



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/23/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Portland Plan Amendment
DLCD File Number 006-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, April 05, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Rodney Jennings, City of Portland
Gloria Gardiner, DLCD Urban Planning Specialist

Katherine Daniels, DLCD Farm/Forest Specialist
Bill Holmstrom, DLCD Regional Representative

<paa> YA

FORM 2

DEPT OF DLCD

MAR 16 2010

Notice of Adoption



THIS FORM MUST BE MAILED TO DLCD WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: Portland

Local file number: N/A

Date of Adoption: 3/10/10

Date Mailed: 3/15/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: 7/08/09

[] Comprehensive Plan Text Amendment

[] Comprehensive Plan Map Amendment

[X] Land Use Regulation Amendment

[X] Zoning Map Amendment

[] New Land Use Regulation

[] Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached". The Regulatory Improvement Code Amendment Package 5 (RICAP 5) is a collection of code amendments addressing multiple issues including several amendments to clarify and make the code consistent. Issues that affect policy include:

- Amendments to regulations for solar panels, wind turbines, water collection cisterns, and eco-roofs and weatherization structures;
--Amendments to regulations for small lots and lots of record;
--Amendments to regulations for multi-dwelling developments with common greens or shared courts.

Does the Adoption differ from proposal?

There are several changes from the proposal. Some of the changes are reflected in the Planning Commission Recommended Draft to City Council (attached). Additional changes from the Recommended Draft are reflected in the enclosed Revisions Since Notice of Proposed Amendment table and Attachments A-I, which are enclosed.

Plan Map Changed from: N/A

to: N/A

Zone Map Changed from: CSadh, CSad, CMa and CGa

to: CSdh, CSd, CM and CG

Location: N/A

Acres Involved: 0

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
[X] [X] [X] [X] [] [X] [X] [X] [X] [X] [] [X] [] [] [] [] [] [] []

Was an Exception Adopted? [] YES [X] NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

[X] Yes [] No

If no, do the statewide planning goals apply?

[] Yes [] No

If no, did Emergency Circumstances require immediate adoption?

[] Yes [] No

DLCD File No. 006-09(17681)[16053]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts

Metro, Multnomah County

Local Contact: **Emily Sandy**

Phone: (503) 823-6949 Extension: n/a

Address: 1900 SW 4th Ave. #7100

Fax Number: 503-823-7700

City: **Portland** Zip: 97201-5350

E-mail Address: **Emily.sandy@portlandoregon.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



City of Portland
Bureau of
**Planning and
Sustainability**

Sam Adams, Mayor
Susan Anderson, Director

Planning

1900 S.W. 4th Ave., Ste. 7100
Portland, OR 97201-5350

Phone 503-823-7700
FAX 503-823-7800
TTY 503-823-6868


Sustainability

721 N.W. 9th Ave., Ste. 350
Portland, OR 97209-3447

Phone 503-823-7222
FAX 503-823-5311
TTY 503-823-6868

www.portlandonline.com/bps

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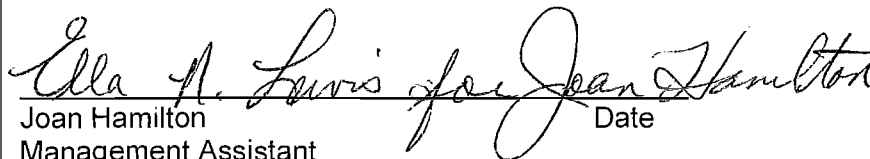
 Printed on recycled paper

Certificate of Mailing

I hereby certify that on March 15, 2010, I mailed a correct copy of the adopted **Regulatory Improvement Code Amendment Package 5 (RICAP 5), Adopted March 10, 2010**, materials and DLCD Notice of Adoption to the following persons by first class mail at the post office at Portland, Oregon.

The following is a list of persons to whom a copy of this document was mailed:

<u>Name</u>	<u>Address</u>
Plan Amendments Specialist	Dept. of Land Conservation & Development 635 Capitol Street, Suite 150 Salem, Oregon 97301-2540
Stuart Farmer	Multnomah County Land Use Planning 1600 SE 190 th Ste 116 Portland OR 97233
Planning Manager	Metro Planning Department Community Development 600 NE Grand Avenue Portland, OR 97232-2736


Joan Hamilton Date
Management Assistant
Bureau of Planning

ORDINANCE No. **183598** As Amended

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5 (Ordinance; amend Title 33 and Official Zoning Map)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number.
2. During the Spring and Summer of 2008, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to develop a workplan for the fifth Regulatory Code Amendment Package (RICAP 5). The RISAT includes participants from city bureaus and the community and advises staff.
3. On July 31, 2008, notice was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested parties, to notify them of the Planning Commission hearing for the RICAP 5 Workplan.
4. The *RICAP 5 Proposed Workplan* was published on August 6, 2008.
5. On August 26, 2008 the Planning Commission held a hearing and adopted the workplan for RICAP 5. The original workplan included 55 items. One item was added by the Planning Commission at the hearing. Six items were added after the adoption of the workplan, five at the request of BDS and one at the request of Mayor Adams. The total number of items was 62.
6. After preliminary work on all of the items, staff determined that five items did not warrant an amendment to the code, bringing the number of items recommended for amendment to 57.
7. During the Fall, Winter and Spring of 2008 and 2009, Planning staff worked with RISAT, BDS and other pertinent City agencies to address the issues in the workplan.
8. On June 19, 2009, the *RICAP 5 Discussion Draft Report* was published.
9. On July 8, 2009, notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
10. On July 14, 2009 staff held an open house at the Bureau offices. Seven people attended the open house.

11. On July 24, 2009 notice of the proposal as required by ORS 227.186 and PCC 33.740 was sent to all neighborhood associations and coalitions and business associations in the city of Portland, as well as other interested persons to notify them of the Planning Commission hearing on the proposed code changes for RICAP 5.
12. On August 4, 2009, the *RICAP 5 Proposed Draft Report* was published.
13. On August 25, 2009, the Planning Commission held a hearing on the *RICAP 5 Proposed Draft Report*. Staff presented the proposal and public testimony was received. Planning Commission directed staff to follow up on two new items and ten existing items 1, 28, 29, 32, 34, 37, 40, 55, 60, and 61.
14. On September 22, 2009, notice was sent to all previously notified parties and property management companies regarding the two new items initiated at the August 25, 2009 Planning Commission hearing.
15. On September 30, 2009, staff responded to Planning Commission's request and issued a follow-up memo on RICAP 5. The memo, directed to the Planning Commission, included responses to several issues and several amended recommendations.
16. On October 13, 2009, the Planning Commission held another hearing, continued consideration of the issues in the follow-up memo, and heard additional testimony.
17. At the conclusion of the hearing on October 13, the Planning Commission made several amendments to the Proposed Draft. They then voted to recommend that City Council adopt the amended version of the Proposed Draft.
18. On November 16 and 20, 2009 notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for RICAP 5.
19. City Council held a public hearing on RICAP 5 on January 6, 2010 and passed it to Second Reading.
20. On January 13, 2010 City Council voted to adopt this ordinance and amend the Portland Zoning Code and Official Zoning Maps.

Findings on Statewide Planning Goals

21. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
22. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, including:
 - During the Spring and Summer of 2008, staff from the former Bureau of Planning (now the Bureau of Planning and Sustainability) and the Bureau of Development Services (BDS) met monthly with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to review the items under consideration for RICAP 5. The RISAT includes participants from city bureaus and the community and advises staff.

