Update Packet #143 (effective 9/10/10)
The attached Code update is the result of changes for the Planning and Sustainability Commission and will be effective September 10, 2010.

Code Update Packet: 143
Effective Date: September 10, 2010
Contact: Jessica Richman, 503-823-7847
Amends Chapter: 33.710

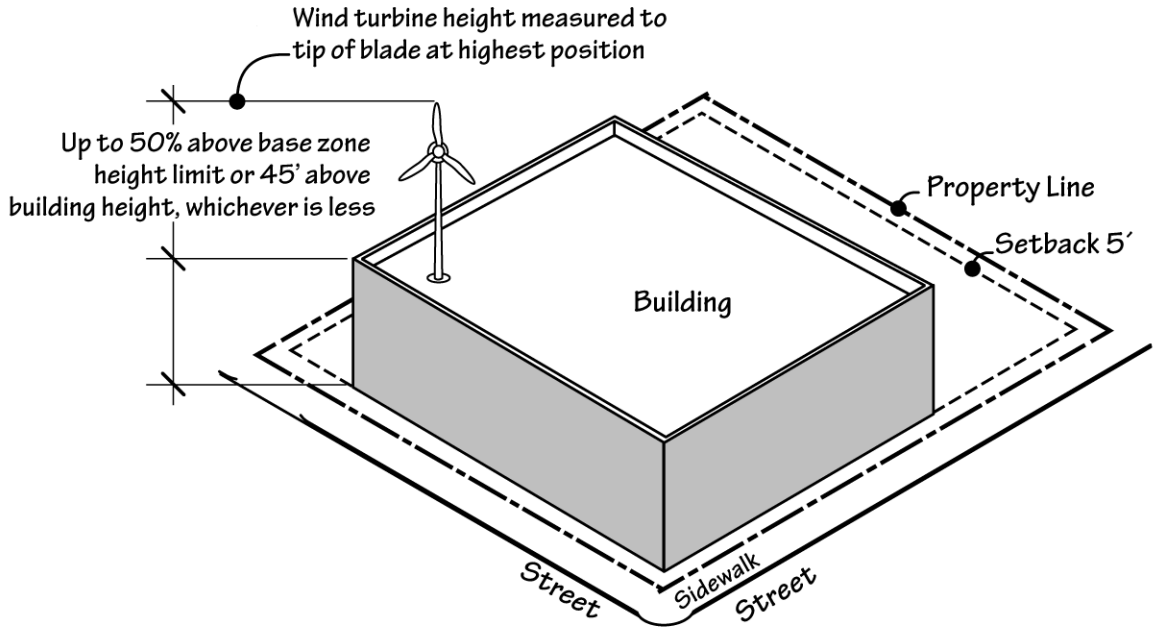
CONTENTS OF UPDATE PACKET #141 (effective 7/17/10)

Chapter	Remove Pages	Insert Pages	Changed because of:
299	3-4	3-4	Typo
710	1-10	1-10	33.710.030, 040, 050, 060

Substantive Changes:

These amendments create the Portland Planning and Sustainability Commission, and disband the Portland Planning Commission and Portland/Multnomah County Sustainable Development Commission.

Figure 299-2
Building-Mounted Wind Turbine



D. Exceptions.

1. RF zone. Turbines in the RF zone are subject to Subsections A and B. However, there is no height limit if the turbine is set back from all lot lines a distance equal to its height.

2. EG2, IG, and IH zones. In the EG2, IG, and IH zones, there is no setback or height limit except where lot lines abut R-zoned sites. Where the lot lines abut R-zoned sites:

   a. Pole-mounted turbines are subject to the following:

      (1) Setback. They must be set back at least 10 feet from lot lines that abut R-zoned sites.

      (2) Height. They are subject to the height regulations for pole-mounted turbines that apply to the adjacent R-zone. If the site abuts more than one R-zone, the most restrictive height regulation applies.

      For every foot that the pole and turbine are set back farther than 10 feet from the adjacent R zone, the height of the turbine may increase one additional foot above the adjacent R-zone base zone height limit. Using this provision, the height may not increase more than 50 percent above the adjacent R-zone base zone height limit.

However, there is no height limit if the turbine is set back from all lot lines a distance equal to its height.

b. Building-mounted turbines. Building-mounted turbines must meet the setbacks and height regulations that apply to building-mounted turbines in the adjacent R-zone. If the site abuts more than one R-zone, the most restrictive regulations apply.

