BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1241

Amending County Land Use Code to Apply Portland Regulations Relating to Tree Preservation, Bulk Fossil Fuel Terminal Restrictions, and an Inclusionary Housing Program to the Unincorporated Urban Areas and Declaring an Emergency.

The Multnomah County Board of Commissioners Finds:

a. Pursuant to an intergovernmental agreement executed in 2002 (the “IGA”) (County Contract #4600002792), the City of Portland, Oregon (City), provides, with certain exceptions, land use planning services for those areas of unincorporated Multnomah County located within the City’s Urban Services Boundary (the “Unincorporated Urban Areas”).

b. Because the County retains legislative authority over the Unincorporated Urban Areas, the County assumed an obligation in the IGA to amend County land use regulations to apply applicable City land use regulations, and all subsequent amendments thereto, to the Unincorporated Urban Areas.

c. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within the Unincorporated Urban Areas. The Board exempts these areas from the requirements of MCC 37.0710, and instead considers the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by the IGA.

d. On December 22, 2016, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments by an ordinance relating to mass shelters and housing zoning code amendments.

e. Since the adoption of that ordinance, the City Council adopted the regulations set out in Section 1 below and attached as Exhibits 1 through 9. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

f. The City notified affected County property owners as required by the IGA.
Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City amendments, attached as Exhibits 1 through 9:

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Description</th>
<th>Portland Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ordinance strengthen regulations for tree preservation in development situations (PDX Ord. #187675)</td>
<td>05/13/16</td>
</tr>
<tr>
<td>2</td>
<td>Exhibit A - Chapter 11.50 Trees in Development Situations (PDX Ord. #187675)</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Exhibit B – Amendments to Title 11, Trees, Tree Preservation in Development Situations – Bureau of Planning and Sustainability (PDX Ord. #187675)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Exhibit C - Amendments to Title 11, Trees, Tree Preservation in Development Situations - Urban Forestry Commission (PDX Ord. #187675)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Exhibit D – Commissioner Fritz/Saltzman Proposal: Amendments to Title 11, Trees, Chapter 11.50, Trees in Development Situations – Bureau of Development Services (PDX Ord. #187675)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Ordinance to restrict bulk fossil fuel terminals (PDX Ord. 188142)</td>
<td>01/14/17</td>
</tr>
<tr>
<td>7</td>
<td>Exhibit A – Fossil Fuel Terminal Zoning Amendments as adopted (PDX Ord. 188142)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Ordinance to provide affordable housing through an Inclusionary Housing program (PDX Ord. 188162)</td>
<td>02/01/17</td>
</tr>
<tr>
<td>9</td>
<td>Exhibit A – Inclusionary Housing Zoning Code Project Report as adopted (PDX Ord. 188162)</td>
<td></td>
</tr>
</tbody>
</table>

Section 2. In accordance with ORS 215.427(3), the changes resulting from Section 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County’s land use regulations in effect as of the date the subdivision application is first submitted.
Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah County Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. Under section 5.50 of the Charter of Multnomah County, an emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect at the times listed below to best ensure consistency with the City code, plan and map amendments:

The amendments in Ordinance 187675 shall be effective immediately.

The amendments in Ordinance 188142 shall be effective immediately.

The amendments in Ordinance 188162 shall be effective on and after February 1, 2017.

FIRST READING AND ADOPTION: January 19, 2017

BOARD OF COUNTY COMMISSIONERS, FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Katherine Thomas, Assistant County Attorney

SUBMITTED BY: Kim E. Peoples, Director, Department of Community Services.
## EXHIBIT LIST FOR ORDINANCE

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ordinance strengthen regulations for tree preservation in development situations (PDX Ord. #187675)</td>
<td>05/13/16</td>
</tr>
<tr>
<td>2</td>
<td>Exhibit A - Chapter 11.50 Trees in Development Situations (PDX Ord. #187675)</td>
<td>05/13/16</td>
</tr>
<tr>
<td>3</td>
<td>Exhibit B – Amendments to Title 11, Trees, Tree Preservation in Development Situations – Bureau of Planning and Sustainability (PDX Ord. #187675)</td>
<td>01/20/16</td>
</tr>
<tr>
<td>4</td>
<td>Exhibit C - Amendments to Title 11, Trees, Tree Preservation in Development Situations - Urban Forestry Commission (PDX Ord. #187675)</td>
<td>01/29/16</td>
</tr>
<tr>
<td>5</td>
<td>Exhibit D – Commissioner Fritz/Saltzman Proposal: Amendments to Title 11, Trees, Chapter 11.50, Trees in Development Situations – Bureau of Development Services (PDX Ord. #187675)</td>
<td>02/18/16</td>
</tr>
<tr>
<td>6</td>
<td>Ordinance to restrict bulk fossil fuel terminals (PDX Ord. 188142)</td>
<td>01/14/17</td>
</tr>
<tr>
<td>7</td>
<td>Exhibit A – Fossil Fuel Terminal Zoning Amendments as adopted (PDX Ord. 188142)</td>
<td>12/14/16</td>
</tr>
<tr>
<td>8</td>
<td>Ordinance to provide affordable housing through an Inclusionary Housing program (PDX Ord. 188162)</td>
<td>02/01/17</td>
</tr>
<tr>
<td>9</td>
<td>Exhibit A – Inclusionary Housing Zoning Code Project Report as adopted (PDX Ord. 188162)</td>
<td>12/21/16</td>
</tr>
</tbody>
</table>

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website ([https://multco.us/board](https://multco.us/board)). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.
Strengthen regulations for tree preservation in development situations (Ordinance; amend Code Chapter 11.50)

The City of Portland Ordains:

Section 1: The Council finds:

1. Portland’s urban forest is a unique community asset, providing a broad array of valuable ecological, social, and economic benefit, including cleaner air and water, reduced stormwater runoff, reduced landslide and flood impacts, carbon sequestration, neighborhood beauty and walkable streets, public health benefits, and enhanced property values.

2. The City Forester and BDS Director administer Portland City Code (PCC) Title 11, Trees.

3. PCC Chapter 11.50, Trees in Development Situations, regulates, in part, tree removal and tree preservation associated with development projects including when tree removal is allowed, when tree preservation is required, and what mitigation is required for certain tree removal.

4. Title 11 was adopted on May 13, 2011 (Ordinance No. 184522) and was amended by Ordinance Nos. 185448, 185654, and 186053. Title 11 was effective January 1, 2015.

5. PCC 11.50, Trees in Development Situations allows that 1/3 of non-exempt trees on a development site be preserved. Removal of any tree(s) subject to the 1/3 preservation requirement necessitates a mitigation fee in-lieu equal to the cost of planting and maintaining 2 replacement trees for a period of 2 years as specified by the adopted fee schedule for Title 11. No notification is required for any tree removal in development situations.

6. After implementation of Title 11, public concern developed regarding the removal of large sized trees associated with development projects as allowed by Title 11.

7. Collected data indicated that 18 trees 45 inches in diameter or larger were removed through the first 3 quarters of 2015 in association with development permits on private property, as allowed by Title 11. Refinement of data indicated as many as 9 of the 18 trees may have been exempt from tree preservation requirements due to health or other exemptions specified in Title 11.

8. In response to public concern, the City Forester was directed to develop a code amendment proposal to strengthen regulations for tree protection of especially large
trees in development situations as an interim measure until such time a more
comprehensive evaluation and amendment of Title 11 including regulations for tree
preservation in development situations can be undertaken.

9. On November 3, 2015, the City Forester proposed amendments to strengthen regulations
for tree protection of especially large trees in development situations. This proposal
(Parks Proposal) was shared with the Tree Code Oversight Advisory Committee on
November 9, 2015 and the Development Review Advisory Committee on November 19,
2015.

10. On December 11, 2015, BDS also proposed amendments to strengthen regulations for
tree protection of especially large trees in development situations. This proposal (BDS
Proposal) was developed after review by the Bureau of Planning and Sustainability,
Portland Water Bureau, Bureau of Environmental Services, and Bureau of
Transportation. This proposal was shared with the Development Review Advisory
Committee on December 17, 2015.

11. On December 11, 2015 notice of public hearing with the Planning and Sustainability
Commission was sent to 900 parties on the project mailing list and Bureau of Planning
and Sustainability legislative project mailing list and in accordance with the notification
requirements of Title 11. Notice directed interested parties to the Portland Trees website
and BDS website or project staff for the complete Parks proposal and BDS proposal.

12. On December 22, 2015 notice of public hearing with the Urban Forestry Commission
was sent to 898 parties on the project mailing list and Bureau of Planning and
Sustainability legislative project mailing list and in accordance with the notification
requirements of Title 11. Notice directed interested parties to the Portland Trees website
and BDS website or project staff for the complete Parks Proposal and BDS Proposal.

13. On January 12, 2015 the Planning and Sustainability Commission held a hearing and
invited oral and written testimony and voted on a recommendation. The Planning and
Sustainability Commission’s recommendation, dated January 20, 2015, consists of a
combination of elements of the Parks proposal and the BDS proposal. The Planning and
Sustainability Commission also recommended that a more comprehensive evaluation and
amendment of Title 11, including regulations for tree preservation in development
situations be undertaken at a future date. Attached as Exhibit B.

14. On January 21, 2015 the Urban Forestry Commission held a hearing and invited oral and
written testimony and voted on a recommendation. The Urban Forestry Commission’s
recommendation, dated January 29, 2015, consists of a combination of elements of the
Parks proposal and the BDS proposal. The Urban Forestry Commission also
recommended that a more comprehensive evaluation and amendment of Title 11,
including regulations for tree preservation in development situations be undertaken at a
future date. Attached as Exhibit C.
15. On February 12, 2015 notice of City Council hearing was sent to parties required by Title 11 and the project e-mail list. Notice directed interested parties to the Portland Trees website and BDS website or project staff for the complete project proposals.

