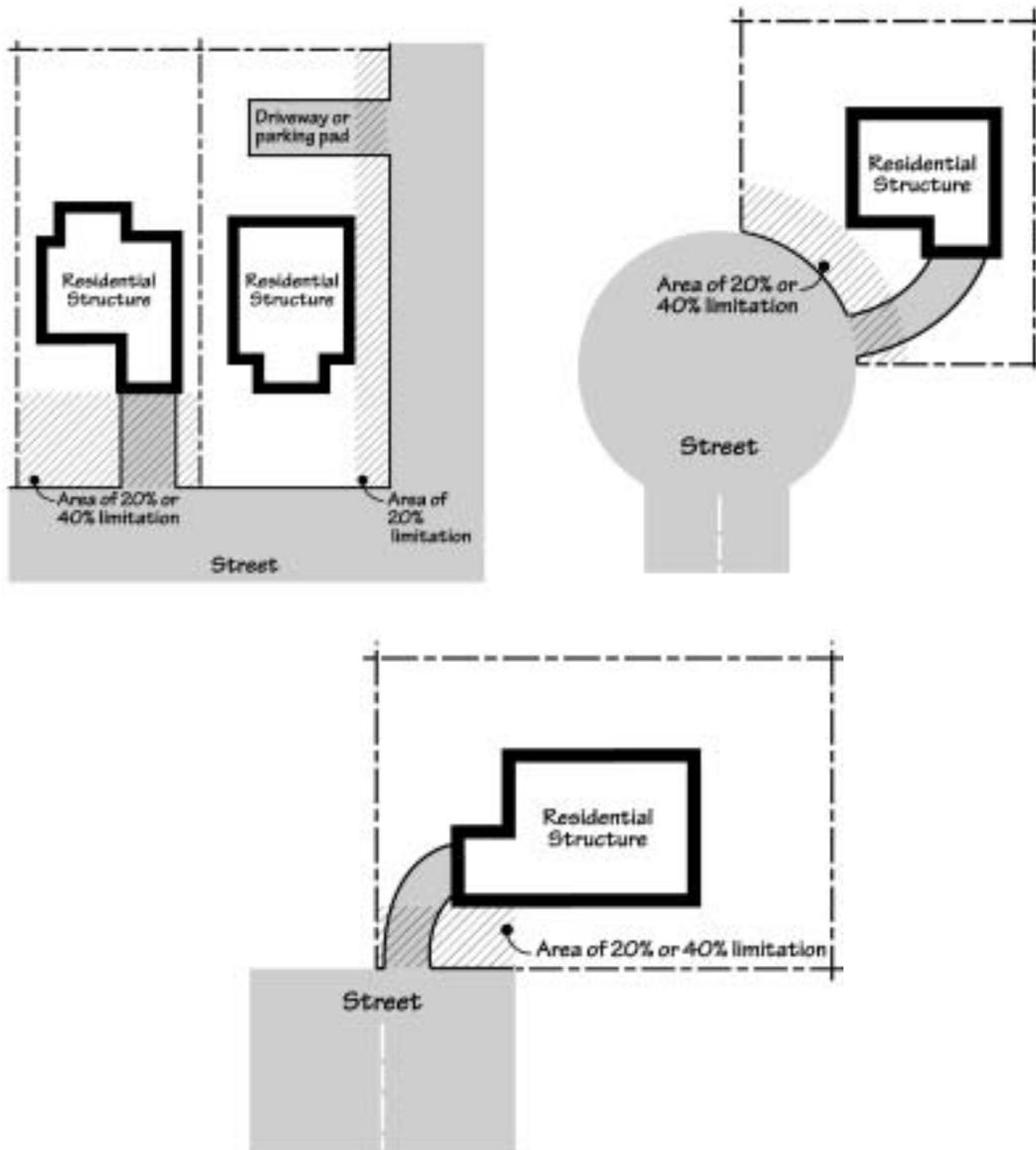
CHAPTER 33.266
PARKING AND LOADING

33.266.120 Development Standards for Houses, Attached Houses, and Duplexes

C. Parking area locations.

INSERT NEW

Figure 266-2
Parking Area Limitation



33.266.130 Development Standards for All Other Uses

- C. On-site locations of vehicle areas.** In the *CS* and *CM* zones, vehicle areas are prohibited between the building and any street. Because the regulation includes the term "prohibited," no adjustments to this standard are allowed. This prohibition applies whether the vehicle area is existing or proposed. In some situations, to place the addition at the front of the building, closer to the street, would require such a substantial reconfiguration of the existing floor plan and site conditions as to make the addition impractical. If the proposed addition is for a loading or service area, it may be more appropriate to consider placing it away from the street, toward the rear of the vehicle area. For some sites, the only way to expand a building results in the existing vehicle area being located between the expanded building and the street.

Additionally, it can be onerous to require conformance with the standard for existing development on corner lots, particularly when the existing building is built to the minimum setback on one of the two streets, and the only remaining location for the addition results in the existing vehicle area being between the addition and the street lot line. The result can lead to disinvestment on the *CS* or *CM* zoned site, and inability to bring the site closer into conformance with other *CM/CS* standards such as minimum building coverage or maximum building setback.

The amendment includes a footnote in Table 266-3 that states in situations where the vehicle area exists, and an existing building is being expanded, the location of vehicle area between the building and any street is not allowed, as opposed to being prohibited. This distinction allows applicants the opportunity to apply for an adjustment to the standard if the alternative plan equally or better meets the intent of the regulation. The amendment also reorganizes Table 266-3 to incorporate the footnotes within the table itself. This organization includes relocating the exception for driveways from Section 33.266.130.C.1 to the Table 266-3.

33.266.130 Development Standards for All Other Uses

A-B. [No change]

C. On-site locations of vehicle areas.

1. Location of vehicle areas. The allowed on-site location of all vehicle areas is stated in Table 266-3.
 - a. ~~Generally. The allowed on-site location of all vehicle areas is stated in Table 266-3.~~
 - b. ~~Exception. Driveways that provide a straight line connection between the street and a parking area inside a building are not subject to the regulations identified in Table 266-3.~~
- 2-3. [No change]

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

Notes:

- [1] ~~Driveways are allowed in limited situations; see 33.266.130.C.1.b.~~
- [2] ~~Developments on through lots or sites with three street frontages may have vehicle areas between the building and one local service street. Development on full blocks may have vehicle areas between the building and two local service streets. However, vehicle areas are not allowed between the building and an arterial or transit street.~~
- [3] ~~This restriction also applies to streets in Pedestrian Districts.~~
- [4] ~~Developments on through lots or sites with three street frontages may have vehicle areas between the building and one local service street. Development on full blocks may have vehicle areas between the building and two local service streets. However, vehicle areas between the building and an arterial or transit street are prohibited.~~

Commentary

33.266.130 Development Standards for All Other Uses

C. On-site locations of vehicle areas. (continued)

33.266.130 Development Standards for All Other Uses

C. On-site locations of vehicle areas. (continued)

Table 266-3 Location of Vehicle Areas [1]			
<u>Zone</u>	<u>General Standard</u>	<u>Exception for Through Lots and Sites with Three Frontages</u>	<u>Exception for Full-Block Sites</u>
<u>OS, RF - R2, EG2, I</u>	<u>No restrictions.</u>		
<u>R1, RH, IR, CN, CO, CG, EG1</u>	<u>Vehicle areas not allowed between the portion of the building that complies with the maximum street setback and the transit street or streets in a pedestrian district.</u>	<u>May have vehicle areas between the portion of the building that complies with the maximum street setback and one local service street.</u>	<u>May have vehicle areas between the portion of the building that complies with the maximum street setback and two local service streets.</u>
<u>CM, CS</u>	<u>Prohibited between a building and any street. [2]</u>	<u>May have vehicle areas between the building and one local service street.</u>	<u>May have vehicle areas between the building and two local service streets.</u>
<u>RX, CX, EX</u>	<u>Not allowed between a building and any street.</u>	<u>May have vehicle areas between the building and one local service street.</u>	<u>May have vehicle areas between the building and two local service streets.</u>
<p>[1] <u>Driveways that provide a straight-line connection between the street and a parking area inside a building are not subject to these regulations.</u></p> <p>[2] <u>Existing Development: Where the vehicle area exists, and an existing building is being expanded, the location of vehicle area between the building and any street is not allowed, rather than prohibited.</u></p>			

D-F. [No change]

33.266.130 Development Standards for All Other Uses (continued)

G. Parking area setbacks and landscaping.

3. Interior landscaping.

- a. Amount of interior landscaping required. Interior landscaping is generally required for sites where there is more than 3,000 square feet of parking and loading areas. On sites with several, distinct parking and loading areas, it is not clear whether this 3,000 square foot threshold applies to the size of individual parking and loading areas, or to the cumulative amount of parking and loading areas on the site. The amendment clarifies that the 3,000 square foot threshold applies to the cumulative amount of parking and loading areas on the site.
- f. Layout of interior landscaped areas. Section 33.266.130.G.3.d states that the required interior landscaping may join perimeter landscaping as long as it extends at least four feet into the parking area. It is not clear whether this allows the interior landscaping to run parallel to the perimeter landscaping, resulting in what would appear as a wider perimeter landscaped area. The amendment clarifies this standard by modifying Figures 266-6 and 266-7 to illustrate that the interior landscaping must be perpendicular to the perimeter landscaping, with parking area on at least two sides.

33.266.130 Development Standards for All Other Uses (continued)

G. Parking area setbacks and landscaping.

- 1-2. No change.
3. Interior landscaping. The regulations of this paragraph apply to all surface parking areas except stacked parking areas. For stacked parking areas, see Section 33.266.140 below.

- a. Amount of interior landscaping required. The amount of landscaping required is as follows:
- (1) In OS, R, and C zones. In OS, R, and C zones, interior landscaping must be provided for sites where there is more than 3,000 square feet of parking and loading areas on the entire site, not including driveways and perimeter landscaped areas. At least 10 percent of the parking and loading area, not including driveway area, must be landscaped;
 - (2) In E and I zones. In E and I zones, interior landscaping must be provided for sites where there is more than 3,000 square feet of parking area on the entire site, not including loading areas, driveways and perimeter landscaped areas. At least 10 percent of the parking area, not including driveways and loading area, must be landscaped.

Where a driveway leading to a truck loading area is within or adjacent to the parking area, or where a truck maneuvering area is within or adjacent to the parking area, the area used to calculate the amount of landscaping required is modified as follows. See Figure 266-5.

- Where an aisle is used for one-way traffic, and is also used for truck access to a loading area or is also used for truck maneuvering area, no more than 16 feet of the aisle width is included in the calculations;
- Where an aisle is used for two-way traffic, and is also used for truck access to a loading area or is also used for truck maneuvering area, no more than 20 feet of the aisle width is included in the calculations.

b-e. [No change]

- f. Layout of interior landscaped areas. The layout of the interior landscaped areas must meet either one or a combination of the standards of this subparagraph:

- (1) Option 1: Landscape strips. [No change]
- (2) Option 2: Other landscape patterns.

Commentary

33.266.130 Development Standards for All Other Uses

G. Parking area setbacks and landscaping.

3. Interior landscaping.

f. Layout of interior landscaped areas. (continued)

33.266.130 Development Standards for All Other Uses

G. Parking area setbacks and landscaping.

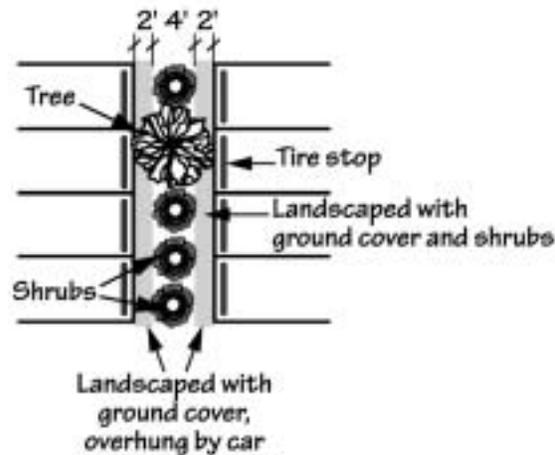
3. Interior landscaping.

f. Layout of interior landscaped areas. (continued)

- Interior landscaping must be arranged in areas at the ends of rows of parking or between parking spaces within rows of parking. See Figure 266-7.
- Interior landscaping may join perimeter landscaping as long as the interior landscape area extends at least 4 feet into the parking area from the perimeter landscape line. See Figure 266-7.

INSERT NEW

**Figure 266-6
Landscape Strips**



Commentary

33.266.130 Development Standards for All Other Uses

G. Parking area setbacks and landscaping.

3. Interior landscaping.

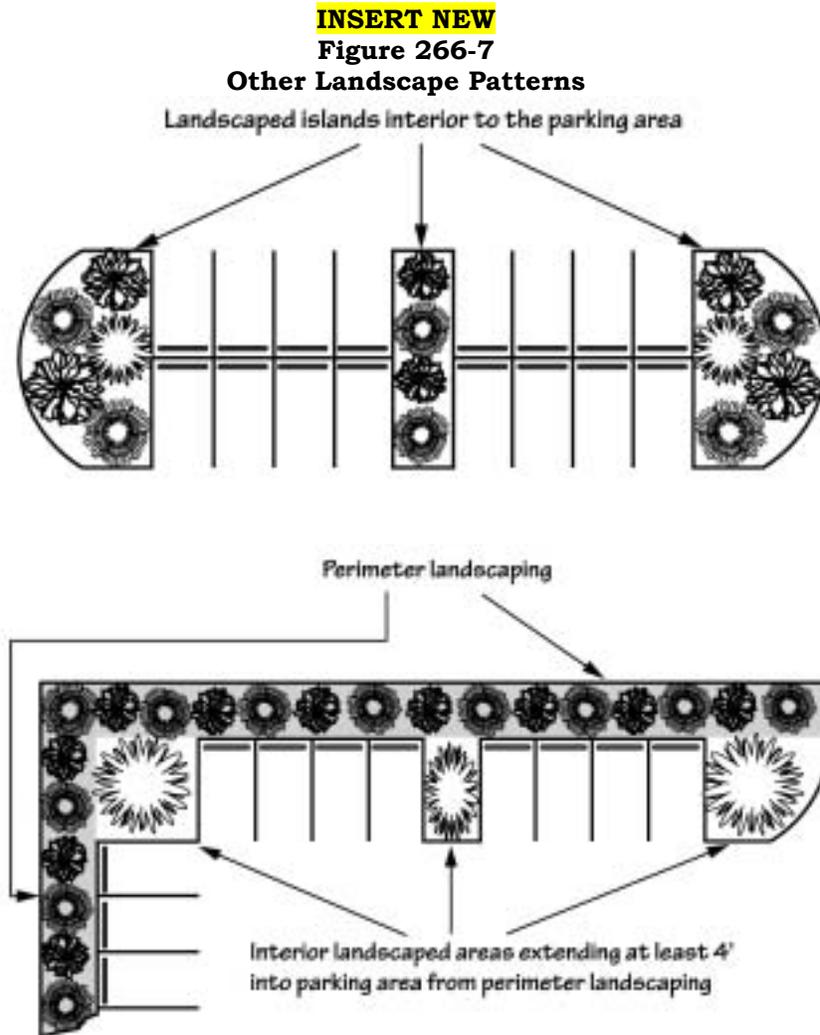
f. Layout of interior landscaped areas. (continued)

33.266.130 Development Standards for All Other Uses

G. Parking area setbacks and landscaping.

3. Interior landscaping.

f. Layout of interior landscaped areas. (continued)



33.266.130 Development Standards for All Other Uses (continued)

H. Required landscape materials for parking lot landscaping.

3. Shrubs. The amendment clarifies that the continuous screen shrubs of Subparagraph H.3.c(1) and H.3.d(1) are required in addition to the shrub requirement of Subparagraph H.3.a only when the width of the required landscaped area is more than five feet. As the standard now reads, it is a disincentive for the applicant to provide a wider landscaped area than required as substantially more shrubs would be needed.

Consistent with the general requirements for the L2 and L3 landscape requirements in Chapter 3.248 (Landscaping and Screening), the amendment also clarifies in Subparagraph H.3.c.(2) and H.3.d(2), that the masonry wall, when along street lot lines, must be placed interior to the required landscaping.

33.266.130 Development Standards for All Other Uses (continued)

H. Required landscape materials for parking lot landscaping. Landscape materials for parking lot interior and perimeter landscaping must be provided as follows:

1-2. [No change]

3. Shrubs.

a-b. [No change]

c. Low screen landscaping. Where a low screen is required by Subparagraph G.2.c, above, one of the following standards must be met:

(1) Shrubs. Enough shrubs are required to form a continuous screen at least three feet high. Where the required landscaped area is five feet or less in width, the shrubs used to form the screen are also counted towards meeting the requirement of H.3.a, above. If the required landscaped area is more than 5 feet in width, the screening shrubs are required in addition to the shrubs required by H.3.a, above; or

(2) Masonry wall. A three-foot high masonry wall is required, in addition to the shrubs required by H.3.a, above. The wall must provide a solid screen, except that the wall may be perforated or have voids at the base that allow stormwater runoff to pass through. When the landscaped area is along street lot lines, the masonry wall is to be placed along the interior side of the landscaped area.

d. High screen landscaping. Where a high screen is required by Subparagraph G.2.c, above, one of the following standards must be met:

(1) Shrubs. Enough shrubs are required to form a continuous screen at least six feet high. Where the required landscaped area is five feet or less in width, the shrubs used to form the screen are also counted towards meeting the requirement of H.3.a, above. If the required landscaped area is more than 5 feet in width, the screening shrubs are required in addition to the shrubs required by H.3.a, above; or

(2) Masonry wall. A six-foot high masonry wall is required, in addition to the shrubs required by H.3.a, above. The wall must provide a solid screen, except that the wall may be perforated or have voids at the base that allow stormwater runoff to pass through. When the landscaped area is along street lot lines, the masonry wall is to be placed along the interior side of the landscaped area.

Commentary

33.266.220 Bicycle Parking Standards

C. Standards for all bicycle parking.

7. Use of required parking spaces. This is a new paragraph that replicates language included in the regulations for motor vehicle parking. The purpose of the paragraph is to make clear that bicycle parking provided on the site must be accessible to those who may need it.

33.266.220 Bicycle Parking Standards

C. Standards for all bicycle parking.

1-6. [No change]

7. Use of required parking spaces. Required bicycle parking spaces must be available for residents, customers, or employees of the use.

**CHAPTER 33.281
SCHOOLS AND SCHOOL SITES**

33.281.130 Bus Loading

- B. New school sites.** This amendment clarifies what bus loading requirements must be met for new school sites that are not subject to a conditional use review, such as those developed in the commercial and employment zones.

33.281.140 Landscaping

- A. Parking areas.** Prior to March 2001, the perimeter of parking lots associated with any use was required to be landscaped to either the generic L2 or L3 landscape standard. These requirements were included in Chapter 33.266 (Parking and Loading). In March 2001, new Zoning Code language was adopted that removed the generic L2 and L3 standards from Chapter 33.266, and replaced them with new landscape requirements unique to parking lots. These new landscape standards, identified as "low screen landscaping" and "high screen landscaping," are included in Section 33.266.130.H.3.c and d. The amendment removes in Chapter 33.281 obsolete references to the L2 and L3 standards, and instead references the current parking area landscape standards contained in Chapter 33.266.

**CHAPTER 33.281
SCHOOLS AND SCHOOL SITES**

33.281.130 Bus Loading

- B. New school sites.** On-site bus loading is required for new school sites.
1. When there is a conditional use review, the size and design of the bus loading area is determined as part of the conditional use review.
 2. When there is no conditional use review, the bus loading area must meet the standards of Section 33.266.310, Loading Standards, except for landscaped setbacks. Bus loading areas are required to comply with the landscaped setbacks for parking areas, not loading areas.