- Concurrently, during the Spring and Summer of 2008, staff from the former Bureau of Planning (now the Bureau of Planning and Sustainability) and the Bureau of Development Services (BDS) convened the Lot Confirmation Task Force made up of various community stakeholders. The Task Force convened over the course of 6 meetings to discuss issues related to development of existing lots and lots of record. At the conclusion of its meetings, the Task Force put forth several recommendations, which were added to the proposed workplan for RICAP 5.
- On July 31, 2008, notice was sent to all neighborhood associations and coalitions, business associations in the City of Portland, and other interested parties, to notify them of the Planning Commission hearing for the RICAP 5 workplan.
- On August 6, 2008, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Proposed Workplan* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
- On August 26, 2008, the Planning Commission held a public hearing on the RICAP 5 Proposed Workplan and heard testimony from citizens on the proposed issues. The Planning Commission voted to adopt the workplan, directing staff to work on code amendments for the 55 original amendments and added one amendment.
- Following adoption of the workplan, five additional items were added at the request of the Bureau of Development Services and one additional item was added at the request of the Mayor's office.
- During the Fall, Winter and Spring of 2008 and 2009, staff worked monthly with RISAT as well as BDS and other pertinent city bureaus toward solutions to the workplan items.
- On June 19, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Discussion Draft* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy.
- On July 14, 2009 staff held an open house at the Bureau offices. Seven people attended the open house.
- On July 24, 2009 notice of the proposal was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, and other interested parties, to notify them of the Planning Commission hearing on the staff proposal for RICAP 5.
- On August 4, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Proposed Draft* was published. The report explained the proposed amendments to the Zoning Code. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
- On August 25 and October 13, 2009, the Planning Commission held public hearings to discuss and take testimony on the report.
- At the August 25, 2009 hearing, the Planning Commission directed staff to convene a stakeholder group to explore alternatives to parts of one of the items, Item 55. The group met on two occasions, September 16th and October 7th, 2009. No alternatives were proposed.

- On September 22, 2009, notice was sent to all those previously notified and property management companies regarding the two new items initiated by the Planning Commission at the August 25, 2009 hearing.
 - On November 24, 2009, notice of the proposed City Council hearing on the Planning Commission recommendation for RICAP 5 was sent to those who testified at the Planning Commission hearings and to people interested in RICAP5,.
 - On December 21, 2009, the *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Planning Commission Recommended Draft* was published. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On January 6, 2010, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.
 - On January 13, 2010, the City Council voted to adopt the RICAP 5 ordinance and amend the Portland Zoning Code and Official Zoning Maps
23. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because development of the recommendations followed established city procedures for legislative actions, while also improving the clarity and comprehensibility of the City's codes. See also findings for Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.
24. **Goals 3 and 4, Agricultural Lands and Forest Lands**, requires the preservation and maintenance of the state's agricultural and forest lands, generally located outside of urban areas. The amendments regarding accessory dwelling units and FAR and Amenity Bonuses are supportive of this goal because they support additional housing opportunities and the efficient use of land within an urbanized area, thereby reducing development pressure on agricultural and forest lands.
25. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. The amendments regarding procedures for local historic designation and incentives support this goal because they clarify procedures to ease administration of local historic resource protection. See also findings under Portland Comprehensive Plan Goal 12, Urban Design.
26. **Goal 6, Air, Water, and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water, and land resources. The amendments regarding design standards as an alternative to discretionary review for eco-roofs and water collection cisterns support this goal because they increase the ease of local approval for these water resource quality improvement mechanisms.
27. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments support this goal by making it easier to create Accessory Dwelling Units and by modifying regulations that were barriers to quality courtyard housing. See findings for Portland Comprehensive Plan Goal 4, Housing and Metro Title 1.
28. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The amendments support this goal because they align the approval criteria for amendments to the Zoning and Comprehensive Plan maps with the State Transportation Planning Rule and increases bicycle parking requirements for multi-dwelling development. See also findings for Portland Comprehensive Plan Goal 6, Transportation, and its related policies and objectives.

The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, Zone Change, or regulation will significantly affect an existing or planned transportation facility.

This proposal will not have a significant effect on existing or planned transportation facilities because the amendments will not result in increases in housing units or additional jobs, or change allowed land use types or densities.

Findings on Metro Urban Growth Management Functional Plan

29. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the RICAP 5 amendments.
30. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not significantly alter the development capacity of the city, though they do provide additional flexibility for housing infill development through accessory dwelling units, development on corner lots, and courtyard housing. See also findings under Comprehensive Plan Goal 4 (Housing).
31. **Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation**, protects the public's health and safety by reducing flood and landslide hazards, controlling soil erosion and reducing water pollution by avoiding, limiting, or mitigating the impact of development on streams, rivers, wetlands, and floodplains. Title 3 specifically implements Statewide Land Use Goal 6. The findings for those statewide goals are incorporated here to show that the amendments are consistent with this Title. See also findings for Comprehensive Plan Goal 8, Environment.
32. **Title 7, Affordable Housing**, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The amendments are consistent with this title because they remove barriers to designs of alternative housing types such as courtyard housing, clarify when existing lots of record may be developed, and providing expanded opportunities for infill development on corner lots.

Findings on Portland's Comprehensive Plan Goals

33. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to RICAP 5.
34. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change the policy or intent of existing regulations relating to metropolitan coordination and regional goals. One amendment aligns the approval criteria for amendments to the Zoning and Comprehensive Plan maps specifically with the State Transportation Planning Rule. **Policy 1.4, Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. Notified agencies were US Department of Fish and Wildlife, Oregon

Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Transportation, University of Oregon, Portland State University, Multnomah County, Multnomah County Drainage District #1, Port of Portland, Metro, Tri-met, Portland Public Schools, Centennial School District, David Douglas School District, Parkrose School District, Reynolds School District, Riverdale School District, City of Gresham, and City of Salem.

35. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments support this goal because they update and improve the City's land use regulations and procedures that hinder desirable development. By improving regulations, the City will better facilitate the development of housing and employment uses.
36. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they provide clarity on when residential infill development is allowed and provide more flexibility for residential infill through accessory dwelling units, on corner lots, and in courtyard housing development, but do not change the policy or intent of existing regulations relating to the stability and diversity of neighborhoods.
37. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they remove barriers to designs of alternative housing types such as courtyard housing and Accessory Dwelling Units, clarify when existing lots of record may be developed, and provide expanded opportunities for infill development on corner lots. See also the findings for Statewide Planning Goal 10, Housing and for Metro Title 1.
38. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments support this goal because they align the approval criteria for amendments to the Zoning and Comprehensive Plan maps with the State Transportation Planning Rule and support a balanced transportation system by increasing bicycle parking requirements for multi-dwelling development and clarifying standards for its provision. See also findings for Statewide Planning Goal 12, Transportation.
39. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all sectors of the city. Policy 7.3, Energy Efficiency in Residential Buildings and 7.4, Energy Efficiency through Land Use regulations are relevant to this proposal. The amendments support this goal because they remove barriers to implementation and clarify policies for solar panels, water collection cisterns, eco-roofs, wind turbines and other green technologies that increase energy efficiency and decrease energy consumption.
40. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water, and land resources, as well as protecting neighborhoods and business centers from noise pollution. The amendments support this goal because they remove barriers to implementation and clarify policies for water collection cisterns, eco-roofs, and other technologies that decrease stormwater runoff and thereby maintain and improve water quality.
41. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and

amendment of the Comprehensive Plan. This project supports the goal because it followed the process and requirements specified in Chapter 33.740, Legislative Procedure. See Statewide Planning Goal 1, Citizen Involvement for detail and further findings.

42. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. The amendments support this policy because they clarify and streamline many of the regulations in the zoning code. They also respond to identified current and anticipated problems, including barriers to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.
43. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Policy 12.3, Historic Preservation, calls for protection of historic resources. Policy 12.7, Design Quality, calls for encouraging the built environment to meet standards of excellence while fostering creativity and Policy 12.6, Preserve Neighborhoods aims to preserve and support qualities of neighborhoods that make them attractive places.

There are several amendments that allow developers the option of an exception or standards as an alternative to discretionary design review or historic design review for "green" improvements to buildings in Historic or Conservation Districts. These amendments encourage "green" improvements while ensuring that historic resources and areas in design zones will not be degraded by the improvements. These amendments support Goal 12 and the listed policies.