16. On February 18, 2015 a proposal co-sponsored by Commissioner Amanda Fritz and Commissioner Dan Saltzman (Fritz-Saltzman Proposal) was published on the Portland Trees website and BDS website. In addition, the proposal was e-mailed to the project e-mail list. Attached as Exhibit D.

17. The Fritz-Saltzman proposal consists of a combination of elements from the Parks proposal, the BDS proposal, the Planning and Sustainability Commission recommendation and the Urban Forestry Commission recommendation. The Fritz-Saltzman proposal institutes a tiered mitigation fee in-lieu schedule for trees up to 50 inches in diameter and then institutes an inch-per-inch mitigation fee in-lieu for trees 50 inches or larger in diameter. The proposal requires that all trees 36 inches or greater, regardless of the 1/3 preservation standard is subject to preservation or mitigation fee in-lieu of preservation. The proposal requires public notice for the removal of all trees 36 inches or greater. The proposal applies to Private Trees, and does not apply to City Trees or Street Trees. The proposal has a sunset date of December 31, 2019.

18. The amendments in Exhibit A reflect the Fritz-Saltzman proposal.

NOW, THEREFORE, the Council directs:
   a. Chapter 11.50, Trees in Development Situations, is amended as shown in Exhibit A.

Passed by the Council: APR 13 2016
Commissioner Amanda Fritz
Commissioner Dan Saltzman
Prepared by: Emily Sandy, BDS
Date Prepared: March 3, 2016

Mary Hull Caballero
Auditor of the City of Portland
By
Deputy
Amend Chapter 11.50 (Trees in Development Situations) to strengthen regulations for tree preservation in development situations (Ordinance; amend Code Chapter 11.50)

INTRODUCED BY
Commissioner/Auditor:
Commissioner Amanda Fritz
Commissioner Dan Saltzman

COMMISSIONER APPROVAL
Mayor—Finance and Administration - Hales
Position 1/Utilities - Fritz
Position 2/Works - Fish
Position 3/Affairs - Saltzman
Position 4/Safety - Novick

BUREAU APPROVAL
Bureaus: Bureau of Development Services and Parks & Recreation
Bureau Head: Paul L. Scarlett
Acting Bureau Head: Warren Jimenez

Prepared by: Leanne Torgerson
Date Prepared: 2/22/16

Financial Impact & Public Involvement Statement
Completed ☑ Amends Budget ☐

City Auditor Office Approval: ☐
City Attorney Approval: ☐

Council Meeting Date 3/3/16, 2:00 TC

AGENDA
TIME CERTAIN ☑
Start time: 2:00

Total amount of time needed: 2hrs
(for presentation, testimony and discussion)

CONSENT ☑

REGULAR ☐
Total amount of time needed:
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA
COMMISSIONERS VOTED AS FOLLOWS:

<table>
<thead>
<tr>
<th>Item</th>
<th>Commissioner</th>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Fritz</td>
<td>Fritz</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>2. Fish</td>
<td>Fish</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>3. Saltzman</td>
<td>Saltzman</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>4. Novick</td>
<td>Novick</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>Hales</td>
<td>Hales</td>
<td>☑</td>
<td></td>
</tr>
</tbody>
</table>
CHAPTER 11.50

TREES IN DEVELOPMENT SITUATIONS

Sections:
11.50.010  Purpose.
11.50.020  When a Tree Plan is Required.
11.50.030  Development Impact Area Option for Large Sites and Streets.
11.50.040  Tree Preservation Standards.
11.50.050  On-Site Tree Density Standards.
11.50.060  Street Tree Planting Standards.
11.50.070  Tree Plan Submittal Requirements.
11.50.080  Changes to Approved Tree Plans and Emergency Tree Removal.

11.50.010  Purpose. [No Change]

11.50.020  When a Tree Plan is Required.[No Change]

11.50.030  Development Impact Area Option For Large Sites and Streets. [No Change]

11.50.040  Tree Preservation Standards.

A.  Where these regulations apply.

1.  Except when exempted by Subsection B., below, this Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations:

   a.  On sites. Development activities with ground disturbance where there are Private Trees 12 or more inches in diameter and/or City Trees 6 or more inches in diameter and the site:

      (1)  is 5,000 square feet or larger in area; and

      (2)  has existing or proposed building coverage less than 85 percent.

   b.  In streets. Development activities with ground disturbance where there are Street Trees 3 or more inches in diameter.

2.  Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using the provisions in this Chapter, but may be counted toward the tree preservation requirements of this Section.
B. Exemptions. The following are exempt from the tree preservation standards of this Section:

1. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.

2. Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.

3. Trees exempted from this standard by a land use decision.

4. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.

C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1 sunset after December 31, 2019. After December 31, 2019 the regulations in effect will be those in effect on January 1, 2015.

1. Private Trees.

   a. Retention. An applicant shall preserve and protect at least 1/3 of the trees 12 inches and larger in diameter located completely or partially on the development site. Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (Quercus garryana), Pacific Madrone (Arbutus menziesii), Pacific Yew (Taxus brevifolia), Ponderosa Pine (Pinus ponderosa), or Western Flowering Dogwood (Cornus nuttallii) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.

   b. Mitigation. For each tree removed below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required equivalent to the cost of two trees. See Section 11.15.010.

   a. General tree preservation.

   (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040.C.1.a.(2) below. Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (Quercus garryana), Pacific Madrone (Arbutus menziesii), Pacific Yew (Taxus brevifolia), Ponderosa Pine (Pinus ponderosa), or Western Flowering Dogwood (Cornus nuttallii) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.
professional to be Garry Oak (Quercus garryana), Pacific Madrone (Arbutus menziesii), Pacific Yew (Taxus brevifolia), Ponderosa Pine (Pinus ponderosa), or Western Flowering Dogwood (Cornus nuttallii) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.

(2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is proposed for removal in excess of that allowed by Subsection 11.50.040.C.1.a.(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

<table>
<thead>
<tr>
<th>Size of Tree Removed (inches in diameter)</th>
<th>Required Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 12 and less than 20</td>
<td>The cost of (2) two-inch diameter replacement trees</td>
</tr>
<tr>
<td>At least 20 and less than 36</td>
<td>The cost of (4) two-inch diameter replacement trees</td>
</tr>
<tr>
<td>At least 36 or more</td>
<td>The cost per inch of tree removed</td>
</tr>
</tbody>
</table>

b. Preservation of trees 36 inches or greater.

(1) Retention. An applicant shall preserve and protect all non-exempt trees 36 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040.C.1.b.(2) and 11.50.040.C.1.b(3), below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040.C.1.a. above.

(2) Mitigation. For each tree 36 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11.

(3) Notice. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040.C.1.b.(2)
above, the property owner or the property owner’s representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner’s representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

(a) The posted notice must:
   (i) Be posted on the site for at least 45 calendar days prior to development permit issuance;
   (ii) Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
   (iii) Include the date of posting and the date of the end of the notification period;
   (iv) Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
   (v) Include contact information for the property owner or the property owner’s representative.

(b) The notices to the Neighborhood Association and District Coalition must:
   (i) Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Neighborhood Involvement. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;
   (ii) Include a description of the trees(s) to be removed including diameter inch size(s); and
   (iii) Include contact information for the property owner or the property owner’s representative.

(4) Exemption of tree preservation mitigation payments for affordable housing developments. Projects are exempt from the mitigation requirements in 11.50.040.C.1.b(2) if the development will be an affordable housing development approved for system development charge exemptions under Section 30.01.095. The amount of the mitigation exemption
shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the Portland Housing Bureau may adopt administrative rules for the administration of Subsection 11.50.040.C.1.b(4).

c. Exception for Capital Improvement Projects. Trees on private property that are part of a capital improvement project and within the development impact area are regulated as City and Street Trees.

2. City and Street Trees.

a. Retention. For development on City owned or managed sites, new public streets, or improvements to existing streets, applicants are required to consult with the City Forester at the preliminary project design phase if City or Street Tree removal is likely to occur to complete the project. The purpose of this consultation is to identify potential impacts and opportunities to retain existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street.

b. Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, or in the same watershed either by planting or a payment into the Tree Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements.

(1) Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter that is allowed to be removed shall be replaced with at least one tree. Trees planted to meet Street Tree Planting Standards will be credited toward meeting this requirement.

(2) Any other Street or City Tree allowed to be removed that is 6 or more inches in diameter shall be replaced with at least one tree in addition to trees required to meet required tree density or Street Tree planting standards.

11.50.050 On-Site Tree Density Standards.

A. Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:
1. New Development;

2. Exterior alterations to existing development;

3. Additions in excess of 200 square feet to single dwelling development.

B. Exemptions.

1. The following development activities are exempt from the on-site tree density standards:

   a. Additions or exterior alterations to existing development with a project valuation less than the non-conforming upgrade threshold noted in Title 33, Planning and Zoning.

   b. A specific condition of land use review approval exempts the site from these density standards;

   c. The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.

   d. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.

   e. Work conducted under Demolition, Site Development, or Zoning Permits.