33.281.140 Landscaping

This section states exceptions to the normal landscaping requirements.

- A. Parking areas.** In parking areas where ~~L3 the high screen landscaping of Section 33.266.130.H.3.d~~ is normally required, a 20 foot deep area landscaped ~~to the L2 standard with the low screen landscaping of Section 33.266.130.H.3.c~~ may be substituted. Special event parking is addressed in 33.281.120.

CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE

33.405.030 Applying the Alternative Design Density Overlay Zone. The Alternative Design Density ("a") Overlay zone is intended to allow an increased density of residential development, as well as increased opportunities for a variety of housing types. Section 33.430.030 identifies four zones in which the "a" overlay zone would provide no additional benefits: RH, RX, EX and CX. If a site mapped with the "a" overlay is rezoned to one of these zones, the "a" overlay is automatically removed from the Official Zoning Map. The list of zones in which the provisions of the "a" overlay have no benefit is incomplete, and should include the Institutional Residential (IR) zone, as well as all Commercial, Employment and Industrial Zones.

33.405.040 Regulations for Accessory Dwelling Units

- B. This paragraph states there is no minimum structure size for accessory dwelling units. The amendment proposes deleting this regulation as it serves no purpose. Furthermore, it is misleading, as building codes do have minimum size requirements.
- C. **Creation of an accessory dwelling unit.** This amendment clarifies in Subparagraph C.1 that when creating an accessory dwelling unit, additions may be made not only to houses, but also to attached houses and manufactured homes. (It is clear from existing language in Paragraph A of this section that this is allowed.) The amendment also deletes an outdated reference to regulations in the base zones that allow the creation of accessory dwelling units. The accessory dwelling regulations in the base zone were replaced in 1998 with regulations included in Chapter 33.205 (Accessory Dwelling Units.)

33.405.050 Bonus Density for Design Review

- C. **Bonus density.** Sites in the Alternative Design Density overlay zone may achieve a 50% residential density bonus if the project voluntarily goes through a Type III design review. Section 33.405.050.B states that this bonus is not available to sites in a design or historic design zone. However, the following paragraph, in Section 33.405.050.C, states that projects using this density bonus will be judged against either the design guidelines applicable to the particular district in which the site is located, or to the Community Design Guidelines. The only sites that have design guidelines particular to the district in which they are located are those in a design or historic design district. Because this bonus density provision may not be used on sites in a design or historic design district, no project will ever be reviewed against the design guidelines applicable to the particular district. The amendment deletes reference in Paragraph C to reviewing projects against the design guidelines that are particular to the district in which the site is located.

**CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE**

33.405.030 Applying the Alternative Design Density Overlay Zone

The Alternative Design Density Overlay Zone may be established or removed as the result of an area planning study, reviewed through the legislative procedure. Establishment or removal of the Alternative Design Density Zone through a quasi-judicial procedure is prohibited. The ADD zone has no effect on projects in RH, RX, IR, C, E, or I EX and CX zones. When property is rezoned to one of these zoning designations from a zone that is accompanied by the "a," the ADD zone will be deleted from the Official Zoning Map.

33.405.040 Regulations for Accessory Dwelling Units

A. [No change]

~~**B. Size of structure.** There is no minimum structure size.~~

~~**CB. Creation of an accessory dwelling unit.** Base zone regulations allow creation of an accessory dwelling unit by internal conversion of existing living area, basement, or attic. Chapter 33.205 (Accessory Dwelling Units) contains regulations that allow for the creation of accessory dwelling units. In the ADD zone, an accessory dwelling unit may also be created through:~~

- ~~1. Addition of new square footage to the a house, attached house, or manufactured home;~~
- 2-3. [No change]

Reletter paragraphs D through I to C through H, respectively.

33.405.050 Bonus Density for Design Review

C. Bonus density. Fifty percent more dwelling units than allowed by the base zone is granted for projects that voluntarily go through a Type III design review process. If a land division is required or requested, the design review process must be concurrent with the land division. The development will be judged against the ~~guidelines for design review applicable to the district. Where no district design guidelines exist, the~~ Community Design Guidelines will be used.

33.405.060 Attached Residential Infill on Vacant Lots

- B. **Attached residential infill.** The R2.5 zone contains unique development standards for detached and attached residential structures dwellings. This amendment clarifies in Subparagraph 4 that residential structures using provisions of this paragraph must meet the R2.5 development standards for attached structures.

33.405.070 Alternative Development Options in the R2 and R2.5 Zones

- B. **Owner-occupied duplex or triplex.** The existing regulations that allow owner occupied duplexes and triplexes in the R2.5 and R2 zones indicate that the height, setback and building coverage standards of the R2.5 zone must be met. There is no indication how other development standard are regulated. The amendment clarifies that the base zone in which the site is located regulates all other development standards.

33.405.060 Attached Residential Infill on Vacant Lots-

A. Purpose. [No change]

B. Attached residential infill. Attached residential development is allowed if all of the following are met. Adjustments to Paragraphs B.1 through B.4, below, are prohibited:

1-3. [No change]

4. Attached residential development in the R20, R10, R7 and R5 zones must meet the following development standards:

a. Height and front setback standards. Attached residential development must meet the height and front setback standards of the base zone; and

b. All other development standards. ~~Attached residential~~ The proposed development must meet all other development standards for attached housing projects of in the R2.5 zone; and

5. Design review required: [No change]

33.405.070 Alternative Development Options in the R2 and R2.5 Zones

B. Owner-occupied duplex or triplex. Development may include up to three dwelling units, including accessory dwelling units, if they meet all the following requirements:

1. [No change]

2. The proposed development conforms with the maximum height, minimum setbacks, maximum building coverage, and required outdoor area requirements for attached housing projects in the R2.5 zone. The proposed development must meet all other development standards of the base zone, overlay zone, and plan district;

3-4. [No change]

Commentary

33.405.090 Design Review and Community Design Standards. The Zoning Code was recently amended to allow institutions in the IR zone to be regulated either by an Impact Mitigation Plan or a Conditional Use Master Plan. The amendment updates Table 405-1 to reflect this change in the IR zone.

33.405.090 Design Review and Community Design Standards

Table 405-1 Maximum Limits for Use of the Community Design Standards	
Zones	Maximum Limit—New Dwelling Units or Floor Area
Single Dwelling Zones	5 dwelling units
R2 & R3 Zones	10 dwelling units
R1, RH, RX, C, & E Zones	20,000 sq. ft. of floor area
I Zones	40,000 sq. ft. of floor area
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan
Zones	Maximum Limit—Exterior Alterations
All except IR	<ul style="list-style-type: none"> • Alterations to the street-facing facade that affect less than 50 percent of the area of the facade, regardless of the square footage of the area affected; and • Alterations to the street-facing facade that affect less than 1,500 sq. ft. of the facade, regardless of the percentage of the facade affected. [1]
IR Zone	See institution's Impact Mitigation Plan or Conditional Use Master Plan

Notes:

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

**CHAPTER 33.410
BUFFER ZONE**

33.410.040 Landscaped Areas

- A. C-zoned land.** For clarity, the term "street setback" is replaced with the term "street lot lines" in 33.410.040.A.

**CHAPTER 33.410
BUFFER ZONE**

33.410.040 Landscaped Areas

The following landscaped areas must be provided in the Buffer zone. Structures, exterior storage, and exterior display are prohibited in the landscaped areas.

- A. C-zoned land.** For C-zoned land, a 10 foot deep area landscaped to at least the L3 standard must be provided along all street ~~setbacks~~ lot lines that are across a local service street from R-zoned land. See Figure 410-1. The 10 foot deep landscaped area must also be provided wherever the site abuts the rear lot line of an R-zoned lot.

CHAPTER 33.480
SCENIC RESOURCE ZONE

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards.

- b. Street setbacks. Street setbacks. This amendment clarifies that the entire length of the street setback must meet the standards for landscaping and vehicle areas, and not solely the portion of the street setback between the development and the street lot line. As part of public testimony at the Planning Commission hearing, the question was raised what impact this amendment would have on the amount of landscaping along the scenic corridor. The amendment will ensure that the *entire* front setback is landscaped to the L1 standard, and not just the portion of the frontage adjacent to where development is proposed.
- g. Preservation of trees. This amendment clarifies situations where trees may be preserved, when they may be removed, and when they must be replaced. It is not clear from existing regulations whether the trees that may be removed under Subparagraph g must be replaced by vegetation identified in Subparagraph h. Additionally, it is not clear whether the tree replacement requirements of Subparagraph h apply to trees removed within the street setback, or to trees removed anywhere on portions of the site designated with the "s" overlay.

The legislative intent of these regulations was to preserve trees only within the street setback (i.e., portions of the site that are most visible and have most impact on the appearance and character of the scenic corridor). Trees elsewhere on the site may be removed, with no replacement requirement. Subparagraph g was intended to identify situations where trees within the street setback could be removed, with no tree replacement required. Subparagraph h was intended to identify other situations in which trees within the setback area could be removed, but only if replaced by trees or other vegetation.

As Chapter 33.930 (Measurements) already identifies how the diameter of existing trees is measured, outdated references to how tree diameter is calculated are deleted from Subparagraph g.

**CHAPTER 33.480
SCENIC RESOURCE ZONE**

33.480.040 Development Standards

- B. Scenic Corridors.** All development and vegetation with a scenic corridor designation in the *Scenic Resources Protection Plan* are subject to the regulations of this Subsection.
1. Purpose. [No change]
 2. Standards.
 - a. Limiting blank facades. [No change]
 - b. Street setbacks. The entire required ~~S~~street setbacks must be landscaped to at least the L1 level unless the more stringent standards below or in other chapters of this title apply. No more than 25 percent of the entire area of the street setback can be used for vehicle areas except that each lot is allowed at least a 9 foot wide driveway or parking area. For shared driveways serving more than one unit, the base zone standards apply, and landscaping at the L1 standard must be provided adjacent to the identified resource. Where the base zone does not require a street setback, a setback of 20 feet is established by the Scenic Resource zone.
 - c-f. [No change]
 - 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 ~~measured at 5 feet above the ground~~ 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 a certified arborist finds, through root exploration, that the location of a proposed structure will cause the tree to die-;
 - (2) The tree is determined by a certified 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-; or
 - (5) The tree is within 10 feet of a Radio Frequency Transmission Facility that is a public safety facility.

Commentary

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards.

g. Preservation of trees. (continued)

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards.

g. Preservation of trees. (continued)

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.

h. ~~Tree Replacement. Trees between 6 inches and 12 inches in diameter, 5 feet above the ground, may be removed if replacement vegetation is planted within the front setback (or first 20 feet if no setback has been established) as shown in Table 480-1 below.~~

Table 480-1 Replacement Trees		
Size of tree to be removed (as measured at 5' above ground)	Option A (no. of trees to be planted)	Option B (no. of trees to be planted/no. of other approved vegetation)
6" to 9"	1	not applicable
over 9" to 12"	3	2 trees and 1 other

(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.

Commentary

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards. (continued)

h. Replacement landscape material.

33.480.040 Development Standards

B. Scenic Corridors.

2. Standards. (continued)

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 at 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.

Commentary

33.480.050 Tree Removal Review. This amendment corrects the subparagraph reference to amended language in Section 33.480.040.B

33.480.050 Tree Removal Review

Trees that do not qualify for removal under Subsection 33.480.040.B.2.g ~~and h.~~, above, may be removed if approved through tree 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.

**CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT**

33.510.010 Purpose This amendment replaces an outdated reference to the Central City Parking and Circulation Policy with the current Central City Transportation Management Plan (CCTMP). The CCTMP became the controlling policy document in January 1996.

33.510.114 Exemptions for Portland State University. The University District Plan, adopted by City Council in 1995, was intended to support the development of at least 1,000 additional housing units within the district. This objective would also support a goal of the plan to house at least 15% of the university's students within the district, or within walking or bicycling distance of the district. Towards this end, areas within University District were rezoned to RXd to encourage housing development. Additionally, areas within the district were rezoned to CX to support the development of academic facilities.

The intention of the University District and the zone map amendments were to allow by right the development of university facilities if such uses were allowed in the respective RX and CX zones. This is evidenced by Policy 16, paragraph E of the University District Plan that calls for "eliminat[ing] the regulation requiring PSU academic facilities to undergo Conditional Use Master Plan procedures for new development proposals."

The original intent of 33.510.114 was to implement these policies of the University District by allowing development by right, if the use ordinarily was allowed by the base zone. An example would be a proposal by the University for a multi-dwelling development for students in the RX zone. While multi-dwelling development (i.e., Household Living) is an allowed use in the RX zone, it is not considered Household Living if operated by the University. Instead, it becomes a College use, which requires a conditional use review in the RX zone. The amendment clarifies that as long as the use is allowed by the base zone, were the use not operated in association with the University, no conditional use review is required.

33.510.200 Floor Area Ratios

C. Limit on increased floor area.

1. Generally. This amendment clarifies that the 3:1 limit on floor area ratio increases applies to any increase in floor area above that shown on Map 510-2, whether achieved through floor area transfers or bonus options.

**CHAPTER 33.510
CENTRAL CITY PLAN DISTRICT**

33.510.010 Purpose

The Central City plan district implements the Central City Plan and other plans applicable to the Central City area. These other plans include the Downtown Plan, the River District Plan, the University District Plan, and the ~~Downtown Parking and Circulation Policy~~ Central City Transportation Management Plan. The Central City plan district implements portions of these plans by adding code provisions ~~which~~ that address special circumstances existing in the Central City area.

33.510.114 Exemptions for Portland State University

- A.** Development by Portland State University, within the University District, is exempt from the Conditional Use requirements of Section 33.815.070, Sites with Split Zoning;
- B.** Development by Portland State University within the University District is exempt from the Conditional Use requirements of Chapter 33.815, Conditional Uses, in situations where a use would be allowed if it was not associated with the University. Instead, such development is subject only to the regulations of the base zone, overlay zone, and plan district.

33.510.200 Floor Area Ratios

C. Limit on increased floor area.

- 1. Generally. In situations where FAR increases are allowed, whether by transfers of floor area or bonus floor area options, increases more than 3 to 1 above those shown on Map 510-2 are prohibited, except as allowed in subparagraph C.2.
- 2. [No change]

33.510.210 Floor Area and Height Bonus Options

C. Bonus floor area options.

10. Eco-roof bonus option.

- b. To qualify for a floor area bonus associated with an eco-roof, the applicant must submit with the land use review application a letter from the Bureau of Environmental Services (BES) certifying that the eco-roof meets BES requirements. This prior approval by BES is problematic in that the design of the building and roof may change as a result of the land use review. The amendment modifies the requirement by allowing the applicant to submit the letter from BES prior to approval of the land use review. This allows all involved parties to evaluate the project at the same time, and avoid potential conflicts between BES approval and the land use review approval.

33.510.210 Floor Area and Height Bonus Options

C. Bonus floor area options.

1-9. [No change]

10. Eco-roof bonus option. Eco-roofs are encouraged in the Central City 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). Proposals that include eco-roofs receive bonus floor area. A proposal may not earn bonus floor area for both the eco-roof option and the rooftop gardens option; only one of these options may be used.

a. Bonus. [No change]

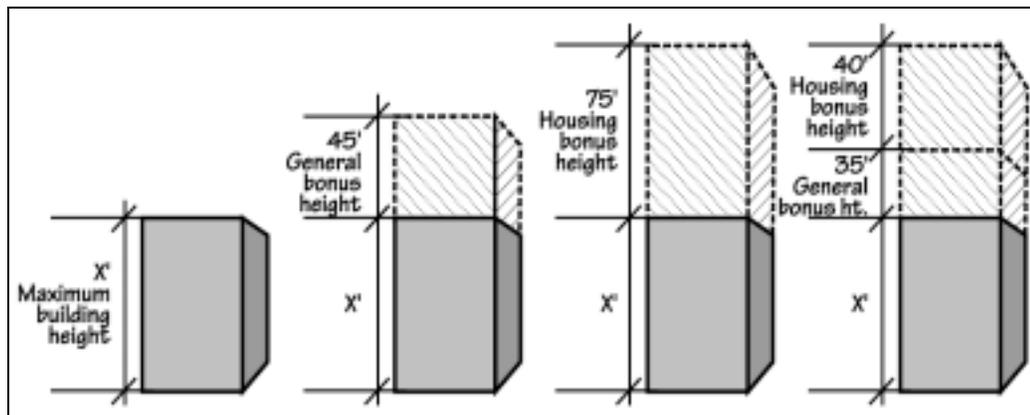
b. Before an application for a land use review will be approved, the applicant must submit a letter from BES with the application for land use review. The letter must certify that the eco-roof is BES approved, and must specify the area of the eco-roof.

c. [No change]

11-15. [No change]

33.510.210 Floor Area and Height Bonus Options

- E. **Bonus height option for housing.** This amendment proposes rewording the restriction about using both the residential height bonus and the general height bonus (allowed through 33.510.210.D). The original intent of the restriction was to prevent a building from earning a total of 120 feet of bonus height (i.e., the 45 foot maximum general height bonus, and the 75 foot residential height bonus). What this restriction prevents, as illustrated below, is a combined use of the height bonuses, even when the overall height bonus is equal to or less than the 75 feet allowed through the residential height bonus



Allowing both height bonuses to be used furthers the intent of the Central City Plan District bonus options by encouraging the developer to provide general amenities to the public (such as art, daycare, retail, locker rooms and rooftop gardens) and additional residential units, while still keeping within the respective maximum height bonuses identified in Subsections D and E.

The amendment also clarifies that the residential floor area contained in the 75 foot height bonus cannot be used to qualify for the residential floor area bonus options of Subsection 33.510.210.C.1, Residential bonus option). This is to ensure that the applicant does not "double-dip" and get a bonus for a bonus.

33.510.210 Floor Area and Height Bonus Options

E. Bonus height option for housing.

1. Generally. In the bonus height areas, building heights may be allowed to be greater than shown on ~~the map~~ Map 510-3 if the bonus height is ~~exclusively to accommodate~~ for housing.

2. Standard. The maximum height bonus that may be allowed is 75 feet. Projects may ~~not~~ use both the bonus height options of this subsection and Subsection D~~7~~, 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 used exclusively for housing, and may not be used to qualify for the residential floor area bonus option in Subsection C.1, above.

33.510.210 Floor Area and Height Bonus Options

E. Bonus height option for housing. (continued)

The existing regulation states that the 75 foot bonus height option for housing will be approved through design review if, in part, the bonus is "necessary for the development of the maximum amount of floor area devoted to housing." A straight reading of this regulation would indicate that the only way to achieve the maximum amount of housing would be if 100 percent of the development were residential. If, for example, the applicant provided ground floor retail, and/or several floors of structured parking, the height bonus could not be approved as the applicant did not devote the maximum amount of available floor area in the development to housing. It is not likely that this was ever the intent of the regulation. Not only would it be unusual to develop 100 percent of the floor area of a large building, upwards of 15 stories, to housing in Central City, with no interior parking, retail or office uses, but also the plan district regulations, design guidelines, and base zone standards require, allow, or promote ground floor commercial uses that activate the street.

The bonus height regulations for housing that existed prior to 1991 did not include the approval criterion that requires the applicant to demonstrate the bonus is "necessary for the development of the maximum amount of floor area devoted to housing." The applicant needed only address the impact of the bonus height on shadows. As indicated in the written commentary for the 1991 rewrite of the Zoning Code, the proposed amendments to the Central City plan district bonus floor area and height provisions were generally intended to simplify the regulations, and to make most bonuses allowed by right. Given this intent, it is unlikely that a new approval criterion would have been added that further restricted use of a bonus height provision.

Questions regarding how the bonus height option is implemented were first raised in late 2001, as part of a design review case before the Design Commission. (The residential height bonus provisions had never been used prior to this case.) The Design Commission concluded that the intent of the criterion was not to be prescriptive in terms of the amount of uses allowed, but rather, to ensure through design review that the resulting development achieves its height in a manner that is consistent with, or exceeds, that anticipated by the applicable design guidelines.