33.299.130 Noise.
In residential zones, turbines must have an AWEA-rated sound level of 45dBA or less. The City noise standards of Title 18 also apply in all zones.

CHAPTER 33.710
REVIEW BODIES

(Amended by: Ord. No. 166921, effective 10/1/93; Ord. No. 169987, effective 7/1/96; Ord. No. 171718, effective 11/29/97; Ord. No. 174263, effective 4/15/00; Ord. No. 175164, effective 12/14/00; Ord. No. 184046, effective 9/10/10.)

Sections:

33.710.010 Purpose
33.710.020 Delegation of Authority
33.710.030 Commissions, Committees, and Boards Generally
33.710.040 Planning and Sustainability Commission
33.710.050 Design Commission
33.710.060 Historic Landmarks Commission
33.710.070 Adjustment Committee
33.710.080 Land Use Hearings Officer
33.710.090 Director of the Bureau of Development Services
33.710.100 City Council
33.710.120 Healy Heights Radiofrequency Advisory Board

33.710.010 Purpose

Review bodies are established to make decisions on land use actions and to recommend land use policy to the City Council. The review bodies provide an opportunity for citizen involvement and provide expertise for specialized topic areas. Review bodies that make quasi-judicial decisions do so on authority delegated by the City Council. The provisions of this chapter define the powers and duties for each review body and state how each body will operate.

33.710.020 Delegation of Authority

The commissions, committees, boards, and officers established in this chapter are empowered to perform all duties assigned to them by State law or this Title on behalf of the City Council.

33.710.030 Commissions, Committees, and Boards Generally

A. Length of terms. Members of commissions, committees, and boards provided under this chapter may be appointed to terms of not more than 4 years. Initial appointments for newly formed commissions, committees, and boards must include a sufficient number of appointments for less than the maximum 4 year term of office to provide overlap and a continuity of membership. Members of commissions are limited to a maximum of two full terms. Vacancies which may occur must be filled for the unexpired terms.

B. Required attendance. If a member fails to attend three consecutive meetings or misses 20 percent or more of the meetings held during a calendar year, the Mayor may declare the position vacant.

C. Officers and rules. Each commission, committee, or board elects its own presiding officers and adopts rules of procedure that are necessary to fulfill its duties. The rules of procedure must be in writing and comply with the Oregon Public Meetings law, Statutory land use hearing requirements, and this Title.

D. Voting. A majority of the members present must vote affirmatively in order to take action. Individual members may not have more than one vote for the conduct of commission or committee business.

E. Pay. All members on a commission, committee, or board serve without pay.

F. Public meetings. All meetings, including briefing sessions, must be open to the public and comply with the Oregon Public Meetings law.

G. Staff.

1. Planning and Sustainability Commission. The Director of the Bureau of Planning and Sustainability must provide the Planning and Sustainability Commission with staff assistance necessary to enable it to discharge its duties.

2. Design Commission, Historic Landmarks Commission, Adjustment Committee. The Director of the Bureau of Development Services must provide the Design Commission, Historic Landmarks Commission, and Adjustment Committee with staff assistance necessary to enable them to discharge their duties.

H. Records.

1. Planning and Sustainability Commission. The Director of the Bureau of Planning and Sustainability keeps an accurate record or minutes of all proceedings of the Planning and Sustainability Commission.

2. Design Commission, Historic Landmarks Commission, Adjustment Committee. The Director of the Bureau of Development Services keeps an accurate record or minutes of all proceedings of the Design Commission, Historic Landmarks Commission, and Adjustment Committee.

I. Conflict of interest. A member of any commission, committee, board, or review body except City Council may not participate as a member in deciding any land use action in which the member has a direct or substantial financial interest. A member may not participate if the member's spouse, brother, sister, child, parent, father-in-law, or mother-in-law have a direct or substantial financial interest, or if any business in which the member is then serving or has served within the previous two years or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment, has a direct or substantial financial interest. Any actual or potential interest must be disclosed at the hearing or meeting where the action is scheduled.

J. Commission coordination. The chairs, or their delegates, of the Planning and Sustainability Commission, Design Commission, and Historic Landmarks Commission meet quarterly to discuss trends and issues relevant to their respective commissions and, as appropriate, to coordinate the Commissions' programs. The chairs will share a summary of their meeting with their respective Commissions.