2. Sites with the following primary uses are exempt from the on-site tree density standards:

   a. Railroad Yards;

   b. Waste Related;

   c. Agriculture;

   d. Aviation and Surface Passenger Terminals;

   e. Detention Facilities;

   f. Mining;

   g. Radio Frequency Transmission Facilities; or
h. Rail Lines and Utility Corridors;

C. On-Site Tree Density Requirement. Planting on sites shall meet City specifications and standards in Chapter 11.60 and the following:

1. Required Tree Area. The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in Table 50-12. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Option A</th>
<th>Option B</th>
</tr>
</thead>
<tbody>
<tr>
<td>One and Two Family Residential</td>
<td>40 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Multi Dwelling Residential</td>
<td>20 percent of site or development impact area</td>
<td></td>
</tr>
<tr>
<td>Commercial/Office/Retail/Mixed Use</td>
<td>15 percent of site or development impact area</td>
<td></td>
</tr>
<tr>
<td>Industrial</td>
<td>10 percent of site or development impact area</td>
<td></td>
</tr>
<tr>
<td>Institutional</td>
<td>25 percent of site or development impact area</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>25 percent of site or development impact area</td>
<td></td>
</tr>
</tbody>
</table>

2. Required Tree Density. The required tree area shall be planted with some combination of large, medium or small canopy trees at the following rates:

<table>
<thead>
<tr>
<th>Canopy size category (at maturity)</th>
<th>Number of trees per size of tree area</th>
<th>Min. required planting area per tree (min. dimension)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large</td>
<td>1 per 1,000 s.f.</td>
<td>150 s.f. (10’ x 10’)</td>
</tr>
<tr>
<td>Medium</td>
<td>1 per 500 s.f.</td>
<td>75 s.f. (5’ x 5’)</td>
</tr>
<tr>
<td>Small</td>
<td>1 per 300 s.f.</td>
<td>50 s.f. (3’ x 3’)</td>
</tr>
</tbody>
</table>

Refer to Chapter 11.60, Technical Specifications, to calculate tree canopy size categories. When the canopy size category of the tree species is not or cannot be determined, the tree will be considered a small canopy tree.

3. Tree Density Credits

a. Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.
b. Trees that are retained and protected, including trees preserved per Section 11.50.040, may be credited as follows:

(1) Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.

(2) Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.

c. Payment in lieu of planting. The applicant may pay a fee to the Tree Planting and Preservation Fund per Section 11.15.010 equivalent to the cost of planting and establishing one 1.5-inch caliper tree. The fee per tree shall be credited at a rate of one medium canopy size tree.

d. On sites less than or equal to 3,000 square feet, healthy non-nuisance species trees planted or retained in the street planting strip may be credited as described in this Subsection.

11.50.060 Street Tree Planting Standards. [No Change]

11.50.070 Tree Plan Submittal Requirements. [No Change]

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal. [No Change]
January 20, 2016

Mayor Charles Hales and Members of Portland City Council
Portland City Hall
1221 SW Fourth Ave
Portland, OR 97204

Subject: Amendments to Title 11, Trees, Tree Preservation in Development Situations

Dear Mayor Hales and City Commissioners:

On January 12, 2016, the Planning and Sustainability Commission (PSC) held a public hearing on proposed amendments to Title 11, Trees, Tree Preservation in Development Situations. Two proposals (Proposal A — Portland Parks and Recreation 11/3/15 and Proposal B — Bureau of Development Services 12/11/15) were heard. The proposals intend to more adequately address concerns regarding tree preservation, particularly the preservation of especially large trees, in development situations. The PSC offers the following comments and recommendations.

Comments

1. The PSC found it challenging to be presented with two different proposals from two bureaus. It was also challenging to be asked to make a recommendation absent a full policy discussion and vetting of the proposals with stakeholders and the public. That said, the PSC understands that the proposals are both intended to provide a temporary, “stop-gap” approach to increase the incentive to preserve trees, particularly large trees on development sites.

2. The commission considered the proposals carefully, spending more than two hours learning about them from staff, and deliberating our options. We also received written testimony, including from the Development Review Advisory Committee, and the Tree Code Oversight Advisory Committee and heard from a number of individuals, including representatives from the Urban Forestry Commission, and the Portland Bureau of Transportation. Aside from the appointed committees and commissions, the comments from the general public supported stronger trees regulations. We also heard support for a subsequent, more comprehensive Title 11 update to improve preservation of trees on development sites, among other issues related to Title 11.

3. The PSC grappled with a number of issues, including whether to recommend a graduated fee-in-lieu of tree preservation based on the number of replacement trees or inch-for-inch replacement beginning at a designated tree size, and whether there should be a cap on the fees. Concerns were expressed about the seeming reliance on mitigation for tree removal, and frustration that the current regulations do not ensure trees on development sites are
actually preserved. However there were also concerns about the impact of additional costs on development, including affordable housing and on homeowners that might simply want to build on a new room or a deck.

4. Ultimately, the Commission recommends a modified Proposal B. We feel that Proposal B, with our modifications, continues to balance city goals for the urban forest and development, while providing additional incentives to preserve trees on development sites.

- Like proposal B, the recommendation includes a graduated fee-in-lieu of preservation. This graduated fee approach, with a proposed cap, will increase fees not only the largest trees, but also the medium-large trees on development sites.
- We recommend lowering the threshold to 36" diameter. At this threshold, to preservation or payment in lieu of preservation is required for all trees, and public notice is required in cases of removal. Based on a data sample presented at the hearing by BDS:

<table>
<thead>
<tr>
<th>Diameter Inches</th>
<th># of Trees</th>
<th>% of Total Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-19</td>
<td>86</td>
<td>47%</td>
</tr>
<tr>
<td>20-29</td>
<td>62</td>
<td>34%</td>
</tr>
<tr>
<td>30-35</td>
<td>23</td>
<td>13%</td>
</tr>
<tr>
<td>36-42</td>
<td>7</td>
<td>4%</td>
</tr>
<tr>
<td>&gt;42</td>
<td>6</td>
<td>3%</td>
</tr>
<tr>
<td>Total Trees</td>
<td>184</td>
<td>100%</td>
</tr>
</tbody>
</table>

- We also recommend a longer public notice period to provide more time for communication and potential negotiated solutions between developers and neighbors.
- We also recommend that the amendments apply to City and Street Trees (those on City-owned or managed property and those in the public right-of-way) as well as trees on private property. We believe this is fair and appropriate that the City be subject to at least as stringent requirements as are applied to private developments and other public projects.
- Finally, we recommend a sunset date to the new regulations as an impetus to fund and initiate a more comprehensive Tree Code update project in a timely manner.

The Commission voted 7-2 to recommend approval of a modified Proposal B, modified as described below.

Recommendation
The Portland Planning and Sustainability Commission recommends that City Council amend the Tree Code (Title 11) as shown in Proposal B (Bureau of Development Services, 12/11/15) with the following modifications:

1. Lower the proposed new threshold for large trees from 50” to 36” diameter (and greater) at 4.5 feet above ground surface. All trees this size and greater on a development site will be required to be preserved or to pay a fee in lieu of preservation, even if they are not used to meet the general 1/3 preservation standard (preservation of at least 1/3 of non-exempt trees on a site). In addition, all trees this size and greater that are not designated to be preserved are subject to the notification requirement.
2. Increase the amount of mitigation for trees that are 50 or more inches in diameter from 10 to 15 replacement trees. The recommended schedule for the fee in-lieu of preservation is as follows:

<table>
<thead>
<tr>
<th>Size of Tree Removed (inches in diameter)</th>
<th>Number of 2-inch Replacement Trees That Fee is Based On</th>
<th>Corresponding Current Fee In-Lieu of Preservation</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 12 and less than 20</td>
<td>2</td>
<td>$1,200</td>
</tr>
<tr>
<td>At least 20 and less than 36</td>
<td>4</td>
<td>$2,400</td>
</tr>
<tr>
<td>At least 36 and less than 50</td>
<td>6</td>
<td>$3,600</td>
</tr>
<tr>
<td>50 or more</td>
<td>15</td>
<td>$9,000</td>
</tr>
</tbody>
</table>

3. Apply the amendments to City Trees and Street Trees, in addition to Private Trees.

4. The notice requirement should be increased from 14 to 30 days. It will include notification to the neighborhood association in addition to an on-site posted notice.

5. Adopt a sunset date of December 31, 2019.

Sincerely,

Andre' Baugh  
Chair, Portland Planning and Sustainability Commission

cc: Urban Forestry Commission
January 29, 2016

Mayor Hales and Members of Portland City Council
Portland City Hall
1221 SW Fourth Avenue
Portland, OR 97204

Subject: Amendments to Title 11, Trees, Tree Preservation in Development Situations

Dear Mayor Hales and City Commissioners:

On January 21, 2016 the Urban Forestry Commission (UFC) held a public hearing on proposed amendments to Title 11, Trees, and Tree Preservation in Development Situations. Our hearing and the recommendations adopted by the UFC follow and build upon a previous hearing and set of recommendations by the Planning and Sustainability Commission (PSC) as required by Title 11, Trees. Both Commissions considered two proposals put forth by Portland Parks and Recreation ("Proposal A") and Bureau of Development Services (BDS, "Proposal B"). We have also attached with this letter a chart comparing the major differences among the stopgap measures proposed by Parks (Proposal A), BDS (Proposal B), and the PSC. The UFC’s unanimously approved recommendations are shown as the last column.

The UFC offers the following comments and recommendations:

Comments

1. The UFC had the benefit of comments and recommendations from the Tree Project Oversight Advisory Committee, the Development Review Advisory Committee, the PSC, and Bureau of Transportation. The UFC hearing included staff presentations and public testimony as well as written comments. City staff from Parks and Recreation, the BDS and Bureau of Planning and Sustainability provided technical expertise. In addition to scenario analysis from the BDS (part of Proposal B), the UFC also had the benefit of research prepared by Urban Forestry Staff and members of the UFC with professional expertise in quantifying ecosystem services and evaluating tradeoffs in mitigation policies. These supporting materials are attached.

2. Among the public comments received by the UFC, we heard all but unanimous support for strengthening current regulations to encourage the retention of trees on development sites. Complementing these public concerns, every City Committee and Commission has concurred that stopgap measures need to be adopted.