Consistent with the conclusion of the Design Commission, and with commentary included in the 1991 rewrite of the Zoning Code, the amendment removes the phrase "if it is found to be necessary for the development of the maximum amount of floor area devoted to housing." The regulation requiring that the bonus height be used exclusively to accommodate housing is retained, as is the design approval criterion that the increased building height not be found to cast shadows that adversely impact neighboring residential zones. The revised amendment changes the phrase "the bonus height will be approved" to "the bonus height may be approved" so as to emphasize that the decision to grant the height bonus is discretionary. For the same reason, an additional approval criterion is included that specifies the purpose for design review.

33.510.210 Floor Area and Height Bonus Options

E. Bonus height option for housing. (continued)

3. Approval Criteria. The approval of the bonus height is made as part of the design review of the project. The bonus height ~~will~~ may be approved ~~if it is found to be necessary for the development of the maximum amount of floor area devoted to housing and 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, ~~it must also be found that the proposed building will not cast shadows which that have significant negative impacts on dwelling units in R zoned lands;~~
- c. If the site is shown on Map 510-3 as eligible for the Open Space (OS) performance standard, ~~it the project must also be found to meet the performance standards of Subsection 33.510.205.D E;~~
- d. If the site is on a block adjacent to the Yamhill or Skidmore Fountain/Old Town Historic Districts, ~~it the project must also be found to meet the performance standards of Subsection 33.510.205.E D;~~ and
- e. The increased height will result in a project that better meets the applicable design guidelines.

33.510.245 Northwest Triangle Open Area Requirement

- B. The open area requirement.** In Paragraph 1 of this subsection, the amendment replaces the term "lot" with the term "site." The inadvertent use of the term "lot" in this regulation allows sites that are made up of several lots, all of which are less than 40,000 square feet in area, to be exempt from this standard. It is clear from the purpose statement in Subparagraph A of this section that the open area requirement is meant to apply to large sites.

The first sentence in Paragraph 2 of this subsection states, "Development consisting primarily of uses in the industrial group of categories is exempt from the open area requirement." The term "primarily" is undefined, and is subjective. The intent of the term is clarified somewhat in the second sentence of this paragraph, by stating that where more than 50 percent of the site is developed with uses in the nonindustrial categories, the standard applies. The amendment replaces the term "primarily" in the first sentence with an objective standard that is related to the 50 percent figure identified in the second sentence.

33.510.263 Parking in the Core Area

E. Residential/Hotel Parking.

3. Maximum ratios. Parking is limited to the maximum ratios of this Paragraph.
- c. Existing hotels. The maximum parking ratio for existing hotels is presently expressed as 0.7 spaces for each 1,000 square feet of floor area. Because the term "floor area" includes the area devoted to parking that is above ground level, this allows the maximum parking ratio for existing hotels to be based in part on floor area already occupied by parking. The amendment corrects this oversight by replacing the term "floor area" with the term "net building area." Net building area is defined in Section 33.910 (Definitions) as gross building area, excluding parking area. Gross building area is defined generally as the total floor area of a building both above and below grade.

33.510.245 Northwest Triangle Open Area Requirement

B. The open area requirement.

1. On ~~lots of sites~~ over 40,000 square feet in the Northwest Triangle subarea, a minimum of 30 percent of the area over 40,000 square feet must be devoted to open area. The boundaries of the subdistrict are shown on Map 510-1 at the end of this chapter.
2. ~~Development consisting primarily of uses in the industrial group of categories~~ Sites where at least one-half the site area is in industrial use is ~~are~~ exempt from the open area requirement. However, ~~redevelopment changes~~ resulting in more than 50 percent one-half of the site area falling into being in nonindustrial uses ~~categories~~ require compliance with the open area requirement.
- 3-4. [No change]

33.510.263 Parking in the Core Area

The regulations of this Section apply in the Core area shown on Map 510-8.

E. Residential/Hotel Parking. The regulations of this Subsection apply to Residential/Hotel Parking. Adjustments to the regulations in Paragraphs E.1 and E.3 through E.10, below, are prohibited.

- 1-2. [No change]
3. Maximum ratios. Parking is limited to the maximum ratios of this Paragraph.
 - a. Dwelling units. The maximum parking ratios for dwelling units are in Table 510-6.
 - b. New hotel rooms. The maximum parking ratio in all sectors is 1.0 parking spaces for each new hotel room created.
 - c. Existing hotels. The maximum parking ratio in all sectors for existing hotels is 0.7 spaces for each 1,000 square feet of ~~floor~~ net building area.
- 4-10. [No change]

**CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT**

33.515.110 Uses in the Industrial Business Opportunity Subdistrict

C. Standards

3. This amendment deletes an obsolete reference to Section 33.510.205.E. The amendment also removes a reference to the pedestrian standards, as the pedestrian standards for the plan district are already identified in Section 33.515.257.

33.515.120 Commercial Uses. Consistent with the limitation on Retail Sales And Service found in all other locations of the Zoning Code, this amendment clarifies that the use limitation includes exterior display and storage, as well as floor area.

33.515.130 Additional Conditional Uses

The amendment clarifies that the square footage limits on Retail Sales And Service uses apply to floor area as well as exterior display and storage. This is consistent with all other regulations in the Code, both in the base zones and in other plan districts, that limit the size of Retail Sales And Service uses. If exterior display and storage areas that are accessory to a retail use are not included in the retail size limits, auto sales and similar retail establishments that occupy little floor area but have large exterior display/storage area would be permitted. This is contrary to the intent of the Plan District to preserve opportunities for industrial development while also limiting potential conflicts between uses.

**CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT**

33.515.110 Uses in the Industrial Business Opportunity Subdistrict

C. Standards.

1-2. [No change]

3. The development standards of this chapter are met, ~~including pedestrian standards for the EG2 zone (33.515.205.E).~~

33.515.120 Commercial Uses

- A.** Retail Sales And Service uses ~~within~~ the EG2 zone are limited to 25,000 square feet or less of floor area plus exterior display or storage per site. The 25,000 square foot limitation does not apply to hotels or motels.
- B.** The IG2 zone regulations allow four Retail Sales And Service uses of up to 3,000 square feet each of floor area plus exterior display or storage per site without a conditional use review. Within the Industrial Business Opportunity subdistrict, sites zoned IG2 are allowed a single Retail Sales And Service use of up to 12,000 square feet of floor area plus exterior display or storage without a conditional use review, in lieu of the four separate uses. Retail Sales And Service uses ~~that~~ where the floor area plus exterior display or storage exceed 60,000 square feet are prohibited.

33.515.130 Additional Conditional Uses

D. Retail Sales And Service.

1. For sites zoned EG2, a Retail Sales And Service use that has floor area plus exterior display and storage area in excess of the 25,000 square foot limitation is allowed only through a conditional use review. The approval criteria are in 33.815.303, Retail Sales and Service Uses in the Columbia South Shore plan district.
2. Retail Sales And Service uses that have floor area plus exterior display and storage area in excess of 25,000 square feet, which existed on September 1, 1996, or for which a complete application was received under Section 33.700.080 by September 1, 1996, may change to another use in the same use category without a land use review if there is no increase in floor area or exterior improvement area.

33.515.270 Overlay Zones

- B. Subareas of the Environmental Zone in the Columbia South Shore.** This amendment clarifies how the transitional area of environmental zones is measured. The existing language is unclear, and has led to interpretations that the transition area lies outside the environmental zone boundary. However, as illustrated in the existing Figure 515-7, the transition area lies within the boundary of the environmental zone.

33.515.278 Development Standards

B.

17. Nonconforming situations. Two amendments are adopted that clarify the required nonconforming upgrades in the Columbia South Shore plan district:
- **Threshold Value for Nonconforming Upgrades:** Required nonconforming upgrades are currently triggered when proposed alterations in excess of \$10,000 are proposed on a site. In 1997, the threshold for nonconforming upgrades was increased elsewhere in the Code from \$10,000 to \$25,000, but was inadvertently missed in the Columbia South Shore plan district. The amendment increases the threshold for nonconforming upgrades in the Columbia South Shore plan district from \$10,000 to \$25,000.
 - Existing language states that required nonconforming upgrades that cost more than 10 percent of the value of the proposed alterations do not have to be made. This has been interpreted to mean that if the cost of the required upgrades is, for example, 12 percent of the proposed alterations on the site, the upgrades do not need to be made. The intent of the regulation is to place a cap on the amount the applicant must spend on upgrades, not to exempt them from completing upgrades. The amendment clarifies the language so as to be consistent with the intent of the regulation.

33.515.270 Overlay Zones

- B. Subareas of the Environmental Zone in the Columbia South Shore.** Each environmental zone in the Columbia South Shore contains a protected natural resource and a transition area surrounding the protected resource. The purpose of the transition area is to protect the adjacent natural resource. The transition area provides a buffer between the protected resource and impacts of adjacent development. The transition area is the ~~outer~~ first 50 feet inward from ~~of~~ the environmental zone boundary, except as shown on Map 515-5. Figure 515-7 illustrates two different situations: when either the environmental conservation or environmental protection zone is applied, and when the two zones are applied together and border each other.

33.515.278 Development Standards

- B.** Land uses, land divisions, and activities within an environmental zone must meet the following standards:

1-16. [No change]

17. Nonconforming situations

- a. Paved exterior areas in an environmental conservation or environmental protection zone. Paved areas ~~which~~ that do not meet plan district regulations must be removed from environmental-zoned areas when the value of the proposed alterations on the site is more than ~~\$10,000~~ \$25,000. However, the cost of required changes ~~costing over~~ is limited to 10 percent of the value of the proposed alterations ~~do not have to be made~~.
- b. Unpaved exterior areas. Unpaved exterior improvements must comply fully with development standards at the time of development on the site. However, the cost of required changes ~~costing over~~ is limited to 10 percent of the value of the proposed alterations ~~do not have to be made~~.
- c. [No change]

33.515.280 Columbia South Shore Environmental Review

- C. Procedures.** Prior to April 1995, a pre-application conference was required for environmental reviews anywhere in the City. In an effort to streamline the City's development service functions, this requirement was removed from Chapter 33.430 (Environmental Zones) as part of the Environmental Zone Streamline Project in April 1995. Due to the scope of the Environmental Zone Streamline Project, which focused solely on Chapter 33.430, the similar requirement in the Columbia South Shore plan district was not addressed. Consistent with how environmental reviews are processed elsewhere in the City, the amendment deletes the requirement for a pre-application conference for Type II environmental reviews in the Columbia South Shore plan district.

33.515.280 Columbia South Shore Environmental Review

- C. Procedures.** All required reviews are processed through a Type II procedure.
~~A pre-application conference is required for all reviews.~~

CHAPTER 33.535
JOHNSON CREEK BASIN PLAN DISTRICT

33.535.130 Springwater Corridor Standards

C. Standards.

2. Special setback standards.

- a. Landscaped buffer required. This paragraph requires development to be set back a minimum distance, and screened, from the abutting Springwater Corridor. Though the term "development" is defined in Chapter 33.910 (Definitions), the general public is not always familiar with what the term includes. For clarification, the amendment includes in Section 33.535.130 specific examples of what qualifies as "development."

33.535.205 Site Development Standards

- B. Impervious surface.** See commentary , below.

33.535.310 Site Development Standards

B. Impervious surface.

As indicated in the *Johnson Creek Basin Protection Plan*, increases in impervious surface substantially modify stormwater runoff patterns, both in terms of the quantity of runoff and the timing of runoff, which contribute to area flooding. Additionally, impervious surface decreases the infiltration of water through the soil, thereby depleting groundwater recharge. As groundwater is the predominate source of streamflow in the summer, reducing groundwater infiltration reduces stream flows and increases water temperature. Warmer water temperatures adversely impact fish and water-related wildlife habitats. For these reasons, impervious surface on sites in the South and Flood Plain subdistrict of the Johnson Creek Basin plan district is limited to a maximum of 50 percent.

It is not clear from existing regulations whether building eaves are included in the calculation of impervious surface. Given the legislative intent of limiting impervious area, as identified above, it is clear that building eaves substantially alter the natural flow and percolation of stormwater on sites, and should be included in the impervious surface calculation. The amendment includes new language that clearly states eaves are included in the calculation of impervious surface. This is consistent with current practice in the Development Services Center.

CHAPTER 33.535
JOHNSON CREEK BASIN PLAN DISTRICT

33.535.130 Springwater Corridor Standards

C. Standards.

1. [No change]
2. Special setback standards.
 - a. Landscaped buffer required. New development and expansion of existing development, including buildings, other structures, fences, parking and loading areas, paved and graveled areas, and exterior display and storage areas, must be set back and provided with a landscape buffer along lot lines abutting the Springwater Corridor.

(1-2) [No change]
 - b. [No change]

33.535.205 Site Development Standards

- B. Impervious surface.** No more than 50 percent of any site may be developed in impervious surface. Building eaves are included in the calculation of impervious surface.

33.535.310 Site Development Standards

- B. Impervious surface.** No more than 50 percent of any site may be developed in impervious surface. Building eaves are included in the calculation of impervious surface.

CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT

Timeliness of Regulations

33.700.080 Regulations That Apply at the Time of an Application

- A. Applications.** Existing language in the Zoning Code regarding what regulations apply at the time of application is not in compliance with the Oregon Revised Statutes (ORS). The Zoning Code states that the regulations in effect at the time a *complete* application was submitted will be used to process land use reviews. ORS 227.178 goes further to also allow incomplete applications to be processed per the regulations in effect at the time of submittal as long as the additional information is received within 180 days of the date the application was first submitted. The amendment is limited to revising this section of the Zoning Code to bring the regulations into conformance with ORS 227.178.

33.700.090 Regulations That Apply After Approval

- B. Land divisions.** This amendment makes reference to how the term "complete" is defined in the revised Paragraph A of Section 33.700.080.

**CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT**

Timeliness of Regulations

33.700.080 Regulations That Apply at the Time of an Application

When new zoning code amendments or changes to the zoning map are adopted but not yet implemented, the regulations of this section apply.

A. Applications.

1. ~~Application for land use review. Applications for building or development permits or~~ land use reviews will be processed based on the regulations in effect at the time on the date an complete application is submitted to filed with the City, as follows:
 - 1- a. ~~Complete at filing. For the purposes of this section If, on the date the application is filed with the City, a complete land use review~~ the application contains all the information stated in 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes-, the application will be processed based on the regulations in effect on the date the application is filed;
 - b. ~~Complete within 180 days. If, on the date the application is filed with the City, the application does not contain all the information stated in 33.730.060, Application Requirements, as well as any additional information required in the pre-application conference notes, but the applicant provides the information within 180 days of the date the application was filed, the application will be processed based on the regulations in effect on the date the application was filed.~~
2. ~~Application for building or development permit. Applications for building or development permits will be processed based on regulations in effect on the date a complete application is filed with the City. For the purposes of this section, a complete building or development permit application contains the information necessary for OPDR to determine that the proposal conforms with all applicable use regulations and development standards.~~

33.700.090 Regulations That Apply After Approval

The regulations of this section apply to land use approvals that are subject to expiration as provided in 33.730.130, Expiration of an Approval.

A. Building Permits. [No change]

- B. Land divisions.** Applications for Final Plat approval where the Preliminary Plan approval has not expired are subject only to the regulations in effect ~~at the time on the date~~ a complete application for Preliminary Plan was submitted filed with the City, as specified in Paragraph 33.700.080.A.1.

**CHAPTER 33.720
ASSIGNMENT OF REVIEW BODIES**

33.720.020 Concurrent Reviews

- G.** This amendment clarifies how appeals of land use review cases that have the same procedure but different review bodies are processed. In such instances, the appeal hearing will be before the review body assigned to review the specified criteria that are being appealed. This ensures that for a Type II land use review case involving both a Conditional Use Review and Design Review Use review, if only the findings related to the Design Review are appealed, the appeal hearing is conducted only by the Design Commission and not by the Hearings Officer.

**CHAPTER 33.720
ASSIGNMENT OF REVIEW BODIES**

33.720.020 Quasi-Judicial Land Use Reviews

Quasi-judicial land use reviews are assigned to the review bodies stated below.

A - F. [No change]

G. Applications for more than one land use review request on a site may be consolidated into a single application package. If the reviews are not assigned to the same review body, they are assigned in the manner stated below;

1-3. [No change].

4. If an appeal is filed, the appellant must identify the specific approval criteria that the decision violates. The appeal hearing will be before the review body assigned to review the specified criteria that are being appealed. If approval criteria from more than one review are appealed, separate appeal hearings before the review bodies assigned the reviews may be held.

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.020 Type II Procedure

I. When an appeal is filed.

2. Notification of appeal hearing. The amendment clarifies that the notice of an appeal hearing will be mailed by OPDR within five *working* days following receipt of the appeal statement. This allows land use review staff the needed time, particularly for appeals that are received on Friday at 4:30 p.m., to determine that the appeal application meets all requirements of 33.730.020.I.1 (When an Appeal is Filed), and to draft the notice.

A question was raised at the Planning Commission hearing about the need to change other time periods referenced throughout the Code to *working* days. Many of the time periods used in the Code are State-mandated (such as decisions being made within 120 days), and refer to calendar days. To change the timeframes in the Code related to the 120-day limit from calendar days to working days would result in the City exceeding the 120-day limit. Additionally, few time periods referenced in the Code are as limiting as five days, and the ones that are five days are related to clerical tasks that can readily be completed in that time frame. When appeals are received on Friday afternoons, the case planner has three days or less to determine that the appeal application is complete, to evaluate and summarize the material included in the application, and to prepare and mail the notice. The amendment provides the planner with the additional time needed to adequately fulfill these requirements.

An amendment to the definition of "days" in Chapter 33.910 will define the term "working days."

33.730.030 Type III Procedure

E. Decision by review body if site is in City of Portland.

5. Notice of decision (pending appeal). This amendment corrects a reference in the notice of decision requirements for Type III land use reviews. The existing text states that the Hearings Officer or Director of OPDR will mail notice of the land use decision to a variety of interests, including those who "responded in writing to the appeal notice." The reference to an appeal notice is incorrect because at this point in the land use review process, no appeal has been filed and no appeal notice has been prepared. The amendment replaces the term "appeal notice" with the term "notice of the request."

The amendment also deletes an obsolete reference to Section 33.730.070.G.

**CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES**

33.730.020 Type II Procedure

The Type II procedure is an administrative process, with the opportunity to appeal the Director of OPDR's decision to another review body.

I. When an appeal is filed. Appeals must comply with this subsection.

1. [No change]
2. Notification of appeal hearing. The Director of OPDR will file a copy of the appeal within 3 days of its receipt to the City Auditor and the applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of OPDR will send a notice of the appeal hearing to the applicant and all persons and recognized organizations ~~which~~ who received the notice of the decision. See 33.730.070.H, Notice of ~~an~~ Type II or Type III appeal hearing.
- 3-10. [No change]

33.730.030 Type III Procedure

E. Decision by review body if the site is in the City of Portland.

- 1-4. [No change]
5. Notice of decision (pending appeal). When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of OPDR will mail notice of the decision. Within 17 days of the hearing, the Hearings Officer or Director of OPDR will mail notice of the review body's decision (pending appeal) to the City Auditor, applicant, owner, and to any recognized organizations or persons who responded in writing to the ~~appeal~~ notice of the request, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See ~~33.730.070 G, Notice of decision (pending appeal).~~

Commentary

33.730.030 Type III Procedure (continued)

H. When an appeal is filed.

2. Notice of the appeal hearing. This amendment clarifies that OPDR must send the notice of an appeal hearing within five *working* days from receipt of the appeal statement.