33.710.040 Planning and Sustainability Commission

A. Purpose. The Planning and Sustainability Commission advises City Council on the City's long-range goals, policies, and programs for land use, planning, and sustainability. In making recommendations and decisions, it considers the economic, environmental, and social well-being of the city in an integrated fashion. The Commission has specific responsibility for the stewardship, development and maintenance of the City's Comprehensive Plan, Climate Action Plan, and zoning code. The Commission is committed to effective public involvement and leadership in its work and in the decisions it considers.

B. Membership. The Planning and Sustainability Commission consists of eleven members, none of whom may hold public elective office. The members are appointed by the Mayor and confirmed by the City Council. The membership of the Planning and Sustainability Commission should include broad representation of Portland's community and reflect the dynamic nature of this changing city. No more than two members of the Planning and Sustainability Commission may be engaged in the same occupation, business, trade, or profession. No more than two members of the Commission may be individuals, or members of any partnership, or officers or employees of any corporation that engages principally in the buying, selling, leasing, or developing of real estate for profit.

C. Meetings, officers, and subcommittees.

1. The Planning and Sustainability Commission meets at least once a month. Meetings are conducted in accordance with adopted rules of procedure. Six members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.

2. The Planning and Sustainability Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

D. Powers and duties. The Planning and Sustainability Commission has all of the powers and duties which are now or may in the future be imposed upon City planning commissions by State law, by this Title, by the City Council, or by the City Charter. The Commission's powers and duties include:

1. Holding hearings and making recommendations on all policy matters related to the Comprehensive Plan; the Climate Action Plan, the zoning code; significant transportation and sustainable development policies, projects, and issues; street vacations; sign regulations, and renaming city streets;

2. Advising the City Council on plans and policies regarding such issues as land use, zoning, housing, energy, transportation, urban renewal, urban design, equity, economic development, public buildings, climate change, sustainable development, environmental protection, resource conservation, and other policies of City-wide interest;

3. Articulating and guiding the City's long-range goals, policies, and programs for developing and achieving sustainable communities; and

4. Developing opportunities for community members to learn about principles, policies, and programs that promote sustainable practices and development.

E. Communications on appeals. The Planning and Sustainability Commission may submit written responses or appear in person on appeals of quasi-judicial land use decisions to the City Council.

F. Annual report. The Planning and Sustainability Commission must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Planning and Sustainability Director by the first working day of September. The Planning and Sustainability Director may combine the report with annual reports of other bodies for transmission to the City Council.

33.710.050 Design Commission

A. Purpose. The Design Commission provides leadership and expertise on urban design and architecture and on maintaining and enhancing Portland's historical and architectural heritage.

B. Membership. The Design Commission consists of eight members, none of whom may hold public elective office. The Commission must include a representative of the Regional Arts and Culture Council, one person representing the public at-large, and five members experienced in either design, engineering, financing, construction or management of buildings, and land development. No more than two members may be appointed from any one of these areas of expertise. The Regional Arts and Culture Council member is nominated by the Regional Arts and Culture Council chair and approved by the Mayor. The other members are appointed by the Mayor and confirmed by the City Council.

C. Meetings, officers, and subcommittees.

1. The Design Commission meets at least once a month and as necessary to act on reviews assigned to them by this Title. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.

2. The Design Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

D. Powers and duties. The Design Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:

1. Recommending the establishment, amendment, or removal of a design district to the Planning and Sustainability Commission and City Council;

2. Developing design guidelines for adoption by City Council for all design districts except Historic Districts and Conservation Districts;

3. Reviewing major developments within design districts, except those projects involving or located within the following:

   a. Historic Districts;

   b. Conservation Districts;

   c. Historic Landmarks; and

   d. Conservation Landmarks.

4. Reviewing other land use requests assigned to the Design Commission; and

5. Providing advice on design matters to the Hearings Officer, Planning and Sustainability Commission, Historic Landmarks Commission, Portland Development Commission, and City Council.

E. Annual report. The Commission must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Director of BDS by the first working day of September. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

33.710.060 Historic Landmarks Commission

A. Purpose. The Historic Landmarks Commission provides leadership and expertise on maintaining and enhancing Portland's historic and architectural heritage. The Commission identifies and protects buildings and other properties that have historic or cultural significance or special architectural merit. The Commission provides advice on historic preservation matters, and coordinates historic preservation programs in the City. The Commission is also actively involved in the development of design guidelines for historic design districts.