3. Data provided by Parks and BDS staff as well as UFC members show patterns indicating a steady decline in the number of the very largest trees in in Portland and their replacement with small-form trees. These data indicate that roughly no more than 2% of trees currently standing in Portland would benefit from Proposal A (Parks) or B (BDS). The PSC proposal would affect ~4% of all trees currently being permitted for removal as tallied by BDS in August 2015.

---

1 "Tree Distribution Sample: Residential New Construction and Demolition Permits Issued August 2015. BDS material for UFC Hearing, January 21, 2015."
Both the UFC and PSC have recognized that such a high threshold would allow ongoing cutting of significant trees before they could grow to reach these protective limits. The ongoing cutting of large healthy trees and their replacement with small-form seedlings embodies an unsustainable trajectory that will ultimate degrade rather than restore the City's urban forest and the values it provides.

4. The Urban Forestry Commission found it challenging to determine the appropriate quantitative limits to the necessary stopgap measure while incorporating the scope and apparent intent of Title 11. Despite language in Chapter 11.50 Trees in Development Situations pertaining explicitly to “Tree Preservation”, the code does not actually require preservation of trees in any development situation. Instead, disincentives are provided in a subset of development situations, and only partial mitigation for the loss of trees is effected. The practice of partial mitigation now in effect contrasts with the original stated intent of this portion of Title 11 articulated in the commentary for the “Tree Preservation Requirement” in Chapter 11.50: “to offset the loss of the established tree and the time lag for new trees to provide benefits.”

5. The Commission grappled with the issue of a significant and implicit distinction in Title 11 between the value or importance of tree preservation and mitigation in development versus non-development situations. In non-development situations, we noted that no tree removed on private property larger than 6 inches in diameter, dead or alive, is exempted from potential mitigation. We noted that all lots in several commercial and industrial zones are exempt from Title 11 tree regulations and allow clear-cutting a lot prior to transfer to another entity for development. In addition, a full 2/3 of trees on private property are currently allowed to be removed in development situations without any mitigation whatsoever. For those 1/3 of trees remaining beneath the “Tree Preservation Standard” the schedule for mitigating for “the loss of the established tree and time lag for new trees to provide benefits” is dramatically different between development and non-development, while the actual value of trees lost is certainly not. As this is a stopgap measure, the Commission does not recommend correcting all of these problems at this time. Nevertheless, the Commission did consider the exemption of any lot less than 5,000 sq. ft. from these mitigation requirements as a significant loophole that is likely to allow significant unregulated and unmitigated removal of significant trees during development. As the zoning code allows development on lots as small as 3,000 sq. ft. the UFC recommends that these provisions apply to lots 3,000 sq. ft. and larger.

6. We agree with Parks and the PSC that the best means to ensure a more careful approach is to require notice to the public and neighborhood associations.

7. As this is a stop gap measure and further evaluation will better inform our approach, a sunset date will ensure that these measures do not become a substitute for further evaluation in light of the soon to be adopted Comprehensive Plan policies.

The Commission voted unanimously to recommend approval of a modified Proposal B, modified as described below.
Recommendation

The Urban Forestry Commission recommends that City Council amend the Tree Code (Title 11) as shown in Proposal B (Bureau of Development Services, 12/11/15) with the following modifications:

1. Lower the proposed new threshold for very large trees from 50” to 30” diameter (typically measured as diameter at breast height, 4.5 feet above ground surface). All trees this size and greater that are removed from a development site shall be subject to mitigation via a fee in lieu of preservation, even if they are not used to meet the general 1/3 preservation standard (preservation of at least 1/3 of non-exempt trees on a site). Trees with a diameter beneath this threshold shall be subject to mitigation according to the 1/3 preservation standard.

2. All trees greater than or equal to the large tree threshold (30” diameter) that are not designated to be preserved should be subject to the public notification requirement.

3. Trees that are 20” diameter or larger should be subject to a mitigation schedule based on inch-for-inch replacement. The mitigation schedule for trees removed less than 20” that are subject to mitigation requirements shall be determined based on current code, as modified by the Administrative Rule.

4. Apply the amendments to City Trees and Street Trees, in addition to Private Trees.

5. The notice requirement should be increased from 14 to 30 days. It should include notification to the relevant neighborhood association in addition to an on-site posted notice.

6. Adopt a sunset date of three years after effective date of the amendment ordinance.

7. Request that Mayor Hales and City Council direct the Bureaus of Development Services and Planning & Sustainability to allocate sufficient resources and work collaboratively with Parks on revising the Tree Code in a comprehensive manner and as soon as possible.

8. Apply the amendment to lots as small as 3,000 sq. ft.

Sincerely

Meryl Redisch
Chair, Urban Forestry Commission

Att: David Diaz: Current Code (Title 11 + Admin Rule) Tree Replacement/Mitigation Schedule
David Diaz: Mitigating for the removal of a 20” Douglas-fir
David Diaz: Comparison Table: Current Code, Proposal A, Proposal B, PSC, UFC
Memorandum

Date: February 18, 2016

To: Interested Parties

From: Emily Sandy, Code and Policy Analyst, Bureau of Development Services (503) 823-7828, Emily.sandy@portlandoregon.gov

Re: Commissioners Fritz/Saltzman Proposal: Amendments to Title 11, Trees, Chapter 11.50, Trees In Development Situations

Background

Due to recent public concern about large trees being removed in development situations in Portland neighborhoods, amendments are proposed to Portland City Code Title 11, Trees, to strengthen development regulations pertaining to tree preservation, especially preservation of large trees, on private property in development situations.

Generally, the amendments aim to:

1. Revise the mitigation requirement (payment into the Tree Planting and Preservation Fund) for trees removed to be based on the size of the tree. Currently, the same mitigation is required for all trees removed regardless of size.

2. Add a notification requirement when trees above a certain size are removed.

To that end, staff from the Bureau of Parks and Recreation and staff from the Bureau of Development Services developed 2 proposals. Those proposals were considered by both the Planning and Sustainability Commission (PSC) and the Urban Forestry Commission (UFC). Both the PSC and the UFC made separate recommendations to City Council. The initial staff proposals, the recommendations by the PSC and the UFC, and a table comparing those proposal and recommendations are available at the Portland Trees website (www.portlandoregon.gov/trees) and the Bureau of Development Services website (www.portlandoregon.gov/bds).

Fritz/Saltzman Proposal

In addition, Commissioners Amanda Fritz and Dan Saltzman have sponsored a proposal (Fritz/Saltzman Proposal), which is summarized below. Code Amendments to Title 11 reflecting this proposal are located at the end of this memo. For ease of reference, the summary follows the same format as the comparison table referenced above and available on the Portland Trees and Bureau of Development Services websites.
1) Mitigation Fee In-lieu Applies to All Trees or Only Trees Subject to the 1/3 Preservation Standard?
   • Removal of Trees Up to 36" in diameter = Fee required only for removal of trees used to meet the 1/3 preservation standard.
   • Removal of Trees 36" in diameter or greater = Fee required for removal of all trees.

2) Mitigation Fee In-lieu of Preservation Standard.**
   • At least 12" and less than 20“ = the cost of two 2" mitigation trees ($1,200/tree)
   • At least 20" and less than 36" = the cost of four 2" mitigation trees ($2,400/tree)
   • At least 36" and less than 50” = the cost of eight 2" mitigation trees ($4,800/tree)
   • 50” or more = the cost of mitigation-per-inch of tree removed ($300/inch or $15,000/tree and up)

3) Cap on Fee?
   • No cap for trees 50" or more in diameter

4) Notice Requirements.
   • For removal of trees 36" or greater: 30 day posted notice and notice to neighborhood association and district coalition

5) Applicability to City and Street Trees
   • No

6) Sunset Date?
   • Yes, December 31st, 2019

7) Change site size applicability from 5,000 sf to 3,000 sf?
   • No

**The actual mitigation fee in-lieu is based on the adopted Urban Forestry fee schedule. The current fee schedule specifies fees of $300/inch. The fees shown are fees based on the current adopted fee schedule. This fee schedule is subject to amendment in the future.

Hearing Information and Testimony
City Council will hold a hearing on this matter on Thursday, March 3, 2016 at 2:00 p.m. Time Certain. The hearing will be located in Council Chambers at City Hall, 1221 SW 4th Avenue.
You may testify at the City Council hearing or submit written testimony. Submit written testimony to the Council Clerk via Email at CCTestimony@portlandoregon.gov or send to 1221 SW Fourth Avenue, Room 130, Portland, Oregon 97204. Written testimony must be received by the time of the hearing and must include your name and address.
CHAPTER 11.50

TREES IN DEVELOPMENT SITUATIONS

Sections:
11.50.010 Purpose.
11.50.020 When a Tree Plan is Required.
11.50.030 Development Impact Area Option for Large Sites and Streets.
11.50.040 Tree Preservation Standards.
11.50.050 On-Site Tree Density Standards.
11.50.060 Street Tree Planting Standards.
11.50.070 Tree Plan Submittal Requirements.
11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.

11.50.010 Purpose. [No Change]

11.50.020 When a Tree Plan is Required. [No Change]

11.50.030 Development Impact Area Option For Large Sites and Streets. [No Change]

11.50.040 Tree Preservation Standards.

A. Where these regulations apply.

1. Except when exempted by Subsection B., below, this Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations:

   a. On sites. Development activities with ground disturbance where there are Private Trees 12 or more inches in diameter and/or City Trees 6 or more inches in diameter and the site:

      (1) is 5,000 square feet or larger in area; and

      (2) has existing or proposed building coverage less than 85 percent.

   b. In streets. Development activities with ground disturbance where there are Street Trees 3 or more inches in diameter.

2. Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using
the provisions in this Chapter, but may be counted toward the tree preservation requirements of this Section.

B. Exemptions. The following are exempt from the tree preservation standards of this Section:

1. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.

2. Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.

3. Trees exempted from this standard by a land use decision.

4. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.