33.730.030 Type III Procedure (continued)

H. When an appeal is filed. Appeals must comply with this subsection.

1. [No change]
2. Notice of the appeal hearing. The Director of OPDR will file a copy of the appeal within 3 days of its receipt to the City Auditor and the applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of OPDR will send a notice of the appeal hearing to the City Auditor, applicant, the review body, and all persons and recognized organizations ~~which~~ who received the notice of the decision. See 33.730.070.H, Notice of an Type II or Type III appeal hearing.
- 3-9. [No change]

33.730.040 Final Council Action Required. Per ORS 227.178(1), a governing body must take final action on all discretionary land use reviews within 120 days after the application is deemed complete. The procedures and related timeframes for land use reviews identified in the Portland Zoning Code reflect this 120-day limit. However, ORS 227.178(6) states that the 120-day limit does not apply to amendments to an acknowledged comprehensive plan. The amendment includes language that clarifies the 120-day limit does not apply to comprehensive plan amendments.

33.730.050 Pre-Application Conference

- B. Requirements.** Existing regulations require the pre-application conference be held within 14 days of the date a completed request form is received. A significant amount of work, and in many cases, the majority of the work related to the process, must be completed between the time a request is submitted and the conference is held. This includes researching the site, its zoning, past land use actions affecting the site, evaluating how specific Code regulations apply to the proposal, and coordinating with a host of other service bureaus to prepare for the conference. As up to six pre-application conferences are scheduled each week, it is not possible to hold a pre-application conference within 14 days from the date the request was made. Presently, the pre-application conference schedule may fill up early, and a conference may not be available for up to 40 days following the date the request was filed. Additionally, it is expected that the number of requested pre-application conferences will increase with the newly adopted land division regulations. To address this situation, the amendment proposes that the conference be held within 42 days (six weeks) of the request, which is more representative of the actual time it takes to prepare for the number of conferences that are requested.
- D. Pre-application conference recommendations.** Existing language requires OPDR to provide the applicant with a copy of the pre-application summary notes within seven days of the conference. As indicated above, given the number of pre-application conferences each week, and the growing complexity of policy issues raised at the conferences, it is not possible to complete the summary notes within one week. The amendment proposes that the summary notes will be mailed to the applicant within 21 days of the conference.

(Note: These two amendments to the pre-application requirements do not delay an applicant's ability to submit a land use review application. Per Section 33.730.050.E, the applicant may submit concurrently an application for a land use review and a pre-application conference. Additionally, while the pre-application summary notes are a required component of a land use review application, per Section 33.730.060.C.4, the applicant need only provide proof of participation in a pre-application conference.)

33.730.040 Final Council Action Required

In the case of certain quasi-judicial land use reviews, such as Comprehensive Plan Map amendments and Statewide Planning Goal exceptions, final City Council action is required in addition to the normal Type III procedure. In these cases, the initial processing of the land use review is the same except the decision of the initial review body becomes a recommendation to Council. The post-acknowledgment procedures required by ORS 197.610 through 197.650 are followed, and the case is scheduled for a public hearing before City Council. The 120-day review period required by ORS 227.178(1) does not apply to Comprehensive Plan Map amendments, including Statewide Planning Goal Exceptions, or to land use reviews processed concurrently with Comprehensive Plan Map amendments.

33.730.050 Pre-Application Conference

- A. Purpose.** [No change]
- B. Requirements.** Forms for pre-application conferences are available from the Director of OPDR. A fee is required and must be paid at the time the request for a pre-application conference is submitted. The applicant must submit a written proposal or sketched site plan of the proposal. A pre-application conference must be held within ~~14~~ 42 days of receipt of a completed request form.
- C. Participants.** [No change]
- D. Pre-application conference recommendations.** The OPDR staff will ~~provide~~ mail the applicant ~~with~~ a written summary of the pre-application conference within ~~7~~ 21 days of the conference. The written summary will include suggestions and information that were raised at the conference for inclusion in an application. If the approval criteria for the land use review involve a determination of adequacy of the transportation system, the Office of Transportation may require a Transportation Impact Study to be submitted with the land use application.
- E-G.** [No change]

**CHAPTER 33.740
LEGISLATIVE PROCEDURE**

33.740.030 City Council Consideration

- B. Notice.** This amendment corrects the procedure for mailing legislative notices, by deleting reference to the City Auditor. The City Auditor mails notices only for appeals of Type III, quasi-judicial land use decisions.

**CHAPTER 33.740
LEGISLATIVE PROCEDURE**

33.740.030 City Council Consideration

- B. Notice.** At least 14 days prior to the hearing, ~~the City Auditor~~ the Planning Director will mail notice to all persons who have individually responded to the matter in writing, testified at the previous hearing, or have requested such notice.

CHAPTER 33.750
FEES

33.750.050 Fee Waivers

B. Low income waiver.

1. Land use review fees. Consistent with longstanding practice, this amendment clarifies that low income applicants may request a waiver of land use review fees only for *the primary residence they own in whole or part*. As indicated in existing language in this subsection, only individuals and noncorporate entities (such as a nonprofit, social service entity owning a house) are potentially eligible for the fee waiver, based on *household* income, and "the fee will be waived only for households." It is clear from this language that this fee waiver was intended for low-income applicants who apply for a land use review associated with their *residence*. By clarifying that the low income waiver may be granted only for land use review applications associated with the primary residence that the low income individual owns, the amendment prevents potential abuse of the low income waiver provision. This occurs when a property-owner, who does not qualify as a low income individual, has a low-income tenant serve as the applicant for the land use review.

Existing language in Section 33.750.050 states that the Director of OPDR "may" (as opposed to "will") waive land use review fees in identified situations, which signifies the Director has discretion in granting fee waiver requests. However, in two recent cases before the Land Use Board of Appeals (St. Johns Neighborhood Association vs. City of Portland [LUBA No. 2000-019]; and Donna Babbitt vs. City of Portland [LUBA # 2001-130]), LUBA has questioned the use of administratively adopted standards as the most appropriate mechanism to exercise the Director's discretion.

**CHAPTER 33.750
FEES**

33.750.050 Fee Waivers

The Director of OPDR may waive land use review fees in the following situations. The decision of the Director of OPDR is final. An application for a fee waiver may be filed concurrently with the land use review application or appeal form.

B. Low income waiver.

1. Land use review fees. An low income individual applicant may request a waiver of applying for a land use review fees who believes that he or she cannot pay the required fee(s) for a land use review on the site of the applicant's primary residence, if the applicant owns the site in whole or part , may request a waiver of fees. Applicants receiving a fee waiver must be an individual or noncorporate entity. An applicant for a fee waiver will be required to certify gross annual income and household size. The fee will be waived only for households with a gross annual income of less than 50 percent of the area median income as established by the Department of Housing and Urban Development (HUD), as adjusted for household size. Information relating to fee waivers must be made available by the Director of OPDR. The Director of OPDR will determine eligibility for fee waivers. Financial information provided by the applicant will remain confidential to the extent permitted under Oregon public records law.

**CHAPTER 33.800
GENERAL INFORMATION ON LAND USE REVIEWS**

33.800.040 The Land Use Review Chapters. This section indicates that the approval criteria for most land use reviews are found in the 800 series (i.e., the land use review chapters) of the Zoning Code. However, this section also includes a list of some land use reviews where the approval criteria are found elsewhere in the Code. This list is misleading, as it is not intended to be inclusive of all such reviews. For example, the list identifies only six types of land use reviews where the approval criteria are found in chapters other than in the 800 series, while in fact there are 14 such reviews. Additionally, as part of the recently adopted Land Division Code Rewrite project, the cited substandard lot review and planned unit development review no longer exist. For clarity, the amendment deletes this incomplete, outdated list of specific land use reviews.

**CHAPTER 33.800
GENERAL INFORMATION ON LAND USE REVIEWS**

33.800.040 The Land Use Review Chapters

The land use review chapters state the review process and approval criteria for most of the discretionary reviews. They include the reviews ~~which~~ that apply to many zones or situations. Some reviews, which relate only to a specific topic or to a limited area, are located in the chapter on that topic. ~~These include environmental review, greenway review, nonconforming use review, substandard lot review, convenience store review, and planned unit development review.~~ The information in this chapter applies to all discretionary reviews regardless of where they are located in this Title.

**CHAPTER 33.810
COMPREHENSIVE PLAN MAP AMENDMENTS**

33.810.050 Approval Criteria

A. Quasi-Judicial.

2. This amendment is largely limited to a reorganization of paragraphs in order to further clarify existing language. The amendment also clarifies when the applicant must address potential housing loss for sites currently designated urban commercial. The existing regulations state that a comprehensive plan map amendment from urban commercial to another commercial, employment or industrial designation requires addressing the net loss of potential housing units. However, the urban commercial designation includes both the *CS* and *CM* zoning designations, and no housing is required in the *CS* zone. As such, there is only the potential for a net loss of housing if the comprehensive plan map amendment is from an urban commercial designation currently mapped with *CM* zoning.

CHAPTER 33.810
COMPREHENSIVE PLAN MAP AMENDMENTS

33.810.050 Approval Criteria

A. **Quasi-Judicial.** Amendments to the Comprehensive Plan Map ~~which~~ that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. [No change]
2. When the requested amendment is:
 - ~~From a residential Comprehensive Plan Map designation to a commercial, employment or industrial, or institutional campus Comprehensive Plan Map designation;~~ or
 - ~~From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, or industrial, or institutional campus Comprehensive Plan Map designation;~~ ~~or to IR Institutional Residential from another residential or the mixed commercial zone,~~

~~the requested designation change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below. Potential housing units are calculated as follows:~~

- a. ~~Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:~~

(1-5) [No change]

- b. ~~In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.~~

- e**b**. Gaining potential housing units. ~~Replacement of p~~Potential housing units may be accomplished gained through any of the following means:

(1-5) [No change]

- (6) In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.

Commentary

33.810.050 Approval Criteria

A. Quasi-Judicial. (continued)

33.810.050 Approval Criteria

A. Quasi-Judicial. (continued)

- 4. (7) When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.

- 3. [No change]

**CHAPTER 33.815
CONDITIONAL USES**

33.815.040 Review Procedures

- A. Proposals that affect the use of the site.** It is not clear from existing Code language what land use review procedure (Type II or Type III) is used for proposed changes to existing conditional uses. The structure of this section does not make it clear that all applicable paragraphs apply to the situation. For example, Paragraph A.3 states that adding a new conditional use to an existing conditional use in the same use category requires a Type II review. If read by itself, this paragraph would indicate that a Type II would be required whether the new conditional use increases any previously approved amounts on the site (such as people, members, traffic, etc.) by one percent or 100 percent. However, in Paragraph A.4 of this section, it is clear that if changes to the site of an approved conditional use result in changes in approved amounts that are more than 10 percent above what was originally approved, a Type III review is required. The amendment restructures this section so as to make it clear that not only use, but also changes to approved amounts are determinants in whether any change on the site is processed as a Type II or Type III conditional use review.

**CHAPTER 33.815
CONDITIONAL USES**

33.815.040 Review Procedures

The procedure for reviewing conditional uses depends on how the proposal affects the use of, or the development on, the site. Subsection A, below, outlines the procedures for proposals that affect the use of the site while Subsection B outlines the procedures for proposals that affect the development. Proposals may be subject to Subsection A or B or both. The review procedures of this section apply unless specifically stated otherwise in this Title. Proposals may also be subject to the provisions of 33.700.040, Reconsideration of Land Use Approvals.

A. Proposals that affect the use of the site.

1. [No change]
2. Changing to another use:
 - a. ~~Within In~~ the same use category. ~~Changing from one conditional use to another conditional use in the same use category is processed through a Type II procedure.~~
 - (1) Except as specified in A.2.a(2), changing from one conditional use to another conditional use in the same use category is processed through a Type II procedure;
 - (2) If changing from one conditional use to another conditional use in the same use category will also change a specifically approved amount of the previous use, such as members, students, trips, or events, by more than 10 percent, the change of use is processed through a Type III procedure;
 - b. In another use category.
 - (1) Changing to a conditional use in another use category is processed through a Type III procedure.
 - (2) Changing to an allowed use is allowed by right.
3. Adding another use.
 - a. ~~Adding a new conditional use to an existing conditional use when both are in In~~ the same use category ~~is processed through a Type II procedure.~~
 - (1) Except as specified in A.3.a(2), below, adding a new conditional use to an existing conditional use when both are in the same use category is processed through a Type II procedure;

Commentary

33.815.040 Review Procedures

A. Proposals that affect the use of the site.

3. Adding another use.

a. (continued)

33.815.040 Review Procedures

A. Proposals that affect the use of the site.

3. Adding another use.

a. (continued)

(2) If adding a new conditional use to another conditional use in the same use category will also change a specifically approved amount of the previous use, such as members, students, trips, or events, by more than 10 percent, the change of use is processed through a Type III procedure;

b. Adding a new conditional use that is in another use category ~~use~~ is processed through a Type III procedure.

c. Adding an allowed use may be allowed by right or require a conditional use depending on the proposed changes to development on the site. See ~~s~~Subsection B, below.

4. Changes to an existing conditional use. Except as specified in Paragraphs A1 through A.3, above, ~~C~~changes to a conditional use that will change any specifically approved amounts of the use such as members, students, trips, and events are reviewed as follows:

a. Changes of 10 percent or less of the amount are processed through a Type II procedure.

b. Changes of over 10 percent of the amount are processed through a Type III procedure.

5-6. [No change]

33.815.040 Review Procedures (continued)

B. Proposals that alter the development of an existing conditional use.

1. Conditional use review not required. Alterations to an existing conditional use are allowed by right provided five conditions are met. One of these conditions requires that the alteration "complies with all development standards of this Title." The adjustment review process specifically provides alternative ways of meeting development standards, as long as the proposed alternative equally or better meets the purpose of the regulation. As long as the alternative is approved through the adjustment process, it is the equivalent to meeting the respective development standard identified in Title 33.

The amendment clarifies that a modified development standard that is approved through an adjustment review is the equivalent of meeting the development standards of Title 33.

3. Conditional use required.
 - a. Minor alterations. Alterations to an existing conditional use that increase floor area or exterior improvement area by 10 percent or less are processed as a Type II procedure. It is not clear from these regulations whether the 10 percent figure refers to the combined increase of floor area and exterior improvement area. The intent of the regulation is to limit the overall alterations on the site to 10 percent or less. If alterations are allowed to increase both the floor area by 10 percent, and the exterior improvement area (such as parking) by 10 percent, for a total of 20 percent, the resulting impacts would be more comparable to those typically associated with a Type III review. The amendment clarifies that the 10 percent figure includes the cumulative increase of both floor area and exterior improvement.

It is also not entirely clear whether the percentage increase is calculated based on the floor area or exterior improvement area *that is being expanded*, or on the floor area or exterior improvement area *on the entire site*. The first sentence of this subsection already refers to "alterations to the site;" however, for greater clarity, the amendment makes an additional reference to "site."

33.815.040 Review Procedures (continued)

B. Proposals that alter the development of an existing conditional use.

Alterations to the development on a site with an existing conditional use may be allowed, require an adjustment, or require a conditional use review, as follows:

1. Conditional use review not required. A conditional use review is not required for alterations to the site ~~which~~ that comply with Subparagraphs a through e. All other alterations are subject to Paragraphs 2 and 3 below. Alterations to development are allowed by right provided the proposal:
 - a. [No change]
 - b. Meets one of the following:
 - (1) Complies with the development standards of this Title, or
 - (2) Does not comply with the development standards of this Title, but an adjustment or modification through design review to the development standards has been approved;
 - c-e. [No change]
2. Additional structures allowed without conditional use review. [No change]
3. Conditional use required. Conditional use review is required for the following:
 - a. Minor alterations. Except as provided in Paragraphs 1 and 2, above, conditional use review through a Type II procedure is required for alterations to the site that do not violate any conditions of approval, and when the individual or cumulative alterations will not increase the floor area ~~or~~ and exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. The increase is measured from the time the use became a conditional use, the effective date of this ordinance, or the last Type III conditional use review of the use, whichever is most recent, to the present.
 - b. Major alterations. [No change]

Commentary

33.815.100 Uses in the Open Space Zone

D. Area plans.

33.815.105 Institutional and Other Uses in R Zones

E. Area plans.

33.815.140 Specified Group Living Uses in the C and EX Zones

D. Area plans.

This amendment clarifies what area plans must be considered as part of a conditional use review. As the Zoning Code implements Portland's Comprehensive Plan, it is appropriate that the review consider the proposal's consistency with area plans that are incorporated into the Comprehensive Plan, such as neighborhood plans and community plans.

33.815.100 Uses in the Open Space Zone

These approval criteria apply to all conditional uses in the OS zone except those specifically listed in other sections below. The approval criteria allow for a range of uses and development ~~which that~~ are not contrary to the purpose of the Open Space zone. The approval criteria are:

A-C. [No change]

D. Area plans. The proposal is consistent with any area plans adopted by the City Council ~~such as neighborhood or urban renewal plans~~ as part of the Comprehensive Plan, such as neighborhood or community plans.

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone ~~which that~~ maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A-D. [No change]

E. Area plans. The proposal is consistent with any area plans adopted by the City Council ~~such as neighborhood or urban renewal plans~~ as part of the Comprehensive Plan, such as neighborhood or community plans.

33.815.140 Specified Group Living Uses in the C and EX Zones

These criteria apply to Group Living uses ~~which that~~ consist of alternative or post incarceration facilities in the C or EX zones.

A-C. [No change]

D. Area plans. The proposal is consistent with any area plans adopted by the City Council ~~such as neighborhood or urban renewal plans~~ as part of the Comprehensive Plan, such as neighborhood or community plans.

**CHAPTER 33.820
CONDITIONAL USE MASTER PLANS**

33.820.090 Amendments to Master Plans

A. Type III procedure.

1. Existing regulations indicate a Type III amendment to a conditional use master plan is triggered when development is proposed within 400 feet of the master plan boundaries. A direct reading of this regulation would indicate that a Type III amendment is required for development within 400 feet of master plan boundaries whether such development is interior or exterior to the plan boundaries. The legislative intent of the regulation was to identify the level of review for proposed changes within the master plan boundaries. Changes near the outer edge of the master plan boundary, which have a greater likelihood of impacting the surrounding community, would be processed through a Type III review. Proposed changes within the interior of the master plan boundary would be processed through a Type II review.

There is no purpose for requiring a Type III amendment to a master plan for development outside the boundaries if the base zone already allows such development. If the surrounding base zone does not allow such development, a conditional use review would be required in any case, either to expand the existing master plan boundaries to include the proposed development, or to establish a new, distinct conditional use.

**CHAPTER 33.820
CONDITIONAL USE MASTER PLANS**

33.820.090 Amendments to Master Plans

Amendments to the master plan are required for any use or development that is not in conformance with the plan, except as stated in 33.820.080, above. The approval criteria of 33.820.050 apply. The thresholds and procedures for amendments are stated below.

- A. Type III procedure.** Unless the master plan specifically provides differently, amendments to a master plan ~~which~~ that require a Type III procedure are:
1. Any proposed development on the site that is within 400 feet of the master plan boundaries or any changes to the boundaries, unless a greater distance is stated in the master plan;
 - 2-6. [No change]

**CHAPTER 33.825
DESIGN REVIEW**

33.825.025 Review Procedures

- A. Procedures for design review.** This amendment clarifies the review procedure for proposals in design zones in the Southwest Community Plan area, outside of the Macadam Corridor Design District, the South Auditorium Plan District, and the Terwilliger Parkway Design District. (Existing Code language makes clear the review procedure for proposals in North Macadam District, the South Auditorium Plan District, and the Terwilliger Parkway Design District.)

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

The proposed amendment includes a new subparagraph clarifying which proposals in the Southwest Community Plan area are subject to a Type II design review.

**CHAPTER 33.825
DESIGN REVIEW**

33.825.025 Review Procedures

A. Procedures for design review. Procedures for design review vary with the type of proposal being reviewed and the design district in which the site is located. Design review in some design districts requires an additional procedural step, the "Neighborhood Contact Requirement," as set out in Section 33.730.045, Neighborhood Contact Requirement. Some proposals in the Central City plan district must provide a model of the approved proposal, as set out in Paragraph A.5, below.