B. Membership. The Historic Landmarks Commission consists of eight members, none of whom may hold public elective office. The Commission must include a historian with knowledge of local history; an architectural historian; an architect; two members from the following: landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, or related disciplines; and two members at-large. All members must have demonstrated interest, competence, or knowledge of historic preservation. No more than two members of the Commission may be in the business of buying, selling, leasing, or developing real estate for profit, or be officers of such a business. The members are appointed by the Mayor and confirmed by the City Council.

C. Meetings, officers, and subcommittees.

1. The Historic Landmarks Commission meets at least once a month and as necessary to act on reviews assigned to them by this Title. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.

2. The Historic Landmarks Commission may divide its membership into special subcommittees which are authorized to act on behalf of the Commission for an assigned purpose. Three members of the Commission constitute a quorum on such subcommittees. Subcommittee actions require the affirmative vote of at least three members.

D. Powers and duties. The Historic Landmarks Commission has all of the powers and duties which are assigned to it by this Title or by City Council. The Commission powers and duties include:

1. Establishing or removing Historic Landmark and Conservation Landmark designations for specific buildings or sites in quasi-judicial reviews;

2. Recommending the establishment or removal of Historic Landmark and Conservation Landmark designations to the City Council in legislative actions;

3. Recommending the establishment, amendment, or removal of Historic Districts and Conservation Districts to the Planning and Sustainability Commission and the City Council;

4. Recommending and developing design guidelines for Historic Districts and Conservation Districts to the City Council;

5. Reviewing development proposals for Historic Landmarks and Conservation Landmarks and in Historic Districts and Conservation Districts;

6. Reviewing demolition and relocation requests for certain Historic landmarks and buildings in Historic Districts;

7. Providing advice on historic preservation matters to the Hearings Officer, Design Commission, Planning and Sustainability Commission, Portland Development Commission, other City commissions and committees, and City Council; and

8. Initiating and coordinating historic preservation and public outreach programs in the City, including reviewing recommendations for national register status and making recommendations to other governmental agencies regarding historic preservation programs and issues.

E. Annual report. The Commission must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Director of BDS by the first working day of September. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

33.710.070 Adjustment Committee

A. Purpose. The Adjustment Committee reviews adjustment requests to the development standards of Title 33. The Committee provides the opportunity for a public forum in the review of these requests.

B. Membership. The Adjustment Committee consists of seven members, none of whom may hold public elective office. The Committee must include three persons representing the public at large, two members in either urban design, architecture, or landscape architecture, and two members experienced in either engineering, financing, construction, management of buildings, or land development. The members are appointed by the Mayor and confirmed by the City Council.

C. Second Committee. If the Director of BDS determines that the number of adjustment requests exceeds the capacity of the Adjustment Committee to review in a timely manner, the Director of BDS may recommend to the Mayor that a second Committee be formed. The second Committee may be dissolved by the Mayor if the number of reviews can be adequately handled by one Committee. The second committee is also subject to all the regulations in this section.

D. Meeting and officers. The Adjustment Committee meets at least once a month and as necessary to act on adjustment requests. Meetings are conducted in accordance with adopted rules of procedure. Four members constitute a quorum at a meeting. The election of officers takes place at the first meeting of each calendar year.

E. Powers and duties. The Adjustment Committee has all of the powers and duties which are assigned to it by this Title or by City Council. The Committee powers and duties include:

1. Reviewing requests to adjust the development standards of Title 33, when no other land use reviews are associated with the project; and

2. Providing advice on adjustment matters to the Hearings Officer, Planning and Sustainability Commission, Historic Landmarks Commission, Portland Development Commission, and City Council.

F. Annual report. The Committee must make an annual report of its actions and accomplishments for each fiscal year. The report must be filed with the Director of BDS by the first working day of September. The Director of BDS may combine the report with annual reports of other bodies for transmission to City Council.

33.710.080 Land Use Hearings Officer

A. Purpose. The position of the Land Use Hearings Officer is established to perform quasi-judicial reviews of most land use applications. This frees the City Council and Planning and Sustainability Commission from a large quasi-judicial case load and allows for prompt decision-making. It also assigns quasi-judicial reviews to a body with expertise in applying law and policy to specific situations and in meeting legal requirements for considering and processing such reviews.