C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in 11.50.040.C.1 sunset after December 31, 2019. After December 31, 2019 the regulations in effect will be those in effect on January 1, 2015.

1. Private Trees.

   a. Retention. An applicant shall preserve and protect at least 1/3 of the trees 12 inches and larger in diameter located completely or partially on the development site. Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (Quercus garryana), Pacific Madrone (Arbutus menziesii), Pacific Yew (Taxus brevifolia), Ponderosa Pine (Pinus ponderosa), or Western Flowering Dogwood (Cornus nuttallii) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.

   b. Mitigation. For each tree removed below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required equivalent to the cost of two trees. See Section 11.15.010.

a. General tree preservation.

   (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per 11.50.040.C.1a(2) below. Retaining trees
at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak (Quercus garryana), Pacific Madrone (Arbutus menziesii), Pacific Yew (Taxus brevifolia), Ponderosa Pine (Pinus ponderosa), or Western Flowering Dogwood (Cornus nuttallii) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.

(2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is proposed for removal in excess of that allowed by 11.50.040.C.1.a(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

Table 50-1
Required Mitigation

<table>
<thead>
<tr>
<th>Size of Tree Removed (inches in diameter)</th>
<th>Required Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 12 and less than 20</td>
<td>The cost of (2) two-inch diameter replacement trees</td>
</tr>
<tr>
<td>At least 20 and less than 36</td>
<td>The cost of (4) two-inch diameter replacement trees</td>
</tr>
<tr>
<td>At least 36 and less than 50</td>
<td>The cost of (8) two-inch diameter replacement trees</td>
</tr>
<tr>
<td>At least 50 or more</td>
<td>The cost per inch of tree removed</td>
</tr>
</tbody>
</table>

b. Preservation of trees 36 inches or greater.

(1) Retention. An applicant shall preserve and protect all non-exempt trees 36 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per 11.50.040.C.1.b(2) and 11.50.040.C.1.b(3), below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in 11.50.040.C.1.a above.

(2) Mitigation. For each tree 36 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee
is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11.

(3) Notice. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by 11.50.040.C.1.b(2) above, the property owner or the property owner’s representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner’s representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

The posted notice must:
• Be posted on the site for at least 30 calendar days prior to development permit issuance;
• Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
• Include the date of posting and the date of the end of the notification period;
• Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
• Include contact information for the property owner or the property owner’s representative.

The notices to the Neighborhood Association and District Coalition must:
• Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Neighborhood Involvement. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 30 calendar days prior to development permit issuance;
• Include a description of the trees(s) to be removed including diameter inch size(s); and
• Include contact information for the property owner or the property owner’s representative.
c. Exception for Capital Improvement Projects. Trees on private property that are part of a capital improvement project and within the development impact area are regulated as City and Street Trees.

2. City and Street Trees.
   a. Retention. For development on City owned or managed sites, new public streets, or improvements to existing streets, applicants are required to consult with the City Forester at the preliminary project design phase if City or Street Tree removal is likely to occur to complete the project. The purpose of this consultation is to identify potential impacts and opportunities to retain existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street.
   b. Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, or in the same watershed either by planting or a payment into the Tree Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements.

(1) Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter that is allowed to be removed shall be replaced with at least one tree. Trees planted to meet Street Tree Planting Standards will be credited toward meeting this requirement.

(2) Any other Street or City Tree allowed to be removed that is 6 or more inches in diameter shall be replaced with at least one tree in addition to trees required to meet required tree density or Street Tree planting standards.

11.50.050 On-Site Tree Density Standards.

A. Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:

1. New Development;
2. Exterior alterations to existing development;
3. Additions in excess of 200 square feet to single dwelling development.

B. Exemptions.
1. The following development activities are exempt from the on-site tree density standards:
   a. Additions or exterior alterations to existing development with a project valuation less than the non-conforming upgrade threshold noted in Title 33, Planning and Zoning.
   b. A specific condition of land use review approval exempts the site from these density standards;
   c. The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
   d. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.
   e. Work conducted under Demolition, Site Development, or Zoning Permits.

2. Sites with the following primary uses are exempt from the on-site tree density standards:
   a. Railroad Yards;
   b. Waste Related;
   c. Agriculture;
   d. Aviation and Surface Passenger Terminals;
   e. Detention Facilities;
   f. Mining;
   g. Radio Frequency Transmission Facilities; or
   h. Rail Lines and Utility Corridors;

C. On-Site Tree Density Requirement. Planting on sites shall meet City specifications and standards in Chapter 11.60 and the following:

   1. Required Tree Area. The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in
Table 50-1. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Option A</th>
<th>Option B</th>
</tr>
</thead>
<tbody>
<tr>
<td>One and Two Family Residential</td>
<td>40 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Multi Dwelling Residential</td>
<td>20 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Commercial/Office/Retail/Mixed Use</td>
<td>15 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Industrial</td>
<td>10 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Institutional</td>
<td>25 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
<tr>
<td>Other</td>
<td>25 percent of site or development impact area</td>
<td>Site area minus building coverage of existing and proposed development</td>
</tr>
</tbody>
</table>

2. Required Tree Density. The required tree area shall be planted with some combination of large, medium or small canopy trees at the following rates:

<table>
<thead>
<tr>
<th>Canopy size category (at maturity)</th>
<th>Number of trees required per size of tree area</th>
<th>Min. required planting area per tree (min. dimension)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large</td>
<td>1 per 1,000 s.f.</td>
<td>150 s.f. (10' X 10')</td>
</tr>
<tr>
<td>Medium</td>
<td>1 per 500 s.f.</td>
<td>75 s.f. (5' X 5')</td>
</tr>
<tr>
<td>Small</td>
<td>1 per 300 s.f.</td>
<td>50 s.f. (3' X 3')</td>
</tr>
</tbody>
</table>

Refer to Chapter 11.60, Technical Specifications, to calculate tree canopy size categories. When the canopy size category of the tree species is not or cannot be determined, the tree will be considered a small canopy tree.

3. Tree Density Credits

a. Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.

b. Trees that are retained and protected, including trees preserved per Section 11.50.040, may be credited as follows:

(1) Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.
(2) Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.

c. Payment in lieu of planting. The applicant may pay a fee to the Tree Planting and Preservation Fund per Section 11.15.010 equivalent to the cost of planting and establishing one 1.5-inch caliper tree. The fee per tree shall be credited at a rate of one medium canopy size tree.

d. On sites less than or equal to 3,000 square feet, healthy non-nuisance species trees planted or retained in the street planting strip may be credited as described in this Subsection.

11.50.060 Street Tree Planting Standards. [No Change]

11.50.070 Tree Plan Submittal Requirements. [No Change]

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal. [No Change]
Restrict bulk fossil fuel terminals. (Ordinance; Amend Title 33, Planning and Zoning)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. The rapid development of fossil fuel resources in the western U.S. and Canada has resulted in numerous facility and infrastructure projects proposed to transport coal, diluted bitumen, natural gas, propane or other fossil fuels through the West Coast.

2. Fossil fuels pose risks to safety, health, and livability, including mobility of people, other freight, and other commercial vehicles.

3. The Portland Bureau of Emergency Management’s Mitigation Action Plan (MAP) identifies how natural hazard events like floods, landslides, and earthquakes might affect the City of Portland. The Portland area has experienced numerous earthquakes in the past, ranging from Magnitude 4.5 to 9.0. Portland is certain to experience seismic events in the future. Many of Portland’s fossil fuel storage tanks were built before seismic design requirements in building codes were adopted.

4. Most of Portland’s employment and industrial zones are located in areas with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management’s Critical Energy Infrastructure Hub Study (2016). Fossil fuel infrastructure poses considerable risks in the event of a major earthquake.

5. The extraction and combustion of fossil fuels are significant sources of greenhouse gas emissions and major contributors to climate change and pollution.

6. Coal contains toxic heavy metals, including mercury, arsenic and lead, and exposure to these toxic heavy metals is linked to cancer, birth defects and other health problems.

7. A Union Pacific train carrying oil from North Dakota to Tacoma derailed in Mosier, Oregon on June 3, 2016, spilling 42,000 gallons of crude oil, igniting a fire, and leading to the evacuation of one-quarter of the town’s residents.

8. Tribal communities in Oregon and Washington have expressed concerns about the safety risks of fossil fuel infrastructure and the related threats to human health, cultural heritage, and environmental quality.

9. The City’s 2015 Climate Action Plan (adopted by Resolution 37135) identifies the need to establish a “fossil fuel export policy that considers lifecycle emissions, safety,
10. The City committed in its 2015 Climate Action Plan to advancing policy and programs to reduce local fossil fuel use both in the City’s own operations and through community-wide initiatives.

11. In Resolutions 36959 and 36962 adopted in 2012, the Council expressed opposition to coal trains traveling through Portland until a programmatic, comprehensive and area-wide Environmental Impact Statement and comprehensive Health Impact Assessment are completed.

12. Resolution 37168, adopted November 12, 2015, expressed the City Council’s opposition to the “expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways.” It also expressed the Council’s intent not to restrict improvements in safety, efficiency, or seismic resilience; the provision of service directly to end users; or infrastructure that will accelerate the transition to non-fossil fuel energy sources.

13. The 2035 Comprehensive Plan sets policy direction (Policies 4.75 and 4.76) to encourage disaster-resilient development and specifically to reduce natural hazard risks to critical energy and transportation infrastructure in Portland Harbor. Most of Portland’s employment and industrial zones are located in areas with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management’s Critical Energy Infrastructure Hub Study (2016).

14. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals, which does not implement the Council’s policy actions described in Findings 9 - 13 above.

15. As initial implementation of these policies, the proposed amendments create a new land use category and impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The amendments will prohibit new terminals and limit the expansion of existing terminals.