Several amendments drawn from the Courtyard Housing Competition remove barriers to creativity while encouraging design that is in line with community character, including allowing additional architectural features in setbacks such as trellises and eaves. These amendments also support Goal 12 and the listed policies.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009 as amended.
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009 as amended.
- c. Amend the Official Zoning Maps, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009.
- d. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 5 (RICAP 5): Planning Commission Recommended Draft*, dated December 21, 2009; as further findings and legislative intent as amended.
- e. Direct the Bureau of Planning and Sustainability to continue working with the Bureau of Environmental Services and other community partners to refine a study framework to evaluate the effect of small wind turbines on birds.
- f. Direct the Bureau of Planning and Sustainability to monitor the effect of the other amendments as part of their overall monitoring program.
- g. Direct the Bureau of Planning and Sustainability to prepare a work plan that improves the City's implementation of accessory dwelling unit program and expands upon the current compatibility standards.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Section 3. This ordinance will be effective 45 days after adoption. The time between adoption and the effective date will be used by the Bureau of Planning and Sustainability and other City bureaus to print and distribute the new regulations, train city staff on the content of the new regulations and how to use them, and prepare other informational material for the Development Services Center and Development Review staff.

Passed by the Council: **MAR 10 2010**

Mayor Sam Adams
Prepared by: Emily Sandy
Date Prepared: December 21, 2009

LaVonne Griffin-Valade
Auditor of the City of Portland

By

Susan Parsons
Deputy

~~E54 187 223 306~~
337

Agenda No. **183598** As Amended
ORDINANCE NO. **183598**
Title

Improve land use regulations through the Regulatory Improvement Code Amendment Package 5 (RICAP-5) (Ordinance; Amend Title 33 and Official Zoning Map)

<p>INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams</p>	<p>CLERK USE: DATE FILED <u>DEC 31 2009</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Susan Anderson/SPW</i></p> <p>Prepared by: E. Sandy Date Prepared: December 21, 2009</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date January 6, 2010</p> <p>City Attorney Approval <i>KS Beaumont</i></p>	<p>ACTION TAKEN:</p> <p>JAN 06 2010 CONTINUED TO FEB 03 2010 3:30 PM TIME CERTAIN</p> <p>FEB 03 2010 CONTINUED TO FEB 11 2010 2 P.M. TIME CERTAIN</p> <p>FEB 11 2010 PASSED TO SECOND READING As Amended MAR 04 2010 2 P.M. TIME CERTAIN</p> <p>MAR 04 2010 PASSED TO SECOND READING MAR 10 2010 9:30 A.M. As Amended</p>

AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00 PM</u></p> <p>Total amount of time needed: <u>1.5 hours</u> (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard <input type="checkbox"/>	
Adams	Adams <input checked="" type="checkbox"/>	

Attachment A: ZONE CHANGE CRITERIA

This replaces all language on page 221 of Proposed Draft

AMEND CHAPTER 33.855, ZONING MAP AMENDMENTS

33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A. Compliance with the Comprehensive Plan Map.** [No change.]
- B. Adequate public services.** Public services for water supply, transportation system facilities 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. Adequacy of services applies only to the specific zone change site.
 2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any. the projected service demands of the site and the ability of the public services to accommodate those demands. Service demands may be determined based on a specific use or development proposal, if submitted. If a specific proposal is not submitted, determination is based on City service bureau demand projections for that zone or area which are then applied to the size of the site. Adequacy of services is determined by the service bureaus, who apply the demand numbers to the actual and proposed services to the site and surrounding area.
 - a. Public services for water supply, 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.
 - b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate
 - c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.
 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. and D** [No change.]

Attachment B: DEVELOPMENT ON EXISTING LOTS

This replaces all language on page 15-21 of Proposed Draft

33.110.212 When Primary Structures are Allowed

- A. Purpose.** The regulations of this section allow for development of primary structures on lots and lots of record, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations also allow development of primary structures on lots that were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.
- B. Adjustments.** Adjustments to this section are prohibited.
- C. Primary structures allowed.** In all areas outside the West Portland Park Subdivision, primary structures are allowed as follows:
1. On lots created on or after July 26, 1979;
 2. On lots created through the Planned Development or Planned Unit Development process;
 3. On sites of any size that have not abutted a lot, lot of record, or lot remnant under the same ownership on July 26, 1979 or any time since that date.
 4. On lots, lots of record, lot remnants, or combinations thereof created before July 26, 1979 that meet the requirements of Table 110-6.

Table 110-6		
Minimum Lot Dimension Standards for Lots, Adjusted Lots, Lots of Record, and Lot Remnants		
Created Prior to July 26, 1979		
RF through R7 Zones		
<u>Lots, including Adjusted Lots [1]</u>	36 feet wide and meets the minimum lot area requirement of <u>Table 610-2.</u>	
<u>Lot Remnants</u>		
<u>Lots of Record</u>		
R5 Zone		
<u>Lots, including Adjusted Lots [1, 3]</u>	<u>If the site has had a dwelling unit on it in the last five years or is in an environmental zone [2]</u>	3000 sq. ft. and 36 ft. wide
	<u>If the site has not had a dwelling unit on it within the last five years and is not in an environmental zone</u>	2400 sq. ft. and 25 ft. wide
	<u>If the site was approved through a property line adjustment under 33.667.300.A.1.d.</u>	1600 sq. ft. and 36 ft. wide
<u>Lot Remnants [3]</u>		3000 sq. ft. and 36 ft. wide
<u>Lots of Record [3]</u>		3000 sq. ft. and 36 ft. wide
R2.5 Zone		
<u>Lots, including Adjusted Lots [1]</u>	1600 sq. ft.	
<u>Lot Remnants</u>		
<u>Lots of Record</u>		

Notes:

- [1] If the site is both an adjusted lot and a lot of record, the site may meet the standards for adjusted lots.
- [2] Primary structures are allowed if the site has had a dwelling unit on it within the last five years that has been demolished as a public nuisance under the provisions of Chapter 29.40.030 or 29.60.080. The site is exempt from minimum lot dimension standards.
- [3] Primary structures are allowed on a site if it has been under a separate tax account number from abutting lots or lots of record on [effective date of these regulations] or an application was filed with the City before [effective date of these regulations] authorizing a separate tax account and the site has been under separate tax account from abutting lots or lots of record by [one year after the effective date of these regulations]. The site is exempt from minimum lot dimension standards.

- ~~3. On lots or combinations of lots created before July 26, 1979 that meet the requirements of this paragraph, and on lots of record or combinations of lots of record that meet the requirements of this paragraph. The requirements are:~~
- ~~a. In the RF through R7 zones the lot, lot of record, or combination of lots or lots of record must:~~
 - ~~(1) Be at least 36 feet wide, and meet the minimum lot area requirement of Table 610-2; or~~
 - ~~(2) Not have abutted any lot or lot of record owned by the same family or business on July 26, 1979 or any time since that date;~~
 - ~~b. In the R5 zone the lot, lot of record, or combination of lots or lots of record must meet one of the following:~~
 - ~~(1) Be at least 36 feet wide, and be at least 3000 square feet;~~
 - ~~(2) Have been under a separate tax account from abutting lots or lots of record on November 15, 2003;~~
 - ~~(3) Have had an application filed with the City before November 15, 2003 to authorize a separate tax account and have been under a separate tax account from abutting lots by November 15, 2004; or~~
 - ~~(4) Have not had a dwelling unit on it since September 10, 2003, or for at least five years, and not have any portion in an environmental overlay zone.~~
 - ~~c. In the R2.5 zone the lot, lot of record or combination of lots or lots of record must meet one of the following:~~
 - ~~(1) Be at least 1600 square feet in area;~~
 - ~~(2) Have been under a separate tax account from abutting lots or lots of record on November 15, 2003; or~~
 - ~~(3) Have had an application filed with the City before November 15, 2003 to authorize a separate tax account and have been under a separate tax account from abutting lots by November 15, 2004;~~
- ~~4.5. Primary structures are allowed on lots, lots of record, lot remnants, and combinations thereof of lots, or lots of record, that did meet the requirements of C.3 Table 110-6, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way.~~