1. Type III. The following proposals are processed through a Type III procedure:
 - a-b. [No change]
 - c. Proposals in the Terwilliger Parkway Design District that will be visible from Terwilliger Boulevard, other than single-dwelling development;
 - d. [No change]
 - e. Proposals in the following design districts with a value over \$1,000,000 in 1990 dollars:
 - (1-5) [No change]
 - (6) South Auditorium Plan District;
 - (7) [No change]
 - (8) Macadam Corridor Design District; and
 - (9) [No change]
2. Type II. The following proposals are processed through a Type II procedure:
 - a-c. [No change]
 - d. Proposals for single-dwelling developments in the Terwilliger Parkway Design District that will be visible from Terwilliger Boulevard;
 - e. Outside the Terwilliger Parkway Design District, proposals in the Southwest Community Plan area's design overlay zones, except for those listed in Paragraph A.1, above;
 - e-m. [Change lettering to f through n.]
 - ~~n. Proposals within the Hillsdale plan district~~
 - o. [No change]

**CHAPTER 33.830
EXCAVATIONS AND FILLS**

33.830.030 Exemption from Review. Amendments to the Waste-Related use category in 33.920.340, Waste-Related, regarding fill operations, are reflected in this chapter.

**CHAPTER 33.830
EXCAVATIONS AND FILLS**

33.830.030 Exemption from Review

Except as modified elsewhere in this Title, the following excavations and fills are exempt from the excavation and fill review:

- A.** Those necessary for the preparation of a foundation of a structure or for exterior improvements;
- B.** Those associated with public improvements regulated under Title 17, Public Improvements, and
- C.** Those in conjunction with a road grading plan approved as part of a preliminary plan for a PUD or an interim plat for a subdivision by OPDR.
- D.** The disposal of material that is not clean fill, as defined in OAR 340-093-0030, is not subject to the provisions of this chapter, but is regulated as a Waste-Related use. See Section 33.920.340.

**CHAPTER 33.855
ZONING MAP AMENDMENTS**

33.855.050 Approval Criteria for Base Zone Changes

- B. Adequate public services.**
- C. When the requested zone is IR, Institutional Residential.**

In September 2002, the City Council adopted an amendment that allows institutions in the Institutional Residential (IR) zone to be regulated by either an impact mitigation plan (IMP) or a conditional use master plan. This change is not reflected in Chapter 33.855 for zoning map amendments that involve changes to the IR zone. The amendment clarifies that the requirements of 33.855.050.B.3 and 33.855.050.C may be met either through an IMP or conditional use master plan.

**CHAPTER 33.855
ZONING MAP AMENDMENTS**

33.855.050 Approval Criteria for Base Zone Changes

B. Adequate public services. Public services for water supply, transportation system structure and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete, and proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services.

1-2. [No change]

3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

C. When the requested zone is IR, Institutional Residential. In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

**CHAPTER 33.900
LIST OF TERMS**

33.900.010 List of Terms The term "Street-facing Façade" is added to the list of terms.

**CHAPTER 33.900
LIST OF TERMS**

33.900.010 List of Terms [Add the following term in the appropriate, alphabetical order:]

Street-facing Facade

**CHAPTER 33.910
DEFINITIONS**

33.910.030 Definitions

Days The term "working day" is used throughout the Code, but not defined. The amendment identifies a working day as Monday through Friday, except holidays, with holidays identified in Section 4.16.080 of Title 4, Personnel. Generally, a holiday is defined in Title 4 as any day between Monday and Friday, inclusive, that is designated by State Law to be a legal holiday, except Lincoln's birthday.

Floor Area. The amendment clarifies that rooftop parking is not included in the calculation of floor area. While the existing definition of floor area specifically includes area above ground level that is devoted to structured parking, this is modified by the second bullet in the definition that excludes roof area.

**CHAPTER 33.910
DEFINITIONS**

33.910.030 Definitions

Days. Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays as identified in Section 4.16.080 of Title 4, Personnel.

Floor Area. The total floor area of the portion of a building that is above ground. Floor area is measured from the exterior faces of a building or structure. Floor area includes the area devoted to structured parking that is above ground level. Floor area does not include the following:

- Areas where the elevation of the floor is 4 feet or more below the lowest elevation of an adjacent right-of way;
- Roof area, including roof top parking;
- Roof top mechanical equipment; and
- Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter.

33.910.030 Definitions (continued)

Lot. This amendment clarifies how to calculate the 120 degree or less dimension that defines corner lots on curved streets. As the standard is currently written, there is no point of reference from where the measurement needs to be taken. The amendment modifies existing text and Figure 910-9 to identify that the measurement is taken from the intersection of lines extending from the center line of the adjoining street.

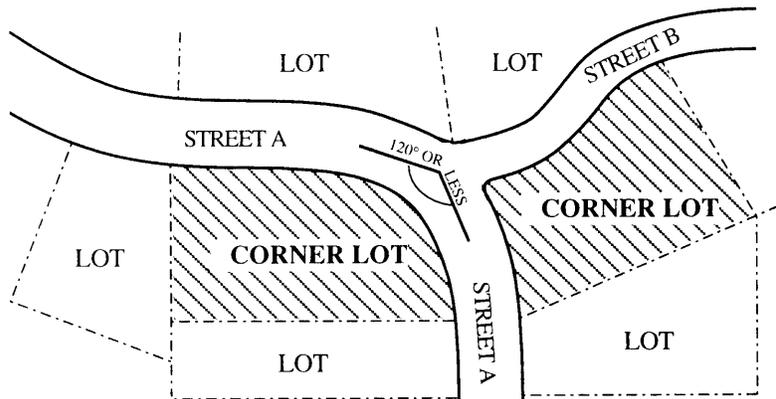
A question was raised at the Planning Commission hearing about any potential conflicts this amendment may have with new language in the Land Division Code Rewrite Project. No amendments to the definition of corner lot were included in the Land Division Code Rewrite project. The amendment in Code Maintenance 2002 does not change the definition of a corner lot, and a corner lot continues to be defined as a lot having frontage on more than one intersecting street, or on single street that curves with an angle of 120 degrees or less. The amendment is limited to clarifying the point of reference for measuring the 120 degree angle.

33.910.030 Definitions (continued)

Lot.

- **Corner Lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles that are 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot. See Figure 910-9.
- **Flag Lot.** [No change]
- **Through Lot.** [No change]

DELETE EXISTING
Figure 910-9
Corner Lots



Commentary

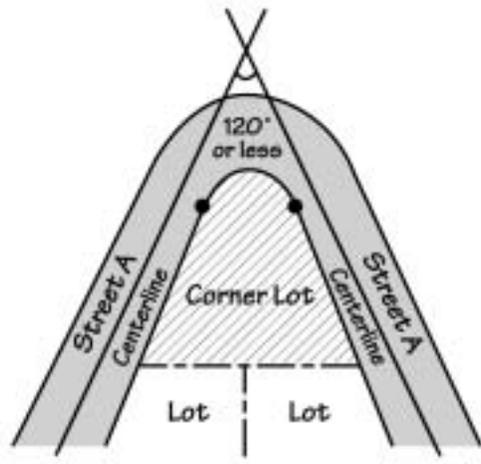
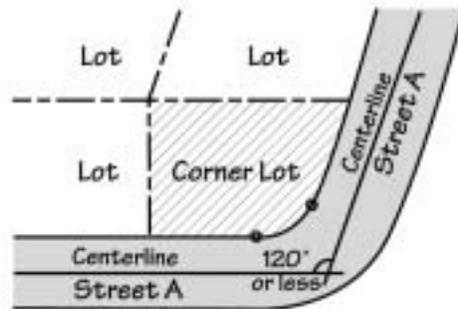
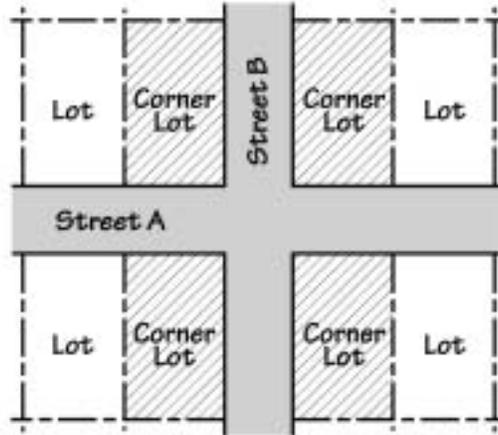
33.910.030 Definitions

Lot. (continued)

33.910.030 Definitions

Lot. (continued)

INSERT NEW
Figure 910-9
Corner Lots



Commentary

33.910.030 Definitions (continued)

Lot Lines. This amendment clarifies that a front lot line and street lot line may include a lot line, or portion of a lot line, that abuts a street.

33.910.030 Definitions (continued)

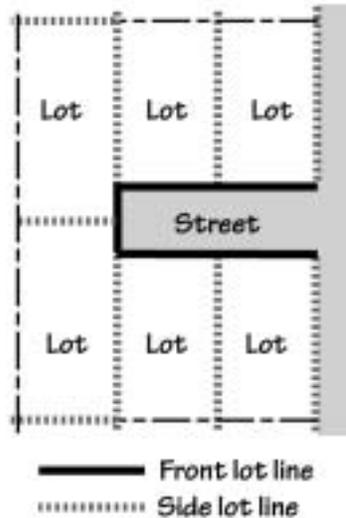
Lot Lines. The property lines along the edge of a lot or site.

- **Front Lot Line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length. See Figure 910-3.
- **Street Lot Line.** ~~Any~~ A lot lines, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut an alley. On a corner lot, there are two (or more) street lot lines. Street lot line can include front lot lines and side lot lines. See Figures 910-3 and 910-4.

INSERT NEW

Figure 910-3

Front and Side Lot Lines



Commentary

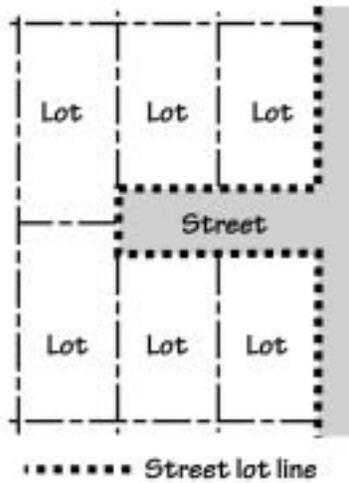
33.910.030 Definitions

Lot Lines. (continued)

33.910.030 Definitions

Lot Lines. (continued)

INSERT NEW
Figure 910-4
Street Lot Lines



33.910.030 Definitions (continued)

Residential Structure Types

- **Dwelling Unit.** A dwelling unit is generally defined as a building or portion of a building that contains independent facilities for sleeping, cooking and sanitation. Determining whether a building or portion of a building qualifies as a dwelling unit can affect whether the residential structure is allowed in the zone by right or through a conditional use review. (For example, if a portion of a building contains independent sleeping and sanitation facilities, but no independent cooking facility, it would be considered Group Living as opposed to Household Living. Group Living uses frequently require conditional use approval.) It is not clear from the definition of "dwelling unit" what constitute a cooking facility. The amendment clarifies that the cooking facility must meet the requirements of Section 29.30.160 (Kitchen Facilities) of City Title 29 (Property Maintenance Regulations). Section 29.30.160 requires a kitchen sink and approved service connections for refrigeration and cooking appliances.

School Site. This technical correction states that a school site also includes those sites *proposed* to be used by a school. Without this amendment, the development standards in Chapter 33.281 (Schools and School Sites) would not apply to schools that are proposed on a site.

33.910.030 Definitions (continued)

Residential Structure Types

- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Cooking facilities are described in Section 29.30.160 of Title 29, Property and Maintenance Regulations. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly accessory, such as an outdoor grill.

School Site. An improved site that has, ~~or~~ formerly had, or proposes to have a school use on it and that is owned by the entity that runs ~~or~~ ran, or will run the school.

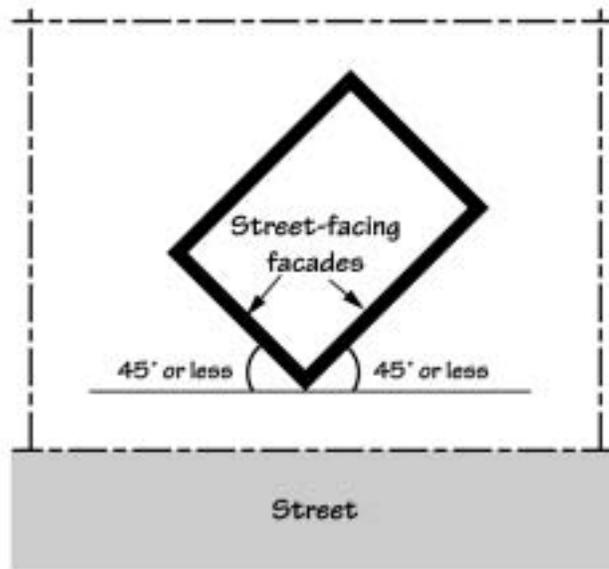
33.910.030 Definitions (continued)

Street-facing Façade. Several development standards in the Zoning Code are specific to the term "street-facing facade," including maximum setbacks along transit streets or in pedestrian districts, window and main entrance requirements, and size and placement of garages. Because this term is not defined, it is not always clear what constitutes a street-facing facade, particularly when buildings angle away from the street lot line. The amendment includes a definition for "street-facing facade" that basically includes a building wall that is placed at an angle of 45 degrees or less from the street lot line. The new language largely mimics existing language included in the definition of "façade."

33.910.030 Definitions (continued)

Street-facing Façade. All the wall planes of a structure as seen from one side or view that are at an angle of 45 degrees or less from a street lot line. See Figure 910-16.

INSERT NEW
Figure 910-16
Street-facing Façade



**CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES**

33.920.250 Retail Sales And Service

33.920.500 Agriculture

Kennels, which are presently defined in Chapter 33.910 (Definitions) as locations where more than five dogs and cats are boarded or bred, are included in the Agriculture use category. In Section 33.920.500 (Agriculture), cited examples of Agriculture uses include such activities as the breeding and raising of animals, dairy farms, stables, farming and wholesale plant nurseries. Agriculture uses are allowed by right only in the OS, RF, R20, E and I zones.

However, kennels that are limited to the boarding of pets, with no breeding, are often associated with veterinarian offices, which are included in the Retail Sales And Service category, and are typically located in commercial zones. Furthermore, kennels that are limited to the boarding of pets are more closely associated with allowed activities in the Personal Service-Oriented subcategory of the Retail Sales And Service use category, such as veterinarian offices or animal grooming, than they are with activities listed in the Agriculture use category.

The amendment proposes including kennels that are limited to the boarding of cats and dogs in the Personal Service-Oriented subcategory of the Retail Sales And Service use category.

**CHAPTER 33.920
DESCRIPTIONS OF THE USE CATEGORIES**

33.920.250 Retail Sales And Service

C. Examples. Examples include uses from the four subgroups listed below:

1. Sales-oriented: [No change]
2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
- 3-4. [No change]

D. Exceptions.

- 1-6. [No change]
7. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales And Service or Agriculture.

33.920.500 Agriculture

A. Characteristics. Agriculture includes activities ~~which~~ that raise, produce or keep plants or animals.

B. Accessory uses. Accessory uses include dwellings for proprietors and employees of the use, and animal training.

C. Examples. Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.

D. Exceptions.

1. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing And Production.
2. Livestock auctions are classified as Wholesale Sales.
3. Plant nurseries ~~which~~ that are oriented to retail sales are classified as Retail Sales And Service.
4. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Agriculture or Retail Sales And Service.

33.920.340 Waste-Related

D. Exceptions.

1. The existing exception considers the disposal dirt, concrete, asphalt and other nondecomposable materials to be fill, and not regulated as a Waste-Related use. However, fill material, while not containing nondecomposable materials, may contain other contaminants that are determined by local, regional, state and federal regulations to be solid wastes, hazardous wastes or hazardous substances. The amendment clarifies that in order to be excepted as a Waste-Related use, the material must be clean fill, as presently defined in OAR 340-093-0030, which is as follows:

Clean fill means material consisting of soil, rock, concrete, brick, building block, tile, or asphalt paving, which does not contain contaminants that could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.

This amendment provides a more definitive definition of allowed fill material, and better ensures that the legislative intent behind regulating waste-related uses is met.

33.920.340 Waste-Related

- A. Characteristics.** Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses ~~which~~ that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses ~~which~~ that receive hazardous wastes from others and ~~which~~ are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.
- B. Accessory Uses.** Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.
- C. Examples.** Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous-waste-collection sites.
- D. Exceptions.**
1. Disposal of ~~dirt, concrete, asphalt, and similar non-decomposable materials~~ clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use. See Chapter 33.830, Excavations and Fills, for more information.
 2. [No change]

**CHAPTER 33.930
MEASUREMENTS**

33.930.060 Determining Average Slope

- A. Average slope used.** The existing text interchanges the terms "uphill lot line/downhill lot line" and "front lot line/rear lot line." The amendment replaces reference to "front lot line/rear lot line" with the more universal terms "uphill lot lines/downhill lot lines."

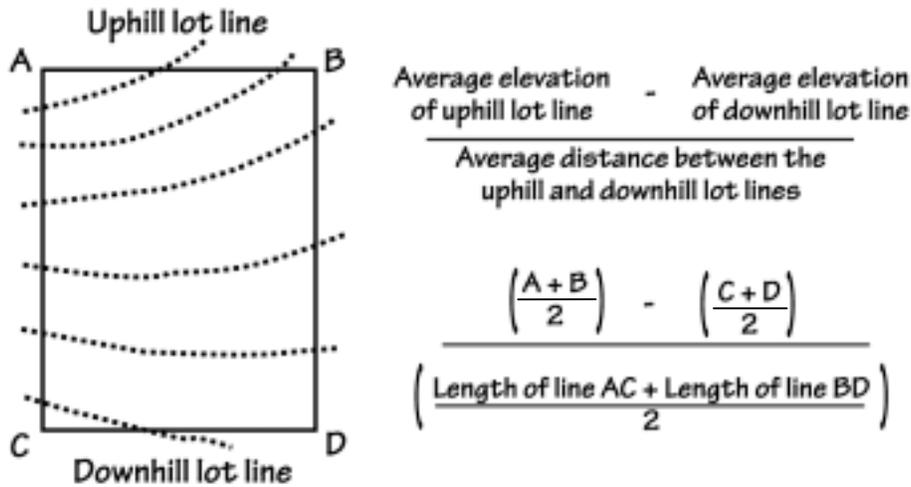
**CHAPTER 33.930
MEASUREMENTS**

33.930.060 Determining Average Slope

- A. Average slope used.** When calculating the slope of a lot, an average slope is used based on the elevations at the corners of the lot. The average slope of a lot is calculated by subtracting the average elevation of the uphill lot line and the average elevation of the downhill lot line and dividing the sum by the average distance between the two lot lines. The average elevation of the uphill or downhill lot line is calculated by adding the elevations at the ends of the lot line and dividing by two. See Figure 930-9.

INSERT NEW

**Figure 930-9
Calculating Average Slope**



33.930.120 Setback Averaging

- A. This amendment clarifies that when using the setback averaging allowance, only like structures may be used. For example, when constructing a deck, the required setback may be based on the average setbacks for decks on either side of the property. The setback for the proposed deck may not be based on the average setback of the building walls or garage entrances on adjacent properties.

33.930.120 Setback Averaging

Certain regulations allow for setbacks to be averaged. In these situations, the required setback may be reduced to the average of the existing setbacks of the lots that are on both sides of the site. See Figure 930-18. The following rules apply in calculating the average:

- A.** The setbacks used for the calculations must be for the same type of setback structure that is being averaged. For example, only garage entrance setbacks ~~can~~ may be used to average a garage entrance setback, and only deck setbacks may be used to average a deck setback.
- B.** Only the setbacks on the lots that abut each side of the site and are on the same street may be used. Setbacks across the street or along a different street may not be used.
- C.** When one abutting lot is vacant or if the lot is a corner lot, then the average is of the setback of the nonvacant lot and the required setback for the zone.