16. The amendments promote major benefits to human health and safety, environmental health and resilience, with minor impacts to economic prosperity and equity.

17. The amendments will restrict expansion at existing fuel terminals and prohibit new terminal development, potentially impacting associated job growth and tax revenue. At the same time, the code restrictions on fossil fuel terminal development will also limit potential financial risks from a major accident involving fossil fuel infrastructure.

18. The amendments will reduce the scale of low, but potentially catastrophic, safety risks associated with fossil fuel infrastructure, including explosive accidents at liquefied...
natural gas (LNG) and liquefied petroleum gas (LPG) facilities, and seismic risks of tank farms.

19. The amendments will limit expansion at existing fuel terminals and prohibit new terminal development, which may negatively impact associated middle-wage, industrial job growth that disproportionately benefits workers of color.

20. The amendments will restrict development of fossil fuel terminals consistent with City and State objectives on climate change and public safety. While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, substituting these fuels for higher-carbon fuels does not begin to approach the goal of an 80% reduction in carbon emissions by 2050 established in Portland’s Climate Action Plan or the State’s 75% goal.

21. The potential impacts of the code amendments on constraining the fossil fuel supply to meet regional demand is uncertain. Fossil fuel demand in this growing region has been relatively flat over the last 15 years. At best, the demand for fossil fuel may increase moderately, as indicated by trend-based forecasts, or may plateau and decline with a continued shift to other modes of transportation, more fuel efficient vehicles, electric vehicles, and other carbon reduction strategies.

22. In Resolution 37168, the City Council expressed support for accelerating the transition to non-fossil fuel energy sources. As part of that transition, the Oregon Department of Environmental Quality (ODEQ) is implementing the Oregon Clean Fuels Program, which requires a 10 percent reduction in average carbon intensity by 2025. Fuels that could be used to achieve the standards include ethanol, biodiesel, electricity, hydrogen, natural gas, propane, and biogas, which may require additional storage capacity. In order to facilitate implementation of the Clean Fuels Program, non-fossil fuel storage tanks are not subject to the capacity limits.

**Findings on Statewide Planning Goals**

23. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.

24. **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:
   a. The Bureau of Planning and Sustainability maintained and updated as needed a project web site that included basic project information, announcements of public events, project documents and staff contact information.
   b. On June 29, 2016, the Fossil Fuel Terminal Zoning Amendments Discussion Draft was published and posted on the Bureau website.
   c. On August 8, 2016, notice of the proposed action was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-
acknowledgement review process required by OAR 660-18-020. DLCD received the notice later that day.

d. On August 12, 2016, the Fossil Fuel Terminal Zoning Amendments Proposed Draft was published and posted on the Bureau website.

e. On August 12, 2016, notice of the Planning and Sustainability Commission hearing on the Fossil Fuel Terminal Zoning Amendments was mailed to 367 people, including all neighborhood and business associations, and all those who had requested notice, as required by state law and administrative rules and the City’s zoning code. The notice also announced the availability of the Fossil Fuel Terminal Zoning Amendments Proposed Draft.

f. On September 13, 2016, the Planning and Sustainability Commission held a hearing on the proposal. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.

g. On September 20, 2016, the City Council held a work session on the Fossil Fuel Terminal Zoning Amendments.

h. On October 11, 2016, the Planning and Sustainability Commission voted to recommend the Fossil Fuel Terminal Zoning Amendments to City Council, including PSC-recommended modifications to the Proposed Draft.

i. On October 24, 2016, the Fossil Fuel Terminal Zoning Amendments Recommended Draft was published and posted on the Bureau website.

j. On October 25, 2016, notice of the City Council hearing on the Fossil Fuel Terminal Zoning Amendments was mailed to 1,123 people. The notice also announced the availability of the Fossil Fuel Terminal Zoning Amendments Recommended Draft.

k. On November 10, 2016, City Council held a hearing on the Planning and Sustainability Commission recommendation for the Fossil Fuel Terminal Zoning Amendments. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.

l. On November 16, 2016, City Council held a second hearing on the Fossil Fuel Terminal Zoning Amendments.

m. On December 8, 2016, voted to adopt the Zoning Code changes in the Fossil Fuel Terminal Zoning Amendments.

25. **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.

   a. The process for adopting the amendments followed the procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610.

   b. The applicable approval criteria for zoning code text amendments (33.835 Goal, Policy, and Regulation Amendments) are satisfied for the reasons explained in the findings below.

   c. The amendments meet relevant goals and policies of the City’s adopted Comprehensive Plan as described in the findings below for Portland’s Comprehensive Plan Goals and Policies;
d. The amendments are based on an identification of issues and problems as described in the general findings and in the project report and supporting documents contained in Exhibit A.

e. The amendments support this goal because the code changes provide use limitations for Bulk Fossil Fuel Terminals consistent with the City’s adopted Comprehensive Plan.

f. The amendments also support this goal because development of the changes followed established city procedures for legislative actions, while also improving the clarity and comprehensibility of the City’s codes.

26. **Goal 7, Natural Hazards**, requires reducing risk to people and property from natural hazards. The amendments support this goal because help limit the risks of storing large volumes of hazardous materials in an area with moderate to high susceptibility to an earthquake.

27. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.

28. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. Goal 12 is implemented by the Transportation Planning Rule (TPR), which requires certain findings if a proposed regulation will significantly affect an existing or planned transportation facility. Under OAR 660-012-0060(1), a land use regulation amendment significantly affects a transportation facility if it would:

   (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
   (b) Change standards implementing a functional classification system; or
   (c) As measured at the end of the planning period identified in the adopted transportation system plan:
      (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
      (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
      (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
a. These amendments do not change the functional classification of an existing or planned transportation facility, nor change standards that implement a functional classification system.
b. These amendments create a new land use category, but impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of existing terminals.
c. Given the new prohibitions and limits on expansion, the amendments will not reduce or worsen the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
d. For the same reason, these changes will not have a significant effect on existing or planned transportation facilities because the proposed amendments are minor changes to the allowed uses in industrial uses, and will not increase development intensity in a manner that will be inconsistent with the function or classification of existing transportation facilities or increase automobile traffic.
e. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.

29. **Goal 15, Willamette River Greenway**, requires protection of the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. The amendments support this goal because they minimize risks to natural, scenic and historic qualities along the river by restricting the storage of large volumes of hazardous materials in liquefaction zones near the river. The amendments prohibit new fossil fuel terminals, which will minimize potential risk to people and the environment by requiring any new terminal to be located outside of the liquefaction zone away from the greenway.

**Findings on Metro Urban Growth Management Functional Plan**

30. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. The amendments support Title 4 because they do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland.
Findings on Portland's Comprehensive Plan Goals

31. Since the adopted 2035 Comprehensive Plan is not yet effective, the proposed amendments are evaluated below for consistency with the City's existing, effective, and acknowledged Comprehensive Plan. Only the Comprehensive Plan goals addressed below are relevant and apply.

32. **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 notification of the proposals, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development consistent with ORS 197.610, and to Metro, Tri-Met, the Port of Portland, and the Oregon Department of Transportation consistent with 33.740.020. Nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

33. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The zoning code amendments will have minimal impact on Portland as the region's major employment center because there are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland.

34. **Policy 2.14, Industrial Sanctuaries**, calls for providing industrial sanctuaries and encouraging the growth of industrial activities by preserving industrial land primarily for manufacturing purposes. The amendments are consistent with this policy because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not significantly affect the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.

35. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendments are consistent with this goal because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones.

36. **Policy, 5.1, Urban Development and Revitalization**, encourages investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities. Objectives A and C specifically call for ensuring a sufficient supply of commercially and industrially-zoned, buildable
land, and retaining industrial sanctuary zones and maximizing use of infrastructure and intermodal transportation linkages with and within these areas. The zoning code amendments support this policy and objectives and will not affect the City’s supply of land for economic development and employment growth because there are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.

37. **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. These amendments support this goal for the following reasons:

   a. These changes will not have a significant effect on existing or planned transportation facilities because the proposed amendments are minor changes to the allowed uses in industrial zones, and will not increase development intensity in a manner that will be inconsistent with the function or classification of existing transportation facilities or increase automobile traffic.

   b. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland, so there is no impact to the city’s transportation system.

   c. These amendments create a new land use category, but imposes prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of existing terminals.

   d. Given the new prohibitions and limits on expansion, the amendments will not reduce or worsen the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

38. **Policy 6.9, Freight Classification Descriptions**, calls for designating a system of truck streets, railroad lines, and intermodal freight facilities that support local, national, and international distribution of goods and services. The amendments do not change the designation of any element of the city’s freight system.

39. **Policy 6.18, Adequacy of Transportation Facilities**, calls for ensuring that amendments to land use regulations that change allowed uses are consistent with the identified function and capacity of, and adopted performance measures for, affected transportation facilities. This ordinance amends the zoning code to create a new land use category, but imposes prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of
existing terminals. Therefore, consistency with the identified function and capacity of transportation facilities is not impacted.

40. **Policy 6.29, Multimodal Freight System**, calls for developing and maintaining a multimodal freight transportation system for the safe, reliable, and efficient movement of goods within and through the City. The amendments do not change the designation of any element of the city’s freight system.

41. **Goal 7, Energy**, calls for promoting a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000. **Policy 7.8, Energy Supply**, calls for supporting environmentally acceptable, sustainable energy sources, especially renewable resources such as solar, wind, hydroelectric, geothermal, and biomass (wood, farm and municipal waste). These amendments support a transition to non-fossil fuel energy sources by not including non-fossil fuel storage tanks in the storage capacity limits.

42. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland’s air, water and land resources and protecting neighborhoods and business centers from detrimental noise pollution. **Policy 8.11, Special Areas, H. Willamette River Greenway** calls for the protection of the natural and economic qualities of lands along the Willamette River through the Willamette Greenway Plan. The amendments support this goal because they minimize or even reduce risks to natural and economic qualities along the river by restricting the storage of large volumes of hazardous materials in liquefaction zones near the river. The amendments prohibit new fossil fuel terminals, which will minimize potential risk to people and the environment by requiring any new terminal to be located outside of the liquefaction zone away from the greenway.

43. **Goal 10, Plan Review and Administration**, calls for the periodic review so that the Comprehensive Plan and implementing ordinances remain an up-to-date and workable framework for land use development. **Policy 10.6, Amendments to the Comprehensive Plan Goals, Policies, and Implementing Measures**, requires that all proposed amendments to implementing ordinances be reviewed by the Planning and Sustainability Commission prior to action by the City Council. These amendments support this policy. The Planning and Sustainability Commission reviewed these amendments at a public hearing on September 13, 2016 and made a recommendation on October 11, 2016, to action by the City Council.

44. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires that amendments to the zoning and subdivision regulations be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. The amendments are consistent with this policy and its objectives as follows:

a. The amendments address a present land use and development situation. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals and without consideration
of liquefaction hazards and public safety. These amendments create a new land use category and impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The amendments will prohibit new terminals and limit the expansion of existing terminals.

b. The amended regulation is simple and concise by using clear and objective standards and not requiring a discretionary land use review for the limited expansion of an existing terminal.

NOW THEREFORE, The Council directs:

a. Adopt Fossil Fuel Terminal Zoning Amendments, Recommended Draft dated October 24, 2016, attached as Exhibit A.

b. Adopt the commentary in Exhibit A, Fossil Fuel Terminal Zoning Amendments, Recommended Draft, dated October 24, 2016, as legislative intent and further findings.

c. Amend Title 33, Planning and Zoning, as shown in Exhibit A, Fossil Fuel Terminal Zoning Amendments, Recommended Draft, dated October 24, 2016.

d. The Bureau of Planning and Sustainability shall report to City Council no later than December 31, 2019 on the implementation of this ordinance, including:
   - the number and description of any requests by existing terminal operators to replace and expand their facilities;
   - the number and description of building permits issued for fossil fuel tanks between 200,000 and 2 million gallons;
   - the trends in fossil fuel energy use and non-fossil energy use in Oregon;
   - the status of local and state regulatory proceedings that may improve seismic resilience of fossil fuel storage infrastructure; and
   - information on compliance with the Oregon Clean Fuels Program.

e. City Bureaus, including BDS, PBEM and Fire, shall work with the State of Oregon to develop policy options to require seismic upgrades of storage tanks within a firm deadline for replacement of older, unsafe tanks.

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.
Passed by the Council: DEC 14 2016

Mayor Charles Hales

Prepared by: T. Armstrong and M. Armstrong
Date Prepared: October 24, 2016

Mary Hull Caballero
Auditor of the City of Portland
By
Deputy
Restrict bulk fossil fuel terminals. (Ordinance: Amend Title 33, Planning and Zoning).

<table>
<thead>
<tr>
<th>INTRODUCED BY</th>
<th>COMMISSIONER APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner/Auditor:</td>
<td>Charlie Hales</td>
</tr>
<tr>
<td>Mayor—Finance and Administration - Fritz</td>
<td></td>
</tr>
<tr>
<td>Position 1/Utilities - Fritz</td>
<td></td>
</tr>
<tr>
<td>Position 2/Works - Fish</td>
<td></td>
</tr>
<tr>
<td>Position 3/Affairs - Saltzman</td>
<td></td>
</tr>
<tr>
<td>Position 4/Safety - Novick</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUREAU APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau: Planning and Sustainability</td>
</tr>
<tr>
<td>Bureau Head: Susan Anderson</td>
</tr>
<tr>
<td>Prepared by: Tom Armstrong</td>
</tr>
<tr>
<td>Date Prepared: 10/21/2016</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CLERK USE: DATE FILED</th>
<th>01.11.2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>By:</td>
<td>Mary Hull Caballero</td>
</tr>
<tr>
<td>Auditor of the City of Portland</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ACTION TAKEN:</th>
<th>CONTINUED TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOV 9 2016</td>
<td>NOV 16 2016</td>
</tr>
<tr>
<td>9:30 A.M.</td>
<td>2 P.M.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Portland Policy Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed: Yes</td>
</tr>
<tr>
<td>Amends Budget: No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City Auditor Office Approval:</th>
</tr>
</thead>
<tbody>
<tr>
<td>required for Code Ordinances</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City Attorney Approval:</th>
</tr>
</thead>
<tbody>
<tr>
<td>required for contract, code, easement, franchise, comp plan, charter</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Council Meeting Date</th>
<th>11/10/2016</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>AGENDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIME CERTAIN:</td>
</tr>
<tr>
<td>Start time: 2:00pm</td>
</tr>
<tr>
<td>Total amount of time needed: 3 hours</td>
</tr>
<tr>
<td>(for presentation, testimony and discussion)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONSENT:</th>
</tr>
</thead>
<tbody>
<tr>
<td>------</td>
</tr>
<tr>
<td>REGULAR:</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>Total amount of time needed:</td>
</tr>
<tr>
<td>(or presentation, testimony and discussion)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGENDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOUR-FIFTHS AGENDA</td>
</tr>
<tr>
<td>COMMISSIONERS VOTED AS FOLLOWS:</td>
</tr>
<tr>
<td>YEAS</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>1. Fritz</td>
</tr>
<tr>
<td>2. Fish</td>
</tr>
<tr>
<td>3. Saltzman</td>
</tr>
<tr>
<td>Hales</td>
</tr>
</tbody>
</table>

| Time Certain | Dec 08 2016 Rescheduled to Dec 14 2016 10:15 a.m. |
Exhibit A

City of Portland, Oregon
December 14, 2016
Ordinance No. 188142

Fossil Fuel Terminal Zoning Amendments
As Adopted

City of Portland, Oregon
December 14, 2016
Ordinance No. 188142
The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.
Table of Contents

1. Introduction ............................................................................................................................................. 1
2. Policy direction ......................................................................................................................................... 7
3. Public and stakeholder involvement ...................................................................................................... 12
4. Background conditions ........................................................................................................................... 15
5. Code concepts and analysis ................................................................................................................... 25
6. Zoning code changes .............................................................................................................................. 33
7. Other implementation recommendations ............................................................................................... 52

Appendix A. Stakeholder focus group results ............................................................................................. 53

Table of Figures

Figure 1. Increasing U.S. energy production ................................................................................................. 2
Figure 2. Examples of recent fossil terminal proposals in the Pacific Northwest ........................................ 3
Figure 3. Existing fossil fuel terminals in Northwest Portland ..................................................................... 4
Figure 4. Summary themes of stakeholder focus group comments ........................................................... 14
Figure 5. Oregon energy consumption estimates, 2014 ............................................................................. 15
Figure 6. U.S. energy production and consumption projections to 2040 ................................................... 16
Figure 7. Estimated storage capacity at existing and proposed fuel terminals .......................................... 17
Figure 8. Soil liquefaction susceptibility map of Portland ......................................................................... 22
Figure 9. Calculation of storage expansion limitations considered .......................................................... 31
Figure 10. Stakeholder Focus Group Participants, June 2016 ................................................................. 65
Acknowledgments

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

**Bureau of Planning and Sustainability**
Charlie Hales, Mayor, Commissioner-in-charge
Susan Anderson, Director
Joe Zehnder, Chief Planner

**Project Staff**
Michael Armstrong, Research and Operations Manager
Tom Armstrong, Supervising Planner
Steve Kountz, Senior Economic Planner
Shannon Buono, Senior Planner
Nick Kobel, Associate Planner
Jonathan Morales, Community Service Aide
1. Introduction

In recent years, the rapid development of fossil fuel resources in the Western United States and Canada has prompted many proposals in the Pacific Northwest for new large fuel terminals and infrastructure projects. In early 2015, Pembina Pipeline Corporation proposed a propane terminal in Portland that drew substantial public opposition. Mayor Charlie Hales withdrew a proposed zoning code amendment that the development needed to move forward, effectively blocking that proposal. In November 2015, Portland City Council adopted Resolution 37168 calling for opposition to expansion of fossil fuel infrastructure. In June 2016, City Council adopted the 2035 Comprehensive Plan, which included Policy 6.48 to limit fossil fuel distribution and storage facilities to those needed to serve the regional market. This code-change project begins to implement the policy direction in the resolution by restricting development and expansion of bulk fossil fuel terminals.

Project summary

The Fossil Fuel Terminal Zoning Amendments project would restrict the development and expansion of Bulk Fossil Fuel Terminals.

Adopted zoning code amendments:

- Identify “Bulk Fossil Fuel Terminals” as a regulated land use, characterized by (a) marine, railroad, or pipeline transport access and (b) either storage capacity exceeding 2 million gallons or transload facilities (such as rail-to-ship loading).
- Prohibit new Bulk Fossil Fuel Terminals in all base zones.
- Classify existing Bulk Fossil Fuel Terminals in industrial and general employment zones as “limited uses” that can continue to operate. Expansion of fossil fuel storage at these existing terminals would be prohibited.

Why is this important?

Fossil fuel distribution policy – New policy directions adopted by City Council in November 2015 and in the 2035 Comprehensive Plan would limit fossil fuel distribution and storage facilities to those serving the regional market. City Council adopted these policies after holding public hearings and hearing testimony from hundreds of Portlanders.

Climate action goals – Fossil fuels are major contributors to climate change and pollution. The rapid development of fossil fuel resources in the Western United States and Canada has prompted many recent proposals for new export terminals in the Pacific Northwest. The City’s Climate Action Plan seeks to reduce greenhouse gas emissions with fossil fuels being the largest source of emissions.