D. Regulations for West Portland Park. In the West Portland Park subdivision, primary structures are allowed as follows:

1. On lots created on or after July 26, 1979;
2. On lots, or combinations of lots created before July 26, 1979 that meet the requirements of this paragraph, and on lots of record or combinations of lots of record that meet the requirements of this paragraph. The requirements are:
 - a. R7 zone. In the R7 zone, the lot, lot of record, or combination of lots or lots of record must be at least 7,000 square feet in area;
 - b. R5 zone. In the R5 zone, the lot, lot of record, or combination of lots or lots of record must be at least 5,000 square feet in area; ~~or~~
 - c. R2.5 zone. In the R2.5 zone, the lot, lot of record, or combination of lots or lots of record must meet the requirements of Table 110-6; or
 - d. On July 26, 1979, or any time since that date, the lot, lot of record, or combination of lots or lots of record did not abut any lot or lot of record owned by the same family or business;
3. Primary structures are allowed on lots, lots of record, and combinations of lots or lots of record that did meet the requirements of D.2, above, in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way.

E. Plots. Primary structures are prohibited on plots that are not lots, lots of record, lot remnants, or tracts.

F. Nonconforming situations. Existing development and residential densities that do not conform to the requirements of this chapter may be subject to the regulations of Chapter 33.258, Nonconforming Situations. Chapter 33.258 also includes regulations regarding damage to or destruction of nonconforming ~~situations.~~

Attachment C: PROPERTY LINE ADJUSTMENTS ON CORNER LOTS

This replaces all language on page 195 of Proposed Draft

33.667.300 Regulations

A request for a Property Line Adjustment will be approved if all of the following are met:

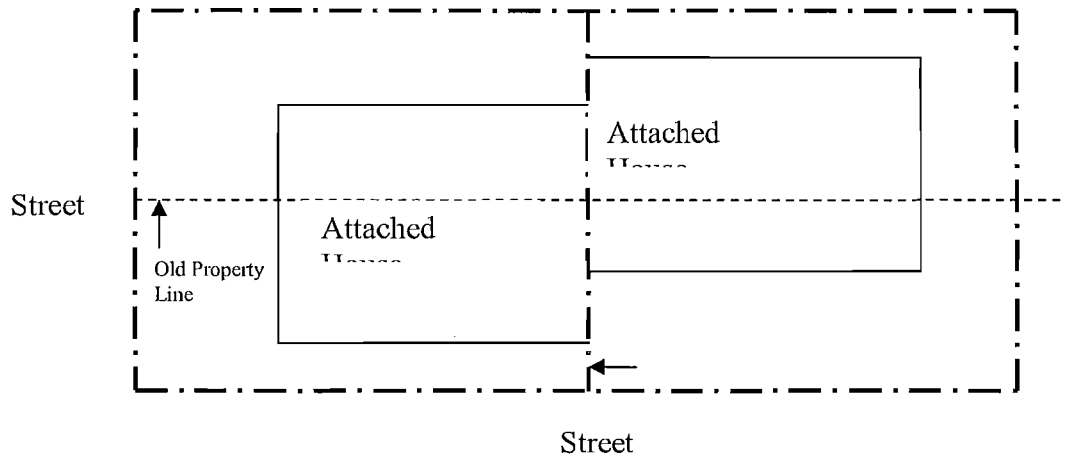
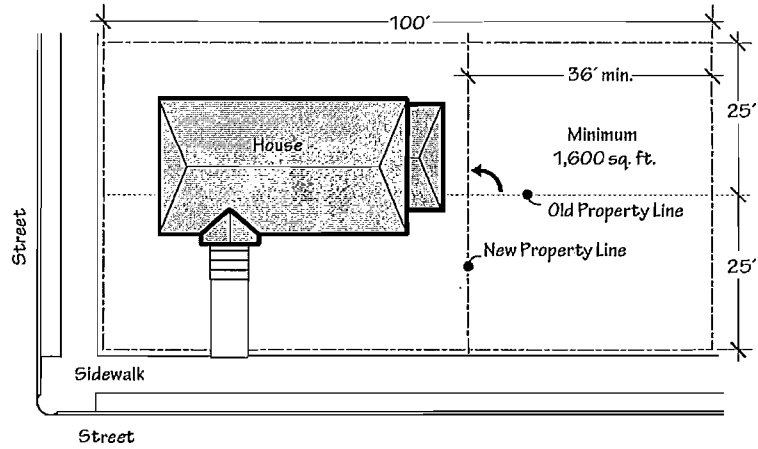
A. Properties. For purposes of this subsection, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

1. ~~The properties will remain in conformance with Property Line Adjustment will not cause either property or development on either property to move out of conformance with any of the regulations of this Title, including those in Chapters 33.605 through 33.615 except as follows:~~
 - a. If a property or development is already out of conformance with a regulation in this Title, the Property Line Adjustment will not cause the property or development to move further out of conformance with the regulation;
 - b. If both properties are already out of conformance with maximum lot area standards, they are exempt from the maximum lot area standard; ~~and~~
 - c. If one property is already out of conformance with maximum lot area standards, it is exempt from the maximum lot area standard; ~~and~~
 - d. If at least one lot is already out of conformance with the minimum lot area standards and the site is in the R5 zone, the minimum lot area is 1600 square feet and the minimum width is 36 feet, if:
 - (1) At least one lot is a corner lot;
 - (2) The adjusted property line must be perpendicular to the street lot line for it's entire length; and
 - (3) New houses must meet the standards of 33.110.213. Existing houses are exempt from the standards of 33.110.213.
2. The Property Line Adjustment will not configure either property as a flag lot, unless the property was already a flag lot;
3. The Property Line Adjustment will not result in the creation of a buildable property from an unbuildable lot remnant;
43. The Property Line Adjustment will not result in the creation of street frontage for a land-locked property;
54. If any portion of either property is within an environmental overlay zone, the provisions of Chapter 33.430 must be met;
65. The Property Line Adjustment will not result in a property that is in more than one base zone, unless that property was already in more than one base zone; and

76. The Property Line Adjustment will not create a nonconforming use.

B.-C. [No Change]

Figure 667-1
Property Line Adjustment on Corner Site in R5 Zone



Attachment D: NONCONFORMING STATUS FOR EXISTING LOTS

This deletes all proposed changes page 139 of Proposed Draft and adds substitute changes

33.258.065 Nonconforming Lots, Lots of Record, and Lot Remnants in Single-Dwelling Zones

- A. Changes to dwellings.** Existing dwelling units on nonconforming lots, lots of record, or lot remnants may continue, may be removed or enlarged, and amenities may be added to the site, but the building may not move further out of compliance with the base zone development standards.
- B. Damage.**
1. When a nonconforming lot, lot of record, or lot remnant contains a dwelling unit that is damaged or destroyed by fire or by other causes beyond the control of the owner, the structure may be rebuilt.
 2. When a nonconforming lot, lot of record, or lot remnant contains a dwelling unit that is intentionally damaged or demolished, the structure may be rebuilt if it complies with the development standards that would apply to new development on the site.

Attachment E: DEFINITIONS OF ADJUSTED LOTS AND LOT REMNANTS

This replaces relevant language on page 223-225 of Proposed Draft

33.910, Definitions

Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. This definition includes the State definition of both lot, (result of subdividing), **and** parcel, (result of partitioning). See also, Ownership and Site.

- **Adjusted Lot.** A lot that has had one or more of its lot lines altered through an approved property line adjustment or through a deed, or other instrument relocating a property line, recorded with the appropriate county recorder prior to July 26, 1979. An adjusted lot may have equal or larger lot area than the original lot. An adjusted lot may have smaller lot area than the original lot, but must have a lot area that is more than 50% of the original lot area. Portions of an original lot that are 50% or less of the original lot area are defined as lot remnants. See Figures 910-17 and 010-18.