OTHER

Corrected References to Development Services Center

With the creation of the Office of Planning and Development Review in May 1999, the name of the Permit Center was changed to the Development Services Center. There are references throughout the Zoning Code to the outdated term "Permit Center" that should be changed to "Development Services Center."

Corrected References to Metro

In 1992, the Metropolitan Service District officially changed its name to "Metro." There are several references in the Zoning Code to the Metropolitan Service District and "METRO" that should be updated to "Metro."

Corrected References to Office of Neighborhood Involvement

There are several references in the Zoning Code to the Office of Neighborhood Associations that should be updated to the current "Office of Neighborhood Involvement."

OTHER

Corrected References to Development Services Center

Replace references to “Permit Center” with “Development Services Center” in the following locations:

33.400.030
33.470.030.B
33.508.220.B
33.540.030
33.750.020

Corrected References to Metro

Replace references to “Metropolitan Service District” and “METRO” with “Metro” in the following locations:

33.140.100.B.8.a (two references)
33.140.100.B.8.b (three references)
33.140.100.B.8.c
33.435.010

Corrected References Office of Neighborhood Involvement

Replace references to “Office of Neighborhood Association” with “Office of Neighborhood Involvement” in the following locations:

33.219.030.C
33.730.070.A.1
33.750.050.A.2.c
33.808.100.M.1
33.815.305.A
33.910.030 (Recognized Organization) (three references)

Title 32 Signs and Related Regulations

The amendments on the following pages are to various aspects of the Sign Code. The Sign Code, Title 32 of the Portland City Code, is a mixture of land use and non-land use provisions. Technically, only amendments to the land use provisions need to be considered through the same process for amending Title 33. However, for continuity and clarity of review, all of the amendments have been provided in one review package.

The following amendments are to the land use provisions of Title 32:

Section	32.22.020
	32.24.010.B and F
	32.24.040
	32.32.030.F.1
	32.32.030.G and K
	Table 32.32-2
	32.34.030
	32.36.020

**CHAPTER 32.24
MEASUREMENTS**

32.24.010 Sign Face Area

B. Backed signs.

During the Signs 2000 Project, the backed sign measurement provision was moved into Title 32 from Title 33 essentially without revision. The Signs 2000 Project established new standards for Changing Image Features which could be part of the signs on a site. Other provisions were added to measurements to address measurement issues unique to Changing Image Features. During the Signs 2000 project, staff made consistent statements implying all areas of changing image would be counted toward a site's maximum of 20 square feet, there was no documented legislative history regarding how existing measurement techniques would apply to changing image sign features. The backed sign measurement section allows only one side of a two sided sign (backed) be counted in determining how much sign area is proposed (or exists). The backed sign section does not exclude applying it to changing image features, but Section 32.32.030D.1 clearly states ".....changing image sign features are limited to a combined area of 20 square feet per site." The result of these two sections appears to be in conflict, or at least confusing. Changing image features is the only place in the code where to area of a specific element, rather than the whole sign, is limited in area.

It should be acknowledged that much of the discussion regarding changing images focused on the size of those features and not just size of sign with those features. We believe that the legislative history, such as it is, could support either allowing or not allowing use of the backed sign measurement technique for changing image features. However, staff for the Signs 2000 project distinctly recall that the focus of the discussion was on total area of those features on the site. Therefore, three revisions are adopted:

1. Create a definition of "backed sign" in the definitions Chapter;
2. Revise the language in Measurements to simplify the standard, now that the term is defined; and
3. Revises the Changing Image section by providing a clear statement that the backed sign measurement provision does not apply in the determination of the total changing image features on the site.

**CHAPTER 32.22
DEFINITIONS**

32.22.020 Definitions

Backed Sign. A sign where the faces of the sign are parallel or within 10 degrees of parallel to each other.

**CHAPTER 32.24
MEASUREMENTS**

32.24.010 Sign Face Area

B. Backed Signs. ~~When the faces of a backed sign are parallel or within 10 degrees of parallel, only one side is counted. If the sign faces are not parallel or within 10 degrees of parallel, each is considered one sign face and both faces are counted. Only one side of a backed sign is counted in determining the area of sign faces. Where the two sides are not of equal size, the larger of the two sides is used for the determination of sign area. For changing image features, see Section 32.32.030.F.1. See Figure 3.~~

**CHAPTER 32.32
BASE ZONE REGULATIONS**

32.32.030 Additional Standards in All Zones

D. Changing image sign features

1. Size. Where allowed under this Title, changing image sign features are limited to a total combined area of 20 square feet per site. No single sign may have more than 10 square feet of changing image sign features unless those features cover less than 60 percent of the face of the sign. Each area of changing image feature on each sign face is included in the total for the site. Section 32.24.010.B, Backed Signs, may not be applied to changing image sign features.

32.24.040 Primary Building Wall

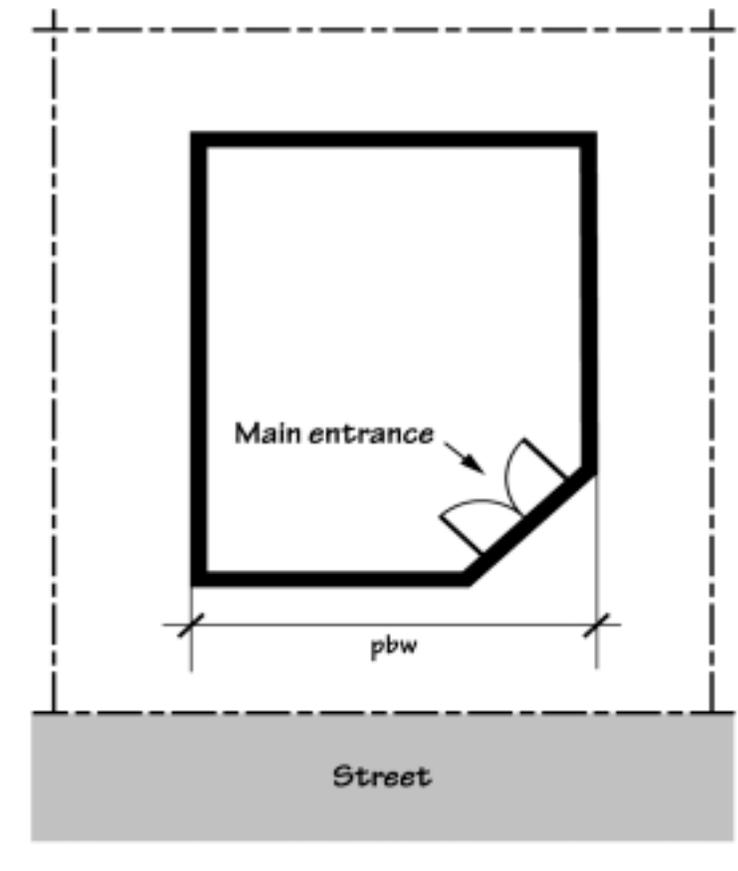
The transit street main entrance provisions of the Zoning Code (Title 33, Section 33.130.242) allow the door in a façade to be angled as much as 45 degrees from the transit street. Usually this is situation occurs on a short façade at the corner of a building, typically on a corner lot. This application of the main entrance provisions in combination with the sign provisions of primary building wall acts as a punishment for the amount of allowed sign area. The Sign code calculates allowable sign area based on the length of the primary building wall, which is defined as the wall containing the public entrance to the building or tenant space.

The revision allows the short angled wall to be combined with the street facing wall for determination of the primary building wall. If the small angled wall is between two building walls that both face streets, the applicant will be allowed to select which wall to use as the primary building wall. Figure 10 will be amended to show this solution.

32.24.040 Primary Building Walls

The length of a primary building wall is derived for each tenant space's ground floor exterior wall. See Figure 1. When walls are not parallel to a street, they are assigned to the street frontage to which they are most oriented. See Figure 10a. When the primary entrance is located in a building wall that is adjacent to, at an angle from, and shorter than the street-facing wall, the primary building wall will be measured as a combination of the street wall and the wall containing the entrance. Where the angled wall is on the corner of the building between two street-facing walls, the applicant may choose which street facing wall to combine with the wall containing the entrance to be considered the primary building wall. The length of the primary building wall will be measured in a straight line parallel to the street-facing wall. See Figure 10b.

Figure 10b
Primary Building Wall – Angled Entrance



**CHAPTER 32.32
BASE ZONE REGULATIONS**

32.32.030. Additional Standards in All Zones

G. Portable Signs

When the portable sign standards were specified in the sign code in 2000, the limitation on the number of portable signs was based on public entrances to a building. The standard based on public entrances presumes these entrances to be pedestrian entrances. This standard is unclear for certain developments that commonly use portable signs. For commercial parking facilities, especially those that are only surface lots, pedestrian entrances are not the appropriate determining factor. For walk up businesses without traditional entrances, the current standard prohibits these signs.

The amendment allows one portable sign per vehicle entrance to commercial parking facilities. Commercial parking, as defined in the zoning code, applies to primary use parking and not to parking accessory to other uses such as an apartment building. The new Item c allows one portable sign for businesses with no public entrances but where services are received at a walk-up window or counter.

There is also an editorial relocation of the language specifying the zones where portable signs are allowed. The language that is now in Item G.2 is being relocated to G1, General Standards, which is consistent with such zone limitations for other types of signs.

**CHAPTER 32.32
BASE ZONE REGULATIONS**

Section 32.32.030 Additional Standards in All Zones

G. Portable signs

1. General standards. Portable signs that meet the standards of this subsection are allowed in the RX, C, E and I zones and are not counted in the total square footage of permanent signage allowed on the site. Adjustments or modifications to the standards of this subsection are prohibited.
2. Number.
 - a. General. One portable sign is allowed per public entrance to buildings ~~in the RX, C, E and I zones.~~
 - b. Commercial parking. One portable sign is allowed for each vehicle entrance to a commercial parking facility, but in no case more than four portable signs for the facility.
 - c. Tenant spaces without public entrances. Where a ground floor tenant space or portable cart does not have any public entrance and only provides customer service through a window, one portable sign is allowed for each ground floor tenant space or portable cart.

32.32.030 Additional Standards in All Zones (continued)

K. Temporary signs

2. Sign features.

This section states that temporary signs may not be illuminated. This is practically impossible to totally enforce because one of the three methods by which a sign can be illuminated is the indirect method. Indirect illumination is defined in the code as lighting which is a separate source of lighting from the sign and is directed to shine on the sign. Many temporary signs such as banners are going to be located on walls that happen to be illuminated. Further, even if they are not illuminated, indirect illumination must be installed under a separate electrical permit, and not a sign permit. This will make it impossible to always determine the purpose of the separate electrical permit. The proposal changes the restriction to only prohibit direct lighting (such as neon or exposed bulbs) or internal lighting of temporary signs

32.32.030 Additional Standards in All Zones (continued)

K. Temporary Signs

2. Sign features. Temporary signs may not ~~be illuminated~~ have direct or internal illumination. Changing image sign features and electronic elements are prohibited.

32.32.030 Additional Standards in All Zones

K. Temporary signs (continued)

3. Temporary banners. The provisions on temporary banners were developed and refined during the Signs 2000 Project. After the first months of administering the new standards, the limitation on the number of banners was found not to be clear regarding banners attached to structures which were not buildings. Such structures are fences, light poles, towers or other sign structures. As a result, the number of banners appears to be unlimited in some circumstances. The legislative intent of Signs 2000 appears to be a consistent effort to be flexible, but to limit the concentration of banners. The revisions to the section attempt to address banners on non-building structures and set similar limits.

32.32.030 Additional Standards in All Zones

K. Temporary signs (continued)

3. Temporary banners. Temporary banners are subject to the following regulations:
 - a. Banners on lots with houses, duplexes and attached houses. In all zones, temporary banners are not allowed on ~~lots~~ sites with houses, duplexes, and attached houses.
 - b. OS, R, CN, CO1 and CM zones. In OS, R, CN, CO1 and CM zones, up to three banners no larger than 32 square feet in size are allowed per site. Only one of these banners may be hung on each building wall or on each separate structure. Additional banners or banners larger than 32 square feet in size, must meet the standards for permanent signs.
 - c. CS and CX zones. In the CS and CX zones, up to three banners no larger than 32 square feet in size are allowed per site. Only one of these banners may be hung on each building wall or on each separate structure. Additional banners, or banners larger than 32 square feet in size, must meet the following standards:
 - [1] In no case may a site have more than four temporary banners.
 - [2] Up to one temporary banner larger than 32 square feet is allowed per site. This banner may be not larger than 50 square feet in size.
 - [3] Banners larger than 32 square feet in size, or in excess of three banners may be hung for up to 180 days per calendar year.
 - [4] Banners that do not meet the regulations of this subparagraph, must meet the standards for a permanent signs.
 - d.. CO2, CG ,E and I zones. In the CO2, CG, E and I zones, up to three banners no larger than 32 square feet in size are allowed per site. Only one of these banners may be hung on each building wall or on each separate structure. Additional banners, or banners larger than 32 square feet in size, must meet the following standards:
 - [1] In no case may a site have more than four temporary banners.
 - [2] Up to one temporary banner larger than 32 square feet is allowed per site. This banner may be not larger than 100 square feet in size.

Commentary

32.32.030 Additional Standards in All Zones

K. Temporary signs

3. Temporary banners. (continued)

32.32.030 Additional Standards in All Zones

K. Temporary signs

3. Temporary banners. (continued)

[3] Banners larger than 32 square feet in size, or in excess of three banners may be hung for up to 180 days per calendar year.

[4] Banners that do not meet the regulations of this subparagraph, must meet the standards for a permanent signs.

Commentary

Table 32.32-2 - Standards for Permanent Signs in Nonresidential Zones and RX Zone

There are circumstances in the *CS*, *CX*, *CN1*, *CN2*, *CO1*, *CM* and *RX* zones where sites do not have arterial frontage. The technical reading of the code is that non freestanding signs would be allowed on these sites. It has been working practice for years that all sites in these zones are allowed one freestanding sign regardless of the presence of an arterial.

The amendment adds a new footnote Number 3 and renumbers the subsequent footnotes.

**CHAPTER 32.34
ADDITIONAL REGULATIONS FOR SPECIFIC USES, OVERLAY ZONES AND PLAN
DISTRICTS**

32.34.020 Additional Standards in Overlay Zones.

The application of design review standards and the exemption from design review standards is unclear. The current language of 32.34.020.B.1.b, apparently exempting signs from design review, refers to a list of items that have no specific exemption for signs. In addition, this section is missing the thresholds for sign design review. That threshold is 32 square feet in all design zones, but is lower in the South Auditorium plan district.

The revisions resolve the ambiguities by placing the thresholds in Paragraph B.1; by placing an additional exemption in B.1.a for consistency with the South Auditorium plan district; and by clarifying B.1.b to refer to signs associated with development in that list contained in 33.420.045.

32.34.030 Additional Standards in Plan Districts

In the Code Maintenance 2001 process, we determined at the last moment that there was an exemption from all of Title 32 in the Cascade Station Plan District, and that this exemption had exceeded the intent of the drafters of the Cascade Plan district. A revision was made to the exemption contained in Title 33. The proper path would have been to move this exemption out of Title 33 and place it in this section of Title 32. This was the procedure followed in the Signs 2000 project for other Plan District related sign provisions. However, in the Code Maintenance 2001 process, we hadn't opened up the Sign Code as part of the review process and the existing language was in Title 33. With this amendment, we place the language properly in Title 32 as a new subsection H in Section 32.34.030. The adopted language only allows the exemption provided an approved sign program has been agreed to by the City and the Cascade Station developer.

Simultaneously Section 33.508.267 will be revised to provide the standard reference to the Sign Code in Title 32.

**CHAPTER 32.34
ADDITIONAL REGULATIONS FOR SPECIFIC USES, OVERLAY ZONES AND PLAN
DISTRICTS**

32.34.020 Additional Standards in Overlay Zones.

B. Design Overlay Zone

1. Where these regulations apply. The regulations of this subsection apply to exterior signs in excess of 32 square feet within the Design Overlay Zone, and all signs within the South Auditorium plan district. However, signs are not required to go through design review if they meet one of the following standards:
 - a. The sign is a portable sign, lawn sign, directional sign or temporary sign; or
 - b. The sign is a part of development exempt from design review under Section 33.420.045, Exempt form Design Review.

32.34.030 Additional Standards in Plan Districts

H. Cascade Station plan district.

1. Where this regulations applies. The regulation of this subsection applies to signs in Subdistrict A of the Cascade Station plan district
2. Sign standard. When a Cascade Station Sign Program has been approved, signs are exempt from the provisions of Chapters 32.30 through 32.38 of this Code. Until such time as a Sign Program is approved, signs will be subject to the provisions of Chapters 32.30 through 32.38.

33.508.267 Signs

~~Signs in Subdistrict A of the plan district are exempt from the regulations of Titles 33 and Chapters 32.30 through 32.38 of Title 32. The sign regulations are stated in Title 32, Signs and Related Regulations.~~

**CHAPTER 32.36
NONCONFORMING SIGNS**

32.36.020 Regulations That Apply to All Nonconforming Signs

Subsection H of this section addresses loss of nonconforming status primarily through discontinuance of use or destruction or removal of the sign. One of the exemptions to loss of nonconforming status due to destruction is when a sign is intentionally taken down for a brief period for maintenance and repair. Section 32.62.010 regarding permits also allows a repaired sign to be re-erected without a permit.

Section 32.62.010 goes on to require that the Director of OPDR be informed, in writing, that a sign is being taken down for maintenance or repair. If this information is not provided before the sign is re-erected, this section states that it would be a new sign. This procedural limit on non-conforming status is not clearly reflected in Chapter 32.36. Therefore this amendment provides a stronger link between Section. 32.36.020 and Section 32.62.010.

**CHAPTER 32.36
NONCONFORMING SIGNS**

32.36.020 Regulations That Apply to All Nonconforming Signs

H Loss of nonconforming sign status

1. Discontinuance – *would be unchanged*
2. Destruction. When a sign or sign structure is removed or intentionally destroyed, replacement signs and sign structures must comply with the current standards. However:
 - a. Repair and maintenance. A nonconforming sign or sign structure may be removed temporarily to perform sign maintenance or sign repair. In order to preserve the nonconforming sign status, the person removing the sign must inform the Director, in writing, before the sign is removed. If the responsible party fails to inform the Director, any re-erected sign will be considered a new sign.
 - b. Unintentional destruction. *Would be unchanged*

**CHAPTER 32.62
PERMITS AND REGISTRATION**

32.62.010 Permit or Registration Required

The general section of the permit and registration section specifies the general requirements and exemptions. During the final Council phase of the Signs 2000 Project, changes were made to the requirements for temporary freestanding signs and temporary fascia signs. The Council's final action changed the allowed time period for these signs from 360 days without registration to a period of 360 days without registration which can be followed by an additional 360 days, provided the sign is registered. This was specified in Sections 32.32.030.K.5 and 6. Those changes were not reflected in this section. Read by itself, this section may be viewed to say that these signs are always exempt. The amendments to items 4 and 5 are an editorial correction to reflect final Council action.

The amendment to Item 3.c is needed for consistency with the amendment to Section 32.32.030.K.

The amendment to Item 3.a is one of three editorial changes for consistent use of the term site instead of lot.