Public safety and environmental protection – Several recent accidents involving fossil fuel distribution across the nation and in Oregon highlight public safety risks in cities and environmental risks along rivers. Most of Portland’s industrial areas have moderate-to-high liquefaction susceptibility in a major earthquake.
Oregon’s industrial and distribution center – Portland is Oregon’s largest, most diverse distribution hub, and existing Portland petroleum terminals serve more than 90 percent of the statewide market. Adopted code changes would restrict the expansion of these facilities in Portland.

Project scope and timing

The energy distribution market in the Pacific Northwest is changing. Production of crude oil and natural gas, particularly from North Dakota, has substantially increased in the U.S. since 2009, as shown in Figure 1. In turn, several large new fuel distribution terminals have been proposed in the Pacific Northwest to access West Coast and export markets, as shown in Figure 2. Similar trends have occurred in Alberta and British Columbia.

This project is proposing a prompt, focused response to these market changes. The adopted code amendments will restrict development of new fossil fuel terminals and limit the expansion of existing terminals, consistent with City and State objectives on climate change and public safety.

Where are Portland’s existing fossil fuel terminals?

Portland’s industrial districts are Oregon’s largest seaport, rail hub and truck distribution center. The Northwest Industrial District in Portland is also the end of the Olympic Pipeline, which supplies most of Oregon’s petroleum fuels from Puget Sound refineries. The ten petroleum terminals located in Northwest Portland are the gateway distribution facilities serving Oregon and Southern Washington markets. Additionally, NW Natural’s GasCo terminal provides peak-consumption storage of natural gas for much of the regional market. In Northwest Portland, these “tank farm” storage facilities have direct access to pipeline, deep-water port, railroad and truck route infrastructure. Several other smaller fossil fuel distribution facilities are also located in Portland.

Figure 1. Increasing U.S. energy production

United States total energy production (2000-2015) quadrillion Btu

Source: U.S. Energy Information Administration, 2016
Figure 2. Examples of recent fossil terminal proposals in the Pacific Northwest

<table>
<thead>
<tr>
<th>Operator</th>
<th>Facility type</th>
<th>Location</th>
<th>Proposed new storage capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Petroleum fuels</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vancouver Energy</td>
<td>Crude oil terminal</td>
<td>Vancouver WA</td>
<td>2,160,000</td>
</tr>
<tr>
<td>Imperium Renewables</td>
<td>Biofuels terminal</td>
<td>Grays Harbor WA</td>
<td>720,000</td>
</tr>
<tr>
<td><strong>Gaseous fuels</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon LNG terminal</td>
<td>New LNG terminal</td>
<td>Warrenton OR</td>
<td>84,000,000</td>
</tr>
<tr>
<td>Jordan Cove LNG</td>
<td>New LNG terminal</td>
<td>Coos Bay OR</td>
<td>84,000,000</td>
</tr>
<tr>
<td>Pembina</td>
<td>Propane terminal</td>
<td>Portland</td>
<td>35,000,000</td>
</tr>
<tr>
<td>Haven Energy</td>
<td>Propane terminal</td>
<td>Longview WA</td>
<td>23,000,000</td>
</tr>
<tr>
<td><strong>Coal</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Millennium Bulk Terminal</td>
<td>Coal terminal</td>
<td>Longview WA</td>
<td>~20</td>
</tr>
<tr>
<td>Ambre Energy</td>
<td>Coal transload facility</td>
<td>St. Helens OR</td>
<td>no storage</td>
</tr>
<tr>
<td>Gateway Pacific Terminal</td>
<td>Coal terminal</td>
<td>Bellingham WA</td>
<td>80</td>
</tr>
</tbody>
</table>

Five petroleum terminals are located in the Willbridge area of NW Portland.
Figure 3. Existing fossil fuel terminals in Northwest Portland
City Council review and recommendations

The City Council held a public hearing on November 6, 2016, which was extended to November 13, 2016, and made the following seven changes to the Planning and Sustainability Commission’s Recommended Draft in response to issues raised in testimony.

1. Technical correction to clarify that truck only terminals are not Bulk Fossil Fuels Terminals.
2. Changes to clarify that fuel storage for airports, marine servicing facilities and rail yards are not Bulk Fossil Fuel Terminals.
3. Clarification to the definition of Fossil Fuels by specifying that non-fuel petroleum-based products, such as asphalt and lubricants, are not fossil fuels.
4. Amendments to the ordinance to provide additional direction for follow-up actions, including reporting back to City Council by 2019 on trends in terminal permitting, fuel consumption, seismic code changes, and Clean Fuels Program compliance.
5. Changes to the description of limited use to include references to storage “tank” capacity and to prohibit the storage of coal (outside of tanks).
6. Deletion of the allowance for up to 10% expansion of existing terminals with seismic Upgrade replacement of older storage tanks.
7. Amendments to the ordinance and findings based on these amendments.

The City Council considered and did not act on a draft amendment to allow 10% expansion of existing terminals for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program.

Terminal storage capacity threshold – PSC review and recommendations

The Planning and Sustainability Commission (PSC) held a public hearing on September 13, 2016, and made three changes to the Proposed Draft in response to issues raised in testimony.

1. Terminal storage capacity threshold – The size threshold to distinguish Bulk Fossil Fuel Terminals was reduced from 5 million to 2 million gallons of storage, in order to include facilities that are large enough to unload unit trains. This change would also include and restrict smaller existing fuel distributors.
2. Ownership aggregation - Code language was added to prevent the aggregation of new facilities smaller than 2 million gallons into a larger terminal that could effectively circumvent the terminal storage capacity threshold.
3. Expansion of existing terminals - Existing terminals were reclassified from a “nonconforming use” to a “limited use,” which accommodates seismic upgrades and limits expansion to (a) include replacement of existing tanks, (b) no more than 10 percent of the capacity of replaced tanks, and (c) no more than 10 percent of the total terminal capacity in 2016. A public notification requirement was also added for new tanks.

The PSC considered and did not act on NW Natural’s request to exempt regulated utilities.
What’s in this report?

This report describes the content, summary background information, and legislative process of the Fossil Fuel Terminal Zoning Amendments as adopted by the Portland City Council. This report consists of seven parts:

- **Section 1** introduces the code-change project.
- **Section 2** describes how the adopted code changes implement City policies in Resolution 37168 and the 2035 Comprehensive Plan.
- **Section 3** summarizes public and stakeholder involvement activities that have helped shape and inform this project.
- **Section 4** describes background conditions that inform the adopted zoning changes.
- **Section 5** describes the analysis of adopted zoning concepts, including related policy directions, implementation issues and rationale.
- **Section 6** specifies the draft code language, along with code commentary pages that clarify expected implementation.
- **Section 7** recommends future implementation directions for building code amendments to address seismic resilience and periodic monitoring for code effectiveness.
2. Policy direction

Section 2 describes how the adopted code changes implement relevant City policies in Resolution 37168 and the Comprehensive Plan.

City of Portland Fossil Fuel Resolution 37168

BE IT RESOLVED, that the City Council will actively oppose expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways; and

The adopted zoning code changes are a key implementation action of Resolution 37168, adopted in November of 2015. Addressing the overall direction of the resolution to oppose expansion of fossil fuel distribution and storage infrastructure, this project proposes to restrict development and expansion of bulk fossil fuel terminals.

BE IT FURTHER RESOLVED, that this Resolution does not restrict:
1. improvements in the safety, or efficiency, seismic resilience, or operations of existing infrastructure;
2. the provision of service directly to end users;
3. development of emergency backup capacity;
4. infrastructure that enables recovery or re-processing of used petroleum products; or
5. infrastructure that will accelerate the transition to non-fossil fuel energy sources; and

The adopted code changes address exceptions 2 and 4 in the Resolution through specific exclusions of end-user facilities and recovery or re-processing of used petroleum products from the adopted new land use restrictions on Bulk Fossil Fuel Terminals. Also, storage capacity for non-fossil fuels, such as ethanol, is not subject to these restrictions, which could help with the transition to non-fossil fuel energy sources under the State of Oregon’s Clean Fuels Program (exception 5). Responding to testimony and information presented in this project, City Council opted for a more restrictive approach than the exceptions for seismic resilience improvements (1) and development of emergency backup capacity (3) by prohibiting expansion of fossil fuel storage at existing fuel terminals.

BE IT FURTHER RESOLVED, that City bureaus are directed to examine existing laws, including those related to public health, safety, building, electrical, nuisance, and fire codes, and develop recommendations to address fossil fuels that strengthen public health and safety; and

The resolution broadly addresses fossil fuel infrastructure. The zoning code regulates land use patterns and development of fossil fuel distribution facilities on parcels. Zoning does not regulate the quantity of products handled (throughput) on developed sites or their destination (such as exports). Additional amendments to building, fire and energy codes would need to be addressed in future projects.
BE IT FURTHER RESOLVED, that the Bureau of Planning and Sustainability is directed to develop proposed code changes for Council consideration to advance the policies set forth in this Resolution; and

The project specifically implemented this provision of the resolution.

BE IT FURTHER RESOLVED, that prior to any further Council action, the mayor shall schedule (1) a work session to review any proposed code changes and (2) an executive session to review the legal considerations of any proposed code changes; and

The project implemented this process requirement of the resolution.

BE IT FURTHER RESOLVED, that the Bureau of Planning & Sustainability shall undertake an analysis of the economic impacts of any proposed Code changes to advance the policies set forth in this resolution, with a particular focus on potential impacts to local blue-collar jobs; and

This report includes summary analysis of economic impacts in Section 4, specifically addressing impacts on middle-wage blue collar jobs. Analysis to date is limited on the potential impacts on fuel supply to meet regional demand. Fossil fuel demand in this growing region may increase moderately, as indicated by