Figure 910-17
Adjusted Lot and Lot Remnant

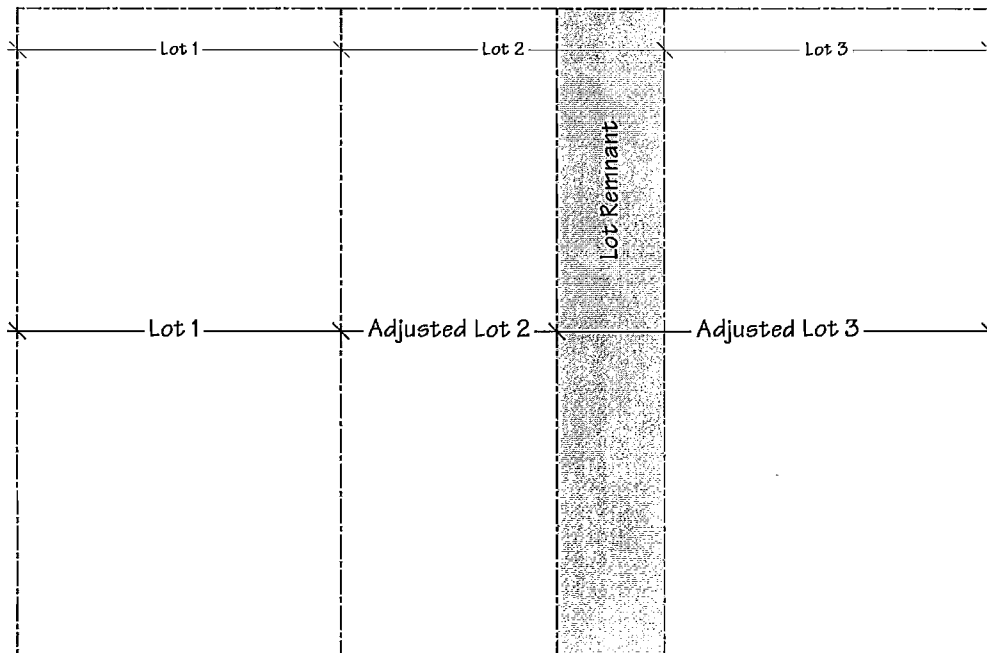
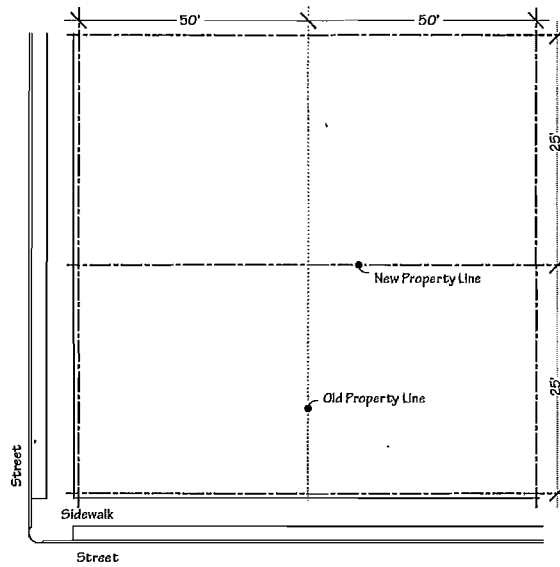
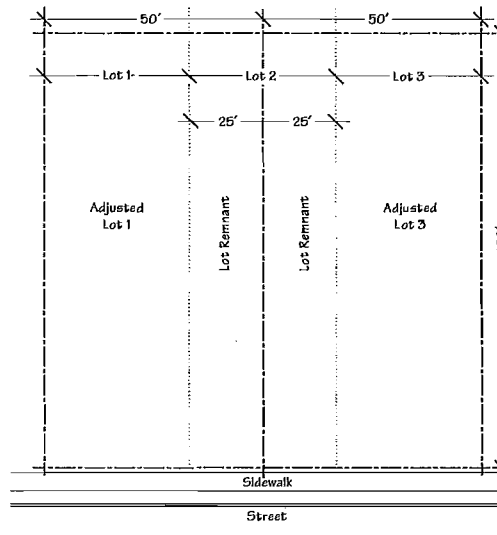


Figure 910-18
Adjusted Lots with Equal Lot Areas as the Original Lots



Lot Remnant. A portion of a lot that has a lot area of 50 percent or less of the original platted lot. See Figure 910-17 and 910-19.

Figure 910-19
Lot Remnants that are 50% of the Original Platted Lot Area



Attachment F: WIND TURBINES CHAPTER

This replaces and adds to affected language on page 163-165 of Proposed Draft

CHAPTER 33.299, WIND TURBINES

Sections:

33.299.010 Purpose

33.299.100 When These Regulations Apply

33.299.110 Rotor Swept Area

33.299.120 Setbacks and Height

33.299.130 Noise

33.299.010 Purpose.

These regulations allow small, urban-scale wind turbines while limiting potential negative impacts. In concert with a variety of City, State, and Federal programs, allowing the turbines in more locations may encourage further development of wind turbines that are appropriate for urban settings.

33.299.100 When These Regulations Apply

The regulations of this chapter apply to small wind turbines.

Large wind turbines and utility-scale wind turbines are regulated by the base zones, and are not subject to the regulations of this chapter.

33.299.110 Rotor Swept Area

The rotor swept area is the projected area as defined by the American Wind Energy Association (AWEA). In Residential zones, the maximum rotor swept area is 50 square feet. In Commercial zones, the maximum rotor swept area is 150 square feet. There is no maximum in the E and I zones.

33.299.120 Setbacks and Height

The height of a turbine is measured to the tip of the rotor blade at its highest point. For pole mounted turbines, height is measured from grade at the base of the pole. For building mounted turbines, height is measured from the base point of the building.

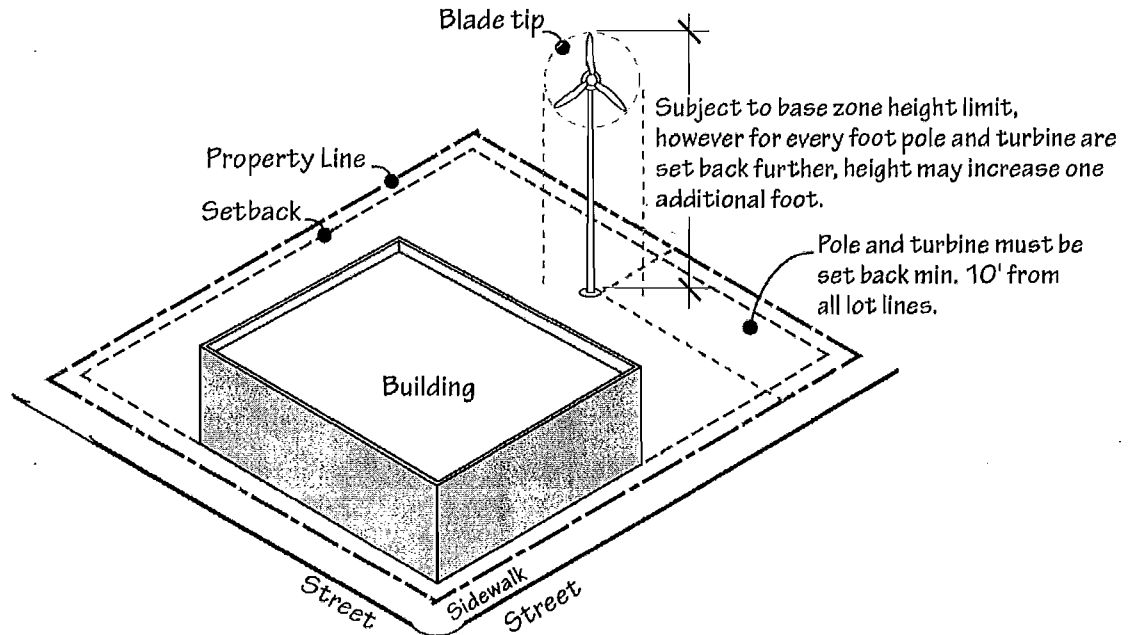
A. View Corridors. Although the regulations of this section allow wind turbines to exceed the height limits of the base zones, they are not allowed to extend into a view corridor designated by the *Scenic Resources Protection Plan*.