**CHAPTER 32.62
PERMITS AND REGISTRATION**

32.62.010 Permit or Registration Required

- A. General.** No person, firm or corporation can erect, mount, install, construct, enlarge, structurally alter, move, display or electrify or connect a sign or awning, or cause the same to be done without first obtaining an awning permit, a sign permit or sign registration as provided in this section. Certain installations are exempt from permit or registration. Exemption from permit or registration does not grant authorization for any sign, sign structure or awning to be erected or structurally altered in violation of the provisions of this Title. Permanent signs that were not erected prior to November 18, 1998 nor were erected subject to a valid permit subsequent to that date, must be removed by March 31, 2001, or the owner of such must obtain a valid permit.

The following are exempt from permit and registration:

1. Lawn signs;
2. Non-electrified directional signs;
3. Temporary banners meeting the following standards:
 - a. Up to three banners are allowed ~~per lot~~ per site in all zones;
 - b. Each banner may be no larger than 32 square feet in area; and
 - c. No more than one banner can be hung on each building wall or on each separate structure.
4. Temporary fascia signs that are installed for 360 or fewer days;
5. Temporary freestanding signs that are installed for 360 or fewer days;
6. Temporary portable signs; and
7. Signs that are being re-erected following sign repair and sign maintenance. When a sign is removed for repair and maintenance, the person removing the sign must inform the Director, in writing, before the sign is removed, otherwise the re-erected sign will be considered a new sign.

Commentary

Section 32.62.010.A.3.a

Section 32.62.010.D.1.a.[2]

Section 32.62.020.G.4.a

In three locations, the code incorrectly uses the term "lot" where the term "site" should be used. All of the rights for signs are based on the term "site," which is specifically defined and distinctly different from "lot." In the final editing of the Sign Code of the Signs 2000 Project, three lingering uses of "lot" escaped staff notice. Changing these to "site" is editorial and will result in consistency throughout the code.

The change to Section 32.62.010.A is shown on the previous page. The other two changes are shown on the following pages.

32.62.010.D.1.a

(2) Temporary banners. The registration period for temporary banners is 30 days. The number of banners registered on a ~~lot~~ site may not exceed one for any registration period. Temporary banner registrations on a ~~lot~~ site may not exceed six registration periods in any calendar year. An individual banner may be registered for up to 6 registration periods.. The following temporary banners must be registered:

- Banners larger than 32 square feet in area;
- Banners not larger than 32 square feet in area, but in excess of 3 on a single site; or
- Banners not larger than 32 square feet in area, but in excess of one hung on the same wall or hung on the same structure.

32.62.020

G. Registration application for portable signs. Applications for registration of portable signs must be made in writing upon forms furnished by the Director. The application for a portable sign must contain the information specified below:

1. Portable sign owner's name, address and telephone number;
2. Applicant's name, address and telephone number;
3. Size, height and area of the portable sign; and
4. For a portable sign registered to a specific site, the application must contain the following additional information:
 - a. Address of the site on which the portable sign is to be located or the address of the ~~lot~~ site adjoining the portion of the right-of-way where the sign is to be located;
 - b. Property owner's name and address; and
 - c. Number of public entrances to the building on the site.

Commentary

32.62.010.D.2

32.62.040.B.3

The provisions regarding the length of registration for a portable sign is unclear and inconsistent. While the original intent was a two year registration period, the language allows a shorter period. OPDR has allowed applicants the choice of registering for either one or two years. The code should reflect that option.

In addition, OPDR wishes to offer a reduction in fee, which will provide a minor incentive for two year registration. It also reflects an administrative savings by not requiring staff to pursue renewals each year.

32.62.010

D. Registration

2. Portable signs

- a. All portable signs must be registered as provided in this section. ~~The Portable Sign registration is for a maximum of 2 years and may be renewed for subsequent two year periods.~~ Portable signs must be registered for either one or two years. Portable signs may be re-registered . Owners of the sign may choose either registration period for initial registration or each renewal. A Portable Sign registration is valid for the size and address for which the sign was specifically registered. Changes to the size or address of the portable sign require a new registration.
- b. Portable signs existing on March 1, 2001 must be registered by September 1, 2001. Portable signs that are not registered must be removed.

32.62.040 Life of Permit and Registration Limited

B. Registration

3. Portable signs. Registration for portable signs is valid for ~~a maximum of either 1 or 2 years as requested by the applicant.~~ At the end of each registration period, portable sign registration may must be renewed for an additional two years or the sign must be removed from display. There is no limit to the number of renewals for a portable sign registration.

Fee Schedule – See appendix

32.62.030.B. Issuance of permits and registration.

As a result of the Signs 2000 project, two new sign registration programs were initiated for banners and portable signs. To distinguish these signs from those that are permanently permitted, the code requires the posting of stickers on registered signs. The final changes approved by City Council at the end of the project, in addition to the fact that the code recognized both permanent and temporary banners, makes issuing stickers for just certain categories of signs confusing to the staff and the public. The proposal is to issue a sticker to all permitted and registered signs and require those stickers to be posted on the approved sign. This makes it easier for inspectors to do a quick check in the field, as well as help the sign owner and property owner feel assured that the city has approved the sign.

This additional sticker requirement will not add to the cost of a permit, nor change the processing of permit applications.

32.62.030 Review of Application and Issuance of Permits

B. Issuance of permits and registrations

5. Posting of sign permit and sticker and registration sticker.
 - a. Sign permits and stickers. A sign permit for permanent signs attached to buildings and freestanding signs must be prominently posted in a location visible from the outside of the building located closest to the location of the sign installation until such time that the sign has received final inspection and is approved.
 - ~~b. Permanent banners.~~ Permanent ~~banners~~ signs must be permanently identified with a sign sticker provided by the Director.
 - e.b. Temporary banners, balloons, temporary fascia, temporary freestanding, and portable signs. Temporary banner, temporary balloon, temporary fascia, temporary freestanding, and portable sign registration must be identified with a registration sticker for each registration period. Stickers must be affixed to the approved banner, balloon, fascia or freestanding sign, or approved portable sign in a location that is visible from the right-of-way. Registration stickers must remain affixed and visible for the entire registration period during which the sign is visible from the right-of-way.

**CHAPTER 32.66
CIVIL PENALTIES AND FEES**

32.66.020 Civil Penalties and Fees

Subsection B - Administrative Enforcement Fees sets up the process for imposing and collecting an administrative enforcement fee when a sign has been cited for a violation and remains in violation more than 30 days after being cited. The process in subsection 5 has the Director of OPDR informing the Auditor of the need to impose the enforcement fees, which includes notification to the responsible party and the recording of liens on the property. The section is unclear regarding whether the accumulated citation fines are included with the fees and fines that the auditor is helping OPDR impose and collect. The amendments accomplish the needed connection.

**CHAPTER 32.66
CIVIL PENALTIES AND FEES**

32.66.020 Civil Penalties and Fees

B. Administrative enforcement fees.

1. In addition to other penalties and fines, the Director may charge a penalty in the form of a monthly enforcement fee for any violation that meets the following conditions:

a, b, and c are unchanged.
2. *unchanged*
3. *unchanged*
4. *unchanged*
5. When a violation meets the conditions for charging an enforcement fee as described in this Section, the Director will file a statement with the City Auditor that identifies the property, the amount of the monthly fee, the amount of citations fines, and the date from which the charges are to begin. The Auditor will then:
 - a. Notify the responsible party of fines and enforcement fees;
 - b. Record a property lien in the Docket of City Liens;
 - c. Bill the responsible party monthly for the full amount of the accumulated fines and enforcement fee owing, plus additional changes to cover the administrative costs to the City Auditor; and
 - d. Maintain lien records until:
 - (1) The lien and all associated interest, fines, penalties and costs are paid in full; and
 - [2] The Director certifies that all violations listed in the initial and any subsequent citations or stop work orders have been corrected, inspected and improved.

Section VI
Appendix:
Summary Table of
Amendment Issues

Issue #	Code Section	Status*	Issue	Summary
1	33.10.050.A	T	Official Zoning Maps: Role of City Auditor	The City Auditor has requested that it no longer be identified as "maintaining" the official zoning maps. The City Auditor has no role in updating the maps, nor does it distribute such maps to the public.
2	33.110.220.D.3 33.120.220.B.1.b	C	Reduced Setbacks: Environmental overlays	On properties with environmental zoning, the front setback may be reduced to zero "if the reduction will reduce the amount of development in the environmental zone or avoid development in the environmental zone entirely." This language requires Development Services Center staff to make a discretionary decision when reviewing development on sites with an e-overlay. If the intent of the standard is to encourage the placement of development as far from the e-zone as possible, the referenced phrase is unnecessary and should be deleted.
3	33.110.232.B 33.120.232.B 33.130.250.D.2 33.140.265.E.2	C	Street-Facing Facades: Window requirements for alterations or additions	The existing standard states that for additions and alterations, the minimum required window area applies only to the addition or alteration. Why require at least 15% window area on the addition if the remainder of the street-facing facade already meets, and will continue to meet, the 15% requirement? The Code should be revised to say the standard "...may be applied only to the portion being altered or added." Also, clarify whether false window panels or glass block meet this window requirement.
4	33.110.245	MP	Institutions in Single-Dwelling Zones: Pedestrian standards	In the Multi-Dwelling, Commercial, Employment and Industrial zones, institutions are held to the base zone pedestrian standards. However, because there are no base zone pedestrian standards in the Single-Dwelling zones, institutions are not held to any minimum pedestrian standard. Consider requiring institutions in the Single-Dwelling zones to meet the same pedestrian standards that apply to institutions in Multi-Dwelling zones.

*** Status**

C = Clarification

MP = Minor Policy

T = Technical

Issue #	Code Section	Status*	Issue	Summary
5	33.110.245	MP	Institutions in Single-Dwelling Zones: Screening	Unlike institutional uses in the Multi-Dwelling, Commercial, Employment and Industrial zones, no screening is required for garage collection areas for conditional uses in the Single-Dwelling zones. Consider applying the same screening requirements of the Multi-Dwelling, Commercial, Employment and Industrial zones to institutional uses in the Single-Dwelling zones.
6	33.110.250.C.2.a 33.120.280.C.2.a 33.130.215.D.2 33.140.215.D.2	T	Accessory Structures: Signs	Delete obsolete references to sign regulations in Title 33, or replace with correct reference to sign regulations in Title 32.
7	33.110.250.C.3.b(2) 33.120.280.C.3.b(2) 33.130.215.D.1.b(2) 33.140.215.D.1.b(2)	C	Setbacks: Exception for stairways	Prior to being amended in 2000, uncovered stairways that led to the front door of a building could fully encroach into a setback. Replacing the term front door with main entrance inadvertently allows the stairs to fully encroach into any setback. Also, clarify whether uncovered stairways leading to the main entrance of accessory dwelling units also may fully encroach into the setback.
8	33.110.250.D 33.120.280.D	C	Building Coverage: Accessory structures and use of the term "footprint"	The term "footprint" is used to regulate the building coverage of accessory buildings in the Single- and Multi-Dwelling zones. Consider replacing this undefined term with the defined term "building coverage."
9	33.110.250.E.2 33.120.280.E.2	C	Garages in Setbacks: Rebuilding and applicable development standards	A detached garage that is nonconforming due to its location in a setback may be rebuilt on the footprint of its existing foundation. The Code is not clear whether the rebuilt garage must conform to development standards other than minimum setbacks. Clarify what development standards must be met when rebuilding such garages.

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Issue #	Code Section	Status*	Issue	Summary
10	33.110.250.E.3 33.120.280.E.3	C	Garages: Detached garages built in a required side and/or rear setbacks	Only detached garages are allowed to be located in required side and rear setbacks. Clarify whether a garage is still allowed in the setbacks if a portion of the garage (such as the rafter area) is finished and used for some other purpose.
11	33.120.100.B.5	C	Schools and Community Services in the RX Zone	School and community service uses are allowed in the RX zone in limited situations. Clarify how the 20 percent “exclusive of parking area or ground floor of a multi-dwelling development” applies in all cases, particularly in buildings with basements.
12	33.120.220.B.2.a(2)	T	Transit Street/Pedestrian District Setbacks: Minimum building setback	Delete confusing reference to reduction of minimum building setback as there is no minimum transit street/pedestrian district setback in the Multi-Dwelling zones.
13	33.120.235	C	Landscaped Areas: Requirements for houses, attached houses and duplexes	It is not clear whether the landscape standards in the Multi-Dwelling zones apply to houses, attached duplexes and duplexes. The purpose statement (33.120.235.A) states that the standards are intended for multi-dwelling development (i.e., structures of three dwellings or more) and institutional campuses, but the standards in paragraph B and C don't indicate where the standards apply.

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Issue #	Code Section	Status*	Issue	Summary
14	33.130.030.E	T	CM Zone: Characteristics of the zone	The stated characteristics of the zone indicate that development will "combine commercial and housing uses in a single building." This is the only reference in the chapter to combining residential and commercial uses in a single building. There is nothing in the regulations that require this situation, and some CM developments contain commercial and residential uses in separate buildings on a site. Also, the purpose statement indicates development will consist primarily of businesses on the ground floor with housing above. There is nothing in the development standards that requires or promotes such a configuration. Consider modifying these characteristics so that they better reflect the standards.
15	33.130.240.C	C	Pedestrian Standards: Landscaping the street-setback	The phrase "the land between a building and a street must be landscaped at least to the L1 level" should be rephrased to say "the land between a building and a street lot line must be landscaped at least to the L1 level," as Title 33 cannot require landscaping within the public right-of-way.
16	33.130.245.D 33.910.030	C	Outdoor Markets: Exterior work activity or exterior display	Outdoor markets are identified in the Commercial Zones as a type of exterior work activity, yet the definition of exterior work activities (in 33.910) specifically excludes outdoor markets. Clarify whether an outdoor market is considered an exterior work activity or exterior display.
17	33.140.100.B.3	C	Limited Uses: Retail Sales And Service, and Office uses in EG zones	Retail Sales And Service uses are intended to be limited to a floor area ratio of 1:1, or 60,000 square feet per site, whichever is less. The existing language does not include the phrase "per site," which would allow an unlimited amount of Retail Sales And Service. This is contrary to Title 4.

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Issue #	Code Section	Status*	Issue	Summary
18	33.203.020 33.203.030 33.203.040 33.203.050	MP	Accessory Home Occupations	Several standards in this chapter need clarification. In particular, clarifying the number of business vehicles that may park at the site; the size of delivery trucks allowed; the number of employees allowed, if working at the site at different times; and allowance of both employees and customers, if coming to the site at different times.
19	33.218.100.E.3	C	Community Design Standards: Covered balconies	Clarify the wording of this standard. Should the covered balcony itself be 48 square feet in area, or should the area underneath the balcony be 48 square feet?
20	33.218.100.N.5 33.218.110.P.7	T	Community Design Standards: Reference to Lair Hill Conservation District	The reference to the Lair Hill conservation district should be deleted from this section as it was replaced in 1998 by the South Portland historic district.
21	33.248.020.B & C	C	Landscaping and Screening: Placement of optional fences	Required walls and berms must be placed interior to the landscaped area. For the same reason, optional walls, berms or fences should also be required to be placed interior to the landscaped area.
22	33.248.020.H.2	C	Landscaping and Screening: T1 tree standards	The standards identify the number of inches of trees that must be preserved or planted on a site. It is not clear from existing language that the inches refers to the diameter of the trees, and not to height or radius.
23	33.248.040.C.3 33.248.070	C	Landscaping and Screening: Use of temporary Certificate of Occupancy	A temporary Certificate of Occupancy (CO) is used to ensure compliance with the Option 3 irrigation requirement, and to ensure that required landscaping is in place by the end of the next planting season. Consider a tool different than a CO as they are valid for only 30 days, and as some activities do not require a CO.
24	33.258.050.C.2	MP	Nonconforming Uses: Nonconforming residences in Industrial zones	Nonhouseboat residences in Industrial zones are considered nonconforming uses. As such, even minor expansions, such as a dormer or small bump-out, require a Nonconforming Situation Review, which has a \$4,100 land use review fee. Consider allowing limited expansions to residences in Industrial zones by right.

*** Status**

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Issue #	Code Section	Status*	Issue	Summary
25	33.262.010 33.262.020	C	Off-Site Impacts: Where the regulations apply	The purpose statement indicates the regulations protect all uses in “zones which allow housing by right” from certain objectionable off-site impacts associated with nonresidential uses. This statement needs revising so as to be consistent with the regulations that state the standards apply only in select zones.
26	33.266.220	T	Parking and Loading: Use of required bicycle parking spaces	For motor vehicle parking, regulations indicate the parking spaces must be available for residents, customers or employees of the use. A similar statement should also apply to bicycle parking.
27	33.266.120.C.3	C	Parking and Loading: Parking limitation for houses, attached houses and duplexes	Paved parking vehicle areas are limited to no more than 40 percent of the area between the street lot line and the front building line. This is illustrated in Figure 266-2. The illustration clarifies how this pavement limitation is calculated when the front building line is parallel to the street lot line, but does not illustrate how to calculate the paved area when the house is at an angle to the street, or when the street lot line is not a straight lot line.
28	33.266.130.C.1	MP	Parking and Loading: Location of vehicle areas in CM and CS zones	In the CM and CS zones, vehicle areas are prohibited between a building and a street, and no adjustments are allowed. This is the case even if the vehicle area already exists, and a building is being expanded. On lots with existing development, this is problematic as additions, even those that come closer to meeting the transit street setback and CM/CS minimum building coverage, are prohibited if vehicle area exists between the addition and the street. Consider allowing adjustments to this standard for sites with existing development.

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Issue #	Code Section	Status*	Issue	Summary
29	33.266.130.G.3.d	C	Parking Lot Landscaping: Interior landscaping	Interior landscaping is allowed to join perimeter landscaping as long as it extends at least four feet into the parking area. It is not clear how this is applied. If the required depth of the perimeter landscaping is five feet, but the applicant provides a nine foot deep landscaped area, does the inner four feet qualify as interior landscaping?
30	33.266.130.H.3.a 33.266.130.H.3.c(1)) 33.266.130.H.3.d(1))	C	Parking Lot Landscaping: Perimeter shrubs	Clarify that the perimeter shrubs forming a continuous screen (required by subparagraph H.3.c(1)) must be provided in addition to the shrubs required under subparagraph H.3.a only when the depth of the required landscaped area is in excess of five feet. As the standard now reads, if only a five foot wide landscaped area is required, but an applicant has provided a deeper landscaped area, the screening shrubs (required by H.3.c(1)) must be provided in addition to the shrubs required by subparagraph H3.a, which is a disincentive for the applicant to provide a wider landscaped area than required.
31	33.281.130.B	C	School Sites: Requirements for bus loading	This section states that bus loading is required for new school sites, and that the size and design of the bus loading is determined as part of the conditional use review. However, not all new school sites require a conditional use review. Clarify what standards are used to determine the size and design of bus loading for sites that are not subject to a conditional use review.
32	33.281.140.A	T	School Sites: Landscaping for parking areas	This section refers to outdated L2 and L3 landscape standards for parking areas. The landscape standards should be amended to reflect new parking area landscape standards found in 33.266.130.

*** Status**

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Issue #	Code Section	Status*	Issue	Summary
33	33.405.030	C	Alternative Design Density Overlay Zone: Automatic removal through zone change	The "a" overlay may be removed from sites that are rezoned to RH, RX, EX and CX, as the "a" has no effect on projects in these zones. This list should be amended to include the IR, CN1, CN2, CO1, CO2, CG, CS, CM, all I and E zones as the "a" overlay has no effect on projects in these zones.
34	33.405.040.A 33.405.040.C	C	Alternative Design Density Overlay: Clarification of standards	The following standards should be clarified: 1) Paragraph 040.A states that an ADU may be added to a house, attached house or manufactured home, yet paragraph 040.C.1 states that additions may be made only to houses. Is this meant to say additions may be made to houses, attached houses and manufactured homes? 2) Paragraph 040.C states that the base zone regulations allow creation of ADUs by internal conversion. This reference in the base zones was removed with the adoption of Chapter 33.205 (Accessory Dwelling Units).
35	33.405.040.B	C	Alternative Design Density Overlay: Minimum structure size	This section states there is no minimum structure size for accessory dwelling units. There is no purpose for this regulation, and it is misleading as Building Code does regulate the minimum size of dwelling units.
36	33.405.050.B 33.405.050.C	C	Alternative Design Density Overlay: Use of bonus density through design review	Paragraph B of this section states that the bonus for design review may not be used on sites in a design or historic design zone. However, the following paragraph says that if using this bonus density, the proposal will be reviewed against the design guidelines applicable to the district. These are conflicting regulations.
37	33.405.070.B.2	T	Alternative Design Density Overlay: Development standards applying to owner-occupied duplexes and triplexes in the R2 and R2.5 zones	Development using this option is subject to height, setback, building coverage and outdoor area standards of the R2.5 zone. Clarify that regulations of the applicable base zone control all other development standards.