B. Short name. The Land Use Hearings Officer is also called the Hearings Officer.

C. Appointment. The Hearings Officer is appointed by the City Auditor in conformance with City rules.

D. Hearings. The Hearings Officer must conduct hearings as necessary to review and make decisions on land use requests.

E. Powers and duties.

1. The Hearings Officer acts on behalf of the City Council as a review body to decide matters assigned by this Title.

2. The Hearings Officer has the power to request, receive, and examine available information; conduct public hearings; prepare a record; and enter findings and conclusions on all matters for which the Hearings Officer is assigned by this Title to act as review body.

F. Annual report. An annual report of the Hearings Officers' actions and accomplishments for each fiscal year must be made. The report must be filed with the Planning and Sustainability Commission by the first working day of September for transmission to the City Council. This report may contain recommendations for Planning and Sustainability Commission and City Council consideration.

33.710.090 Director of the Bureau of Development Services
The Director of BDS directs and manages the staff of BDS. The Director of BDS provides staff services to the commissions, committees, and boards as specified in this chapter. The Director of BDS is responsible for the decisions and recommendations required of the Director of BDS by this Title. The Director of BDS is in charge of implementing this Title. The Director of BDS may delegate review and decision-making authority to BDS staff.

33.710.100 City Council
The City Council acts as a review body for land use reviews which specifically need final Council action, the appeals of certain land use reviews, and for all legislative actions.

33.710.120 Healy Heights Radiofrequency Advisory Board

A. Purpose. The Healy Heights Radiofrequency (RF) Advisory Board provides technical expertise and advice to applicants and review bodies when Radio Frequency Transmission Facility development is proposed in the plan district. The board will recommend when monitoring of radiofrequency power density or surveying of radiofrequency interference (RFI) is necessary and may recommend assessment of the Radio Frequency Transmission Facility owners and operators to cover the costs incurred. The board will also provide information on radiofrequency emissions and interference in the vicinity of the Healy Heights plan district, and respond to other related citizen inquiries.

B. Membership.

1. The advisory board will consist of five members: two representatives from the recognized neighborhood associations within 2,000 feet of the plan district; two representatives from the broadcast or communications industry within the plan district; and one member at-large, not from or affiliated with the recognized neighborhood associations within 2,000 feet of the plan district or the broadcast and communications industries within the plan district. The at-large member should have either some background with the communications and broadcast industry, or in a related academic field, or related regulatory experience, or mediation experience.

2. Nominations. Before the Planning and Sustainability Director makes nominations to the Mayor for membership on the advisory board, he must solicit recommendations, by letter, from the presidents of all active neighborhood associations within 2,000 feet and from the tower owners and operators of major facilities. The four members selected from the industry and surrounding neighbors will make recommendations to the Planning and Sustainability Director for the member at-large.

3. Appointments. The Mayor must appoint board members from the nominations tendered, but may reject individuals nominated to serve on the advisory board and request additional nominations.

4. Terms. Advisory board members serve for four years, except during the initial terms. For those persons first selected to this advisory board, one neighborhood representative and one industry representative will serve for two years, the other three members will serve the full four-year term. Consecutive terms are not allowed. Multiple terms are allowed.

5. Staffing. The Planning and Sustainability Director or designee will staff the board, in accordance with 33.710.030.

C. Meetings. The advisory board will meet at least once every three months. The advisory board will meet with the City of Portland/Multnomah County Health Officer at least annually; this meeting will include a discussion of any new information regarding the human health aspects of non-ionizing electromagnetic energy.

D. Powers and duties. The duties, responsibilities, and authority of the advisory board include, but are not limited to:

- Initiation of monitoring or measurement of radiofrequency emissions in the vicinity of the plan district;
- Initiation of survey of the radiofrequency interference levels in the vicinity of the plan district;
- Recommendation to the City Council for assessment and collection of fees, for measurement or monitoring of the radiofrequency environment, survey of RFI, maintenance of records, distribution of information, liaison with the City, and other board duties;
- Advice to the Planning and Sustainability Commission, City Council, and Land Use Hearings Officer on legislative and quasi-judicial matters affecting RF operations in the plan district and to the Code Hearings Officer for enforcement;
- Provision of leadership and expertise in problem-solving;
- Counseling of citizens and facility operators when conflicts arise, such as radiofrequency interference or wind noise;
- Provision of a point of contact for citizen inquiries or complaints;
- Provision and initiation of communication, notification, and information for affected residents; and
- Maintenance of records of complaints, surveying or monitoring results, and other information pertinent to the operation of the RF facilities within the Healy Heights Plan District and/or mitigation of the effects of that operation.