B. Pole mounted. Pole mounted turbines must meet the following. Distances between lot lines and the pole and turbine are measured at the closest points. :

1. Front and street setback. The pole and turbine are not allowed in a required front or street setback;
2. Setback from all lot lines. The pole and turbine must be set back at least 10 feet from all lot lines;
3. Height. The pole and turbine are subject to the base zone height limit. However, for every foot that the pole and turbine are set back farther than specified in A.1 and 2, the height of the turbine may increase one additional foot above the base zone height limit. Each additional foot of height is earned when the pole and turbine are set back from all property lines by an additional

foot. The height may not increase more than 50 percent above the base zone height limit. See Figure 299-1.

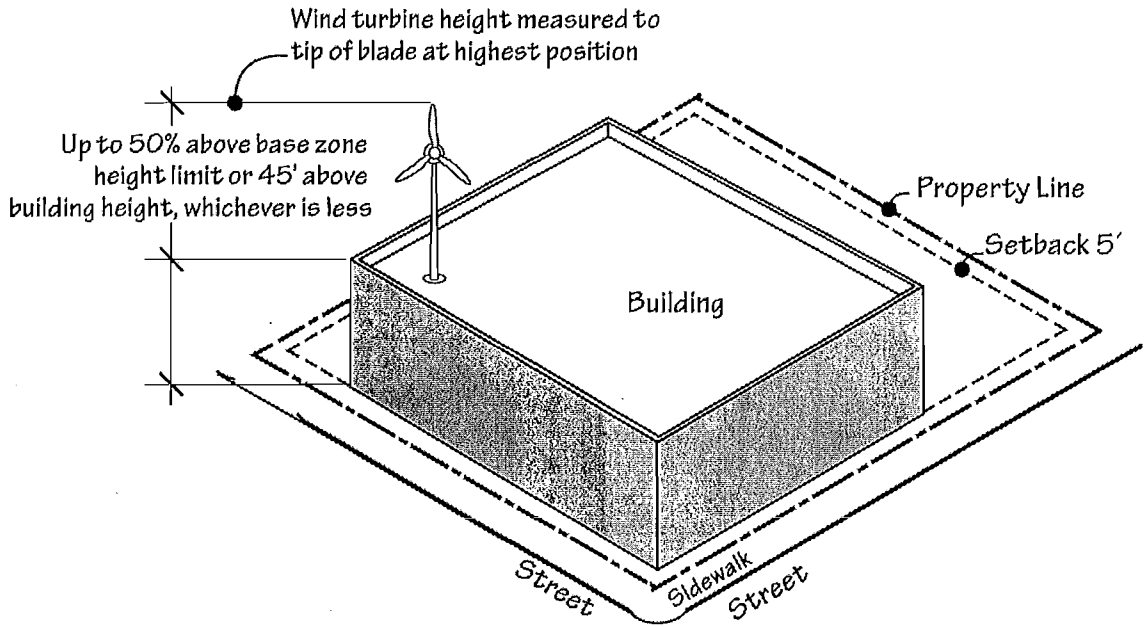
Figure 299-1
Pole-Mounted Wind Turbine



C. Building mounted.

1. Setbacks. Building mounted turbines are subject to the minimum building setbacks of the building they are mounted on.
2. Height. A turbine may be up to 50 percent above the base zone height limit, or 45 feet above the height of the building it is mounted on, whichever is less. See Figure 299-2.

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.

Attachment G: GREEN ENERGY AND USE

This replaced language shown on page 12, 44, 233, 235, and 237 of the Proposed Draft

Single Dwelling Zones 33.110.100

A. [No Change]

B. 1.-4 [No Change]

5. Basic Utilities. This regulation applies to all parts of Table 110-1 that have note [5].
 - a. Basic Utilities that serve a development site are accessory uses to the primary use being served.
 - b. Small Scale Energy Production that provides energy both on- and off-site are considered accessory to the primary use on the site. Installations that sell power they generate—at retail (net metered) or wholesale—are included. However, they are only considered accessory if they generate energy from biological materials or byproducts from the site itself, or conditions on the site itself; materials from other sites may not be used to generate energy. The requirements of Chapter 33.262, Off Site Impacts must be met;
 - c. All other Basic Utilities are conditional uses.

Multi-dwelling Zones 33.120.100

A. [No Change]

B. 1.-12 [No Change]

~~13. Basic Utilities in RX. This regulation applies to all parts of Table 120-1 that have note [13]. Public safety facilities are allowed by right up to 20 percent of the floor area exclusive of parking area or the ground floor of a multi dwelling development, whichever is greater. If they are over 20 percent of the ground floor, a conditional use review is required; the approval criteria for public safety facilities are in Section 33.815.223.~~

~~14. Basic Utilities. This regulation applies to all parts of Table 120-1 that have note [14]. Basic Utilities that serve a development site are accessory uses to the primary use being served. All other Basic Utilities are conditional uses.~~

13 Basic Utilities. These regulations apply to all parts of Table 120-1 that have note [13].

- a. Basic Utilities that serve a development site are accessory uses to the primary use being served;
- b. Small Scale Energy Production that provides energy both on- and off-site are considered accessory to the primary use on the site. Installations that sell power they generate—at retail (net metered) or wholesale—are included. However, they are only considered accessory if they generate energy from biological materials or byproducts from the site itself, or

conditions on the site itself; materials from other sites may not be used to generate energy. In RX and IR zones, up to 10 tons per week of biological materials or byproducts from other sites may be used to generate energy. The requirements of Chapter 33.262, Off Site Impacts must be met;

- c. In the RX and IR zones, all other Basic Utilities are limited to 20 percent of the floor area on a site, exclusive of parking area, unless specified above. If they are over 20 percent of the floor area, a conditional use review is required. As an alternative to conditional use review, the applicant may choose to do a Conditional Use Master Plan or an impact Mitigation Plan. The requirements of Chapter 33.262, off Site Impacts must be met.

C-D. [No Change]

Use Categories

33.920.310 Manufacturing And Production

A-B. [No Change]

- C. Examples.** Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; recording studios; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including manufactured dwellings; and ~~the~~ Utility Scale Energy production of energy.

D. Exceptions.

1. Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales And Service.
2. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.
3. Small Scale Energy Production is a Basic Utility.
4. Solid waste incinerators that generate energy but do not meet the definition of Small Scale Energy Production are considered Waste Related Uses.

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 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 that receive hazardous wastes from others and 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,~~ solid waste incinerators that generate energy but do not meet the definition of Small Scale Energy Production, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous-waste-collection sites.
- D. Exceptions.**
1. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.
 2. Infrastructure services that must be located in or near the area where the service is provided in order to function are considered Basic Utilities. Examples include sewer pipes that serve a development are considered a Basic Utility; or water re-use pipes and tanks, pump stations, and collection stations necessary for the water re-use that serve a development or institution.
 3. Small Scale Energy Production is considered a Basic Utility.
 4. Utility Scale Energy Production, other than solid waste incinerators that generate energy, is considered a Manufacturing and Production Use.

33.920.400 Basic Utilities

A.-B. [No change]

- C. Examples.** Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; Small Scale Energy Production, water quality and flow control facilities; water conveyance systems; water harvesting and re-use conveyance systems and pump stations; stormwater facilities and conveyance systems; telephone exchanges; mass transit stops or turn arounds, light rail stations, suspended cable transportation systems, transit centers; and public safety facilities, including fire and police stations, and emergency communication broadcast facilities.