Status

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Issue #	Code Section	Status*	Issue	Summary
38	33.405.090	T	Alternative Design Density Overlay: Reference to IR zone in Table 405-1	In the IR zone, an institution may be regulated either by an IMP or Conditional Use Master Plan. This should be reflected in Table 405-1.
39	33.480.040.B.2.b	C	Scenic Resource Overlay Zone: Landscaping in street setback	Clarify whether the required L1 landscaping in the street setback applies to the entire street frontage, or only adjacent to the area of proposed development.
40	33.480.040.B.2.g 33.480.040.B.2.h	C	Scenic Resource Zone: Tree removal/tree replacement requirements	It is not clear whether the trees that are allowed to be removed along scenic corridors under Paragraph g are subject to the tree replacement standards of Paragraph h. Also, it is not clear whether the tree replacement requirements of Paragraph h apply only to trees that are removed within the front setback.
41	33.510.114	C	Central City Plan District: Exemptions for Portland State University	Clarify that this exemption is intended to allow uses operated by the university to be built by right if such uses are ordinarily allowed by the base zone, such as Household Living uses in the RX zone. It is not clear from the existing language that such uses do not require a conditional use review.
42	33.510.200.C	C	Central City Plan District: Limit on increased floor area	It has been argued that the 3:1 FAR limit of 33.510.200.C applies only to floor area bonus options, and not to transfers of floor area. If the 3:1 FAR limit does not apply to transfers of floor area, that would mean an unlimited amount of floor area would be allowed. Clarify that the 3:1 limitation applies to any increase in the floor area ratio.
43	33.510.210.C.10	C	Central City Plan District: BES certification of Eco-roof	As part of a land use review application, the applicant is required to provide evidence that BES has approved the proposed eco-roof. This BES approval may be premature as such approval requires a detailed design of the eco-roof, and the design may change as the result of the subsequent land use review. Consider modifying when certification of BES approval must be submitted.

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Issue #	Code Section	Status*	Issue	Summary
44	33.510.210.E	MP	Central City Plan District: Residential bonus height option and approval criteria	The bonus height for housing will be approved through a design review if, in part, the applicant demonstrates that the additional height is necessary in order to achieve the maximum amount of floor area devoted to housing. The original language from the 1991 Code required only that the applicant demonstrate the increased height would not result in adverse shadow impacts on nearby residential zones. It is not clear when and why the criterion dealing with maximizing residential floor area came to be, and why such a criterion would be considered as part of a design review.
45	33.510.210.E	MP	Central City Plan District: Residential bonus height option and general bonus height option	An applicant may not combine the general height bonus option and the residential height bonus option. The intent is to prevent a building from being an additional 120 feet in height (i.e., 45 feet earned the general bonus option and 75 feet earned from the residential bonus option). However, as worded, this prevents someone from using a combination of the two bonus height options even when the resulting height would be less than the 75 feet allowed through the residential bonus option. Consider allowing use of both bonus height options as long as the resulting height does not exceed an additional 75 feet.
46	33.510.245.B.1 33.510.245.B.2	T	Central City Plan District: Northwest Triangle open area requirement	The reference in 510.245.B.1 should read, "On sites of over 40,000 square feet..." and not "On lots of over 40,000 square feet." In 510.245.B.2, clarify the discretionary term "primarily."
47	33.510.263.E.3.c	C	Central City Plan District: Maximum parking ratio for existing hotels	For existing hotels in the Core area, the maximum number of parking spaces is limited to 0.7 spaces for each 1,000 square feet of floor area. The term "floor area" should be replaced with the term "net building area," as the term "net building area" excludes floor area devoted to parking. Retaining the term "floor area" (which includes floor area devoted to parking) would allow an unlimited amount of parking.

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Issue #	Code Section	Status*	Issue	Summary
48	33.515.110.C.3	T	Columbia South Shore Plan District: Pedestrian Standards	Remove in 33.515.110.C3 the obsolete reference to 33.515.205.E. Additionally, reference to the pedestrian standards of the EG2 zone should be deleted from this section as pedestrian standards for the plan district are already included in 33.515.257.
49	33.515.120	C	Columbia South Shore Plan District: Limitations on Retail Sales And Service	Clarify whether the square footage limitation on Retail Sales And Service uses includes exterior display and storage. Limitations on the amount of Retail Sales and Service in other E and I zones include exterior display and storage in addition to floor area. To not include exterior display and storage in the Columbia South Shore plan district would be unique.
50	33.515.270.B	C	Columbia South Shore Plan District: Environmental zone transition area	The environmental zone transition area is identified as the "outer" 50 feet of the environmental zone. This has frequently been misinterpreted as 50 feet beyond the environmental zone boundary. It is meant to be the inner 50 feet of the e-zone.
51	33.515.278.B.17.a	T	Columbia South Shore Plan District: Threshold value for required nonconforming upgrades	The threshold value for nonconforming upgrades is identified at \$10,000. This differs from Chapter 33.258, where the threshold value was increased from \$10,000 to \$25,000. To be consistent with the threshold found elsewhere in the Code, the value in the Columbia South Shore plan district should be changed to \$25,000.
52	33.515.280.C	MP	Columbia South Shore Plan District: Pre-application requirements	In an effort to streamline the development review process, consider removing the requirement for a pre-application conference for Type II environmental reviews, as was previously done for environmental reviews elsewhere.

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Issue #	Code Section	Status*	Issue	Summary
53	33.535.130.C.2.a	C	Johnson Creek Basin Plan District: Allowed development in Springwater Corridor setback	The standard indicates that new development and expansion of existing development must be set back a minimum distance from the Springwater Corridor. Clarify that fences and similar structures are not allowed within this setback area.
54	33.535.205.B 33.535.310.B	C	Johnson Creek Basin Plan District: Calculating impervious surface area	Clarify whether eaves are included when calculating impervious surface area.
55	33.700.080.A	C	Timeliness of Regulations	The regulations in this section are not in compliance with ORS 227.178 in that ORS allows land use review applicants up to 180 days to provide information needed to determine the application complete, and still be vested under the regulations in effect at the time the application was first submitted.
56	33.720.040	C	Assignment of Review Bodies: Concurrent land use reviews	Clarify what happens when a land use review involving concurrent reviews (both of the same procedure) is appealed. For example, if a case involving a Type II conditional use and Type II design review is appealed, which body hears the appeal -- the Hearings Officer, the Design Commission, or both?
57	33.730.020.I.2 33.730.030.H.2	MP	Quasi-Judicial Procedures: Notice of an appeal hearing	A notice for an appeal of a Type II or Type III decision must occur within 5 days of the receipt of the appeal. This period is insufficient to allow staff to review the appeal, and to draft and mail the notice, particularly if the appeal was received on a Friday. Consider modifying this requirement to at least five working days.
58	33.730.030.E.5	T	Quasi-Judicial Procedures: Notice of decision for Type III procedures	This section states the Hearings Officer or OPDR Director will mail a notice of decision on a Type III case to persons who responded to the appeal notice. As the appeal period has not commenced at this point in the process, the term "appeal notice" should be replaced with the term "notice of request."

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Issue #	Code Section	Status*	Issue	Summary
59	33.730.040	C	Quasi-Judicial Procedures: Final council action required	Per ORS 215.427(6), clarify that the final decision on land use review applications processed concurrently with Comprehensive Plan Map amendments is not required to be issued within 120 days of a complete application.
60	33.730.050.B 33.730.050.D	MP	Pre-application Conferences: Scheduling of conference and completion of written conference summary	A pre-application conference is required to be scheduled within two weeks of receipt of the request, and a written summary of the conference minutes must be completed within seven days of the conference. Given the number of conferences, the complexity of the land use issues, and the staff time of many bureaus needed to prepare for each conference, conferences historically have not been scheduled within two weeks of the request, and it is not practical to complete the minutes within seven days. Consider extending these timeframes so that they better reflect practical constraints.
61	33.740.030.B	T	Legislative Procedure: City Auditor's role in mailing Council notices	The Code states that the City Auditor mails notices for legislative land use actions. This is not the case. The City Auditor only mails appeals notices for Type III quasi-judicial land use actions.
62	33.750.050.B	P	Fees: Low income waiver	Consistent with established policy for fee waivers, clarify that low income individuals may request a waiver of land use review fees only for land use reviews associated with the individual's primary residence that the individual owns in whole or part.
63	33.800.040	T	Land Use Reviews: Location of approval criteria	This section identifies areas of the Code that contain approval criteria separate from those included in the 800s section of the Code. As this is not an inclusive list, it is misleading. There are many sections of the Code not listed in 33.800.040 that also include separate approval criteria.
64	33.810.050.A.2	C	Comprehensive Plan Map Amendments: Net loss of potential housing	The sentence structure in this section makes for an unclear approval criterion. Restructure this section so that it is easier to follow.

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Issue #	Code Section	Status*	Issue	Summary
65	33.810.050.A.2.c(3)	C	Comprehensive Plan Amendments: Housing replacement and CM zoning	Rezoning a site to CM is identified as a means of addressing a loss of potential housing related to a proposed comprehensive plan map amendment. Because up to 50% of any floor area developed under the CM zoning may be for non-residential uses, it should be made clear that only 50% of the potential floor area on a site rezoned to CM may be counted towards addressing the loss of potential housing.
66	33.815.040.A.3	C	Conditional Uses: Adding other uses to an existing conditional use	As indicated in subparagraph A4 of this section, if an existing conditional use expands by more than 10%, a Type III conditional use review is required. However, subparagraph A3 states that if a new conditional use (in the same use category) is added to the site, only a Type II conditional use is required, with no mention about any increase in activity. This section should be reworded to clarify that a Type III review is required when a new conditional use is added to the site that increases the amount of activity on the site by more than 10%.
67	33.815.040.B.1.b	C	Conditional Uses: Alterations not requiring conditional use review	For alterations to existing conditional uses to be allowed by right, the alteration is required to comply with all development standards. Clarify that if an adjustment to a particular development standard is approved this requirement is met. The adjustment process is specifically intended to provide a mechanism by which development standards in the Code may be modified. If modification to a development standard is approved through the adjustment process, the adjusted standard becomes the required development standard.

Status

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MP = Minor Policy

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Issue #	Code Section	Status*	Issue	Summary
68	33.815.040.B.3	C	Conditional Uses: Alterations	A Type II conditional use procedure is used "when the individual or cumulative alterations will not increase the floor area or exterior improvement area by more than 10 percent, up to a maximum of 25,000 square feet." Clarify whether the 25,000 square feet includes floor area and exterior improvement area. Also, clarify whether the percentage increase is limited to the floor area of the building being expanded or all floor area on the site.
69	33.815.100.D 33.815.105.E 33.815.140.D	C	Conditional Use Review: Adopted area plans	An approval criteria for the three conditional use reviews in these sections requires determining the proposal's consistency with area plans adopted by City Council. Clarify what plans must be included in this analysis.
70	33.820.090.A.1	C	Conditional Use Master Plans: Proposed development near master plan boundary	Proposed development within 400 feet of an approved master plan boundary requires a Type III master plan amendment. Clarify whether the 400 foot distance refers to the area inside the master plan boundary, or the area outside the master plan boundary.
71	33.825.025.A.2	C	Procedures for Design Review: Southwest Community Plan	Clarify that design review for properties in the Southwest Community Plan is processed as a Type II procedure.
72	33.855.050.B.3 33.855.050.C	T	Zoning Map Amendments: IR zone requirements	In 2000, the Impact Mitigation Plan (IMP) regulations in Chapter 33.848 were amended to allow institutions to complete either an IMP or a conditional use master plan. This needs to be reflected in Chapter 33.855.
73	33.910.030	C	Definitions: Floor area and structured parking	Clarify that floor area does not include roof area used for parking.
74	33.910.030	C	Definitions: Street lot line	Clarify the extent of the street lot line when only a portion of a property line abuts a street. If only a portion of a property line abuts the street, is only that portion of the property line considered a street lot line, and the remainder considered a side lot line?

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75	33.910.030	C	Definitions: Street-facing facade	Clarify how "street-facing facade" is defined for building walls that are not parallel to the street.
76	33.910.030	C	Definitions: Corner lots	A corner lot is one that has frontage on more than one intersecting street. A single street that curves with an angle of 120 degrees or less around a lot is considered the same as two intersecting streets. Clarify the point from where this street angle is measured.
77	33.910.030	C	Definitions: Dwelling Unit	A dwelling unit is defined as a portion of a building that has independent facilities for sleeping, sanitation and cooking. If a bar sink and microwave are provided, does this constitute a cooking facility?
78	33.910.030 33.281	C	Definitions: School site	The definition for a "school site" is a site that has or formerly had a school use on it. It is not clear whether a site on which a school is proposed qualifies under this definition as a school site, and therefore, is subject to development standards in 33.281 (Schools and School Sites).
79	33.920.250 33.920.500	MP	Use Categories: Boarding of dogs and cats	Kennels are defined in Chapter 33.910 as locations where more than five dogs and cats are boarded or bred, and are included in the Agriculture use category. However, kennels that are limited to the boarding of pets, with no breeding, are more typically associated with veterinarian offices, which are included in the Retail Sales And Service category. Kennels that are limited to the boarding of dogs and cats are more closely associated with allowed activities in the Personal Service-Oriented subcategory of the Retail Sales And Service use category, such as veterinarian offices or animal grooming, than they are with activities listed in the Agriculture use category. Because such kennels are included in the Agriculture use category, they are not allowed in the CN1 through CM commercial zones. Consider including kennels that are limited to the boarding of cats and dogs in the Personal Service-Oriented subcategory of the Retail Sales And Service use category.

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Issue #	Code Section	Status*	Issue	Summary
80	33.920.340.D.1 33.830.030	MP	Use Categories: Waste-Related Uses and the disposal of dirt and other non-decomposable materials	Disposal of dirt, concrete, asphalt and other similar non-decomposable materials is considered a fill, and not a waste-related use. Such material, while not containing non-decomposable elements, may contain hazardous, toxic or other elements that are otherwise considered by BES, DEQ and Metro to be solid-waste, hazardous material or hazardous waste. The term non-decomposable should be replaced so as to clarify that contaminated fill is considered Waste-Related and not fill. This should also be clarified in Chapter 33.830, Excavations and Fills.
81	33.930.060.A	C	Measurements: Determining average slope	The text in this section refers to "uphill lot lines" and "downhill lot lines," yet the figure refers to "front lot lines" and "rear lot lines." The terms "uphill" and "downhill" lot lines should be used consistently, as these are more generic terms that may be applied to a variety of situations.
82		T	References to Office of Neighborhood Involvement	Change outdated references throughout the Code from the "Office of Neighborhood Associations" (ONA) to the current "Office of Neighborhood Involvement" (ONI).
83		T	Reference to Metropolitan Service District	Change outdated references throughout the Code from "Metropolitan Service District" to the current name, "Metro."
84		T	References to Development Services Center	Throughout the Code, change outdated references from "Permit Center" to the current "Development Services Center."

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Issue #	Code Section	Issue Description	Summary
S-1	32.32.030.G.2	Number of Portable Signs: Allowed one per public building entrance, but for parking lots and food carts, this is an unequal standard.	The existing code allows one portable sign for each public building entrance. Portable signs are frequently used at parking lots and parking garages and for food carts where the number of public building entrances is few or non-existent. The code language should be revised to allow different allowances for parking facilities, food carts and similar uses where building entrance is not an appropriate determining factor.
S-2	32.32.030.K5 & 6 32.62.010.A	These code sections conflict regarding registration requirements for temporary fascia and temporary freestanding signs.	Section 32.32.030K says that temporary freestanding and fascia signs can be up for a second 360 day period if they are registered, however, the permitting and registration section (32.62.010) states that such signs are exempt. Allowing longer postings with registration in the second year was a final compromise amendment by City Council, which needs to be reflected in the permitting section.
S-3	32.62.010.D.2 32.62.040.B.3 Adopted fee schedule	The length of portable sign registration is unclear and inconsistent in different provisions.	The two sections in Chapter 32.62 state that portable sign registration is for up to two years. This implies time periods less than two years. Fees were set up for only two years. Practice has settled on allowing either one or two year registration based on the sign owner's preference. Fee table needs to be adjusted as well. Consideration to giving a fee break for a two year registration.
S-4	32.62.030.B.5	Sign registration stickers versus sign permits.	Signs that are registered are provided with a sticker that must be affixed to the sign. Signs that receive a permit only require the permit to be posted during the sign erection. Many permanent signs are very similar to registered signs in appearance and materials. For ease of long term enforcement and clarifying a sign owners rights, issuing stickers to all signs may be appropriate.
S-5	32.34.030	A portion of Cascade Station Plan district is exempted from land use sign standards.	The Cascade Station sign exemption was created at such a time that it was unclear what to put into the Sign Code. The exemption needs to be moved from the Zoning Code to the Sign Code.
S-6	32.24.010.B 32.32.030.D.1	The code is unclear regarding the amount of changing image features and the measurement section regarding "backed signs".	The regulations for changing image features allows up to 20 square feet of such features on a site. The measurement section on signs that have two faces roughly parallel, only one sign is counted. The legislative intent is unclear regarding using this provision for changing image features is unclear.

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S-7	32.62.010.A.3.a; D.1, a(2); G.4.a	Use of the term "Lot" where "Site" should have been used.	In the final editing of the sign code, "lot" was used in various locations that should have been "site". The terms are significantly different in intent and application. The primary problems are conflicts between the permitting/registration chapter 32.62 on temporary signs and the parallel land use provisions in Chapter 32.32.
S-8	32.32.030.K.2	Code states that temporary signs can't be illuminated. However if a sign is placed in an illuminated location, it is technically in violation.	Since illuminating a wall where a temporary banner might be placed or a spot of ground where a temporary balloon sign or temporary freestanding sign might be located is a separate electrical permit, it is practically impossible to enforce this prohibition. The code should allow directed illumination but not internal illumination or other illumination that is integrally part of the sign.
S-9	32.24.040	Determining primary building wall for buildings on a corner where there is a small angled piece of the façade facing the intersection.	A frequent design in commercial neighborhood areas is for building entrances to be in a small, angled façade facing an intersection. This façade is small and would allow less signage for the same size building if the angle wasn't introduced. In some places, such as transit oriented streets, the zoning code encourages the angled façade.
S-10	32.24.010.F	Measuring signs on different wall planes.	Frequently signs are located on different planes of the same wall. Measurement of those signs is unclear
S-11	32.32.030.K.3	Limiting the number of banners on structures other than building walls.	The code explicit limits the number of temporary banners placed on each building wall to limit the overall impact of banners. The code is silent with respect to fences or other walls or other things such as light poles that are not a building.
S-12	Table 32.32-2	Freestanding signs on sites without arterial frontage.	The code is unclear for sites that have no arterial frontage.
S-13	32.36.020.H	Temporary removal of signs for maintenance and repair.	This section allows signs to be repaired and even temporarily removed to perform repair functions. The permit section exempts this action from permit provided OPDR receives notification from the sign owner that such action is being taken. The permit section requirement needs to be reflected in the non-conforming section for consistent application of non-conforming standards and rights.