D. Exceptions.

1. Services where people are generally present, other than mass transit stops or turn arounds, light rail stations, transit centers, and public safety facilities, are classified as Community Services or Offices.
2. Utility offices where employees or customers are generally present are classified as Offices.
3. Bus and light rail barns are classified as Warehouse And Freight Movement.
4. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication

signals, or other similar services on a regional level are classified as Rail Lines And Utility Corridors.

5. Utility Scale Energy Production is considered Manufacturing and Production.
6. Solid waste incinerators that generate energy but are not Small Scale Energy Production are considered Waste Related Uses.

Attachment H: BIKE PARKING RATIOS

This is new language not shown in the Proposed Draft

CHAPTER 33.266, Parking and Loading

Table 266-6 Minimum Required Bicycle Parking Spaces			
Use Categories	Specific Uses	Long-term Spaces	Short-term Spaces
Residential Categories			
Household Living	Multi-dwelling	$\frac{1}{4}$ per 4 units <u>1.5 per 1 unit in Central City plan district; 1.1 per 1 unit outside Central City plan district</u>	2, or 1 per 20 units
Group Living			
Commercial Categories			
Industrial Categories			
Institutional Categories			
Other Categories			
		[No change]	

Attachment I: RETAINING WALLS

This is new language not shown in the Proposed Draft

33.110.257 Retaining Walls

A. Purpose. The standards of this section help mitigate the potential negative effects of large retaining walls. Without mitigation, such walls can create a fortress-like appearance and be unattractive. By requiring large walls to step back from the street and provide landscaping, the wall is both articulated and visually softened.

B. Where these regulations apply.

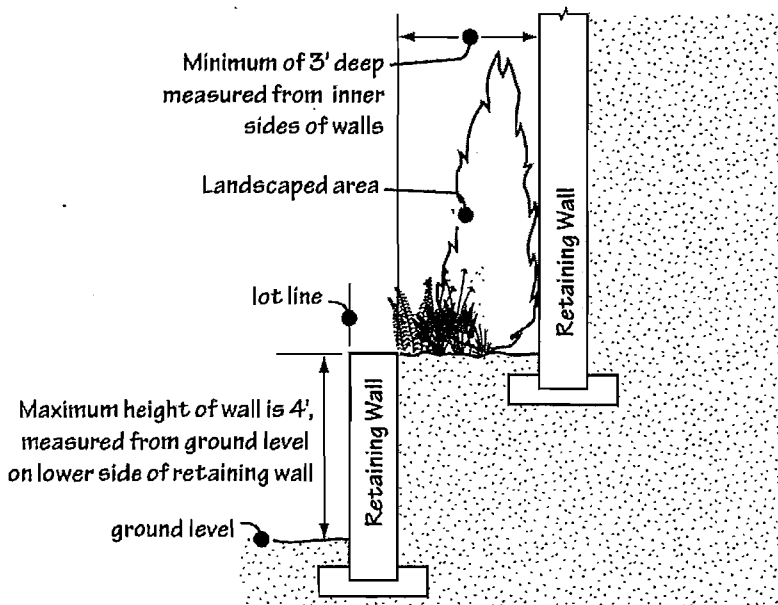
1. Generally. These regulations apply to the portions of retaining walls in required setbacks along street lot lines. Where there is no required setback, or the setback is less than 10 feet, the regulations apply to the first 10 feet from the lot line.
2. Exception. Retaining walls in the areas described in B.1 that are less than four feet high, measured from the ground level on the lower side of the retaining wall, are not subject to the regulations of this section.

C. Standards.

1. Retaining walls must include a step-back as shown in Figure 110-15.
2. The landscaped area shown in Figure 110-15 must be landscaped to at least the L2 standard, except that trees are not required. A wall or berm may not be substituted for the shrubs.

D. Sunset. This section will be removed from the Zoning Code on [six months after effective date of this regulation].

Figure 110-15
Retaining Walls



Revisions Since Notice of Proposed Amendment (through Planning Commission or City Council hearing actions)
 Regulatory Improvement Code Amendment Package 5 (RICAP 5)
 Adopted March 10, 2010

Item Number in Proposed Draft (Submitted with Notice of Proposed Amendment)	Description of Proposed Amendment (as shown in Proposed Draft)	Description of Adopted Amendment	Affected Page Number in Recommended Draft	Adopted Language.
8, 14, 15, 41, 42: Courtyard Housing and open space in shared courts or common greens	No proposal	Reiterate current administrative rule policy for shared courts in the zoning code that requires open space in shared court or common green tracts.	N/A	33.654.120D.1.b <u>(3) Common Greens must include at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension.</u> 33.654.120.G.1.c. <u>(3) Shared courts must include at least 250 square feet of grassy area, play area, or dedicated gardening space, exclusive of vehicle parking areas. This area must be at least 15 feet wide at its narrowest dimension.</u>
35: Environmental Zone Standards for Land Divisions and Utility Lines	Utility lines in Environmental overlay zones: When utility lines have to traverse an area that has already been approved for disturbance through environmental plan check or environmental review, the utility line does not have to be regulated by Section 33.430.130, Standards for Utility Lines.	Revised language to further clarify that when utility lines have to traverse an area that has already been approved for disturbance through environmental plan check or environmental review, the utility line does not have to be regulated by Section 33.430.130, Standards for Utility Lines.	170-171	33.430.150 <u>G. Exemption. If a proposed utility line or upgrade to a utility line runs through an area that has already been approved as a disturbance area, or allowed by the standards of this chapter, it is exempt from Subsections A, B, and D.</u>
48: Solar Panels and Conditional Use Reviews	Exempt ground mounted solar panels from conditional use review on school sites.	Exempt ground mounted solar panels from conditional use review on school sites, but clarify that development standards of the base zone must still be met.	160-161	33.281.050.A <u>9. The addition of roof-mounted solar panels that meet the requirements of the base zone, and, ground mounted solar panels.</u>
52: Zone Map Amendments and State Transportation Planning Rule	Amend approval criteria for Zone Map Amendments to refer to a 20 year planning period, as required by State administrative rules.	Add clarification that implementing improvements to mitigate and support development can be made by the jurisdiction when deemed necessary, and does not relate to the Transportation Planning Rule planning period.	220-221	See Attachment A
53: Legal Lot of Record When lots are buildable	Revised code language through text	For clarity, much of revised code language was translated into table format.	14-23	See Attachment B
55: Legal lot of Record Minimum Lot size for existing lots	Minimum lot size in West Portland Park in the R2.5 zone should be 2,500 square feet.	Resolve typo/error that minimum lot size in West Portland Park in the R2.5 zone should be 1,600 square feet, as consistent with the R2.5 zone in the remainder of the city.	20-21	33.110.212.D.2 (See Attachment B) <u>c. R2.5 zone. In the R2.5 zone, the lot, lot of record, or combination of lots or lots of record must meet the requirements of Table 110-6, or</u>

Item Number in Proposed Draft (Submitted with Notice of Proposed Amendment)	Description of Proposed Amendment (as shown in Proposed Draft)	Description of Adopted Amendment	Affected Page Number in Recommended Draft	Adopted Language.
55: Legal Lot of Record: Attached Houses for Design Review	Existing Lots in the R5 zone: Allow two attached houses to be built on lots not meeting the minimum lot size for new lots in the zone immediately (do not have to be vacant for 5 years) if reviewed through a Type II Design Review process.	Amendment removed. Not adopted.	16-17	N/A
55: Legal Lot of Record: Parking in front setback	Allow on-site parking on lots less than 3,000 square feet and 36 feet wide to be located in the front setback.	Amendment removed. Not adopted.	22-23	N/A
55: Legal Lot of Record: Garages on existing small lots	Remove exception that allows at least a 12 side garage on a street facing façade that is less than 22 feet wide, to be consistent with current standards for small lots newly created through a land division (New Narrow Lots)	Amendment removed. Not adopted.	40-41	N/A
55: Legal Lot of Record: Development on Lot Remnants	Existing Lots in the R5 zone: All properties defined as Lot Remnants are not buildable.	Properties defined as Lot Remnants are buildable if they are at least 3,000 square feet and 36 feet wide.	14-23 224-225	N/A
55: Legal Lot of Record: Corner lot property line adjustments	Existing Lots in the R5 zone: Allow a property line adjustment involving a corner lot in the R5 zone result in lots that are as small as 2400 sf/25' wide OR 1600 sf/36' wide, even if it takes them further out of conformance.	Allow a property line adjustment involving a corner lot in the R5 zone result in lots that are as small as 2400 sf/25' wide OR 1600 sf/36' wide, even if it takes them further out of conformance, only if at least one of the lots was already non-conforming.	16-17 194-195	See Attachment C
55: Legal Lot of Record: Corner lot property line adjustments	No proposal	For property line adjustments on non-conforming corner lots the following the relocated property line must be perpendicular to the street lot line, and clarify that if the resulting vacant property is subject to additional development standards of 33.110.213.	194-195	See Attachment C
55: Legal Lot of Record: Setback adjustments	No proposal	For existing "substandard" lots that are subject to the development standards additional development standards of 33.110.213, exceptions to setback standards may only be requested through Design Review, not through an Adjustment.	22-23	33.110.213 .C. <u>10. Setbacks. Adjustments to minimum required setbacks are prohibited. Modifications may be requested through Design Review.</u>

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55: Legal Lot of Record: Nonconforming status	Clarify that existing development on a nonconforming lot can be rebuilt in certain circumstances due to accidental destruction	Clarify that existing development on a nonconforming lot can be rebuilt in certain circumstances due to accidental destruction AND if intentionally demolished. Create new Section to address nonconforming lots for clarity.	138-139	See Attachment D
55: Legal Lot of Record: Definitions of Adjusted Lots and Lot Remnants	Create definitions for Adjusted Lots and Lot Remnants to help identify when they are buildable.	Create definitions for Adjusted Lots and Lot Remnants to help identify when they are buildable, and clarify that they could have been created by a city-approved property line adjustment OR by deed prior to 1979 (prior to partition regulations). Add clarifying figures	222-225	See Attachment E
59: Eaves in Setbacks	Allows eaves to project into setback up to 40 percent of depth of setback, instead of 20 percent per current standards. In R5 zones and, this means instead of 1-foot eaves, 2-foot eaves would be allowed.	Amendment removed. Not adopted.	28-29, 56-57, 84-85, 98-99	N/A
60: Wind Energy Systems	Create new chapter, 33.287, Wind Energy Systems.	Create new chapter, 33.299, Wind Turbines and restructure for clarity. Add figures.	162-165	See Attachment F
60: Development Standards for Wind Energy Systems: Wind turbines and View Corridors	No proposal.	Create standard that does not allow wind turbines to project into a view corridor designated by the <i>Scenic Resources Protection Plan</i> .	162-165	See Attachment F
60: Development Standards for Wind Energy Systems: Maximum height and rotor swept area of wind turbines.	<ul style="list-style-type: none"> Maximum turbine rotor swept area in Residential zones of 20 square feet, Maximum rotor swept area in Commercial zones of 100 square feet. Maximum height of building-mounted turbines of 50 percent of the base zone height or 25 feet above the roof, whichever is less. 	<ul style="list-style-type: none"> Maximum turbine rotor swept area in Residential zones of 50 square feet, Maximum rotor swept area in Commercial zones of 150 square feet. Maximum height of building-mounted turbines of 50 percent of the base zone height or 45 feet above the roof, whichever is less. 	166-173	See Attachment F
60: Wind Energy Systems and Design Review	No proposal	Exempt Wind Energy System turbines and anemometers from Design Review when not located in a Scenic View Corridor designated by the <i>Scenic Resources Protection Plan</i>	166-167	<p>33.420.045, Exempt from Design Review</p> <p><u>AA.</u>Anemometers, which measure wind speed; and</p> <p><u>BB.</u>Small wind energy turbines that do not extend into a view corridor designated by the <i>Scenic Resources Protection Plan</i>. Wind turbines are subject to the standards of Chapter 33.299, <i>Wind Turbines</i>.</p>

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61: Green Energy and Use	Clarify that alternative energy producing systems located on buildings are not a primary manufacturing use.	Re-write and structure for clarity and updated terminology	12, 24, 233, 235, 237	See Attachment G
N/A: Long-Term Bike Parking Ratios in Multi-dwelling Development	No proposal	Increase for long term bicycle parking in multi-dwelling development from 0.25 spaces to 1.5 spaces per dwelling unit in the Central City Plan district, and 1.1 spaces per unit in the remainder of the city.	N/A	See Attachment H
N/A: Retaining Walls	No proposal.	Create development standards for retaining walls on street frontages in single dwelling zones.	N/A	See Attachment I
N/A: Accessory Dwelling Units and Density	No proposal	Add a cross reference to the definition of Density that corrects and clarifies when Accessory Dwelling Units are counted or not counted toward Density.	223	33.910.030 Density. A measurement of the number of people, dwelling units, <u>living units in Single Room Occupancy (SRO) housing</u> , or lots in relationship to a specified amount of land. Density is a measurement used generally for residential uses. Accessory Dwelling Units are not counted in calculations of minimum or maximum density. See Chapter 33.205, Accessory Dwelling Units for how density is calculated for ADUs. See also Intensity.
N/A: Accessory Dwelling Units and Size	Accessory Dwelling Units (ADUs): No proposal.	Increase the relative allowed size from 33% of size of primary dwelling unit or 800 square feet, whichever is less to 75% of size of main dwelling unit or 800 square feet, whichever is less.	N/A	33.205.030.C., Design Standards 6. Maximum size. The size of the accessory dwelling unit may be no more than 33% <u>75 percent</u> of the living area of the primary dwelling unit house, attached house, or manufactured home or 800 square feet, whichever is less. <u>The measurements are based on what the square footage of the primary dwelling unit and accessory dwelling unit will be after the accessory dwelling unit is created.</u>
Typos/Errors		Add clarification	205	33.730.030.E.3.a(2): "For Comprehensive Plan Map Amendments . . . the Hearings Officer will make a written recommendation in the form of a report . . ." Request: "For Comprehensive Plan Map Amendments . . . the Hearings Officer will make a written recommendation in the form of a report to City Council"

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Typos/Errors		Correct error	67	<p>33.120.270.E.3:</p> <p><u>3. Accessory structures;</u></p> <p><u>a. Covered accessory structures for the common use of residents are allowed within common greens and shared courts. Covered accessory structures include gazebos, garden structures, greenhouses, picnic areas, play structures, and bike parking areas, but do not include structures listed in b., or e. below;</u></p> <p><u>b. Structures for recycling or waste disposal are allowed within common greens, shared courts, private alleys, or parking tracts;</u></p> <p><u>c. Shared garages or carports are allowed within private alleys or parking tracts, but not within common greens or shared courts.</u></p>
Typos/Errors		Correct typo	33, 55	<p>33.110.220.D. 7(b) and 33.120.220.B.2.e:</p> <p>"When a dedication . . . along the frontage of an existing street is required . . . setback between an existing building <u>and the lot line</u> that abuts the right-of-way . . ."</p>
Typos/Errors		Add clarification	55	<p>33.120.220.B.2.e:</p> <p>"When a dedication . . . along the frontage of an existing street is required . . . setback . . . may be reduced to zero. <u>Eaves on an existing building may extend one foot into the reduced setback, except that they may not extend into the right-of-way. . .</u>"</p>

City of Portland Bureau of
Planning and Sustainability

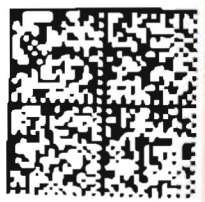
Sam Adams, Mayor | Susan Anderson, Director
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201-5380

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PLAN AMENDMENT SPECIALIST
DEPT. OF LAND C&D
635 CAPITOL STREET, #150
SALEM, OREGON 97301-2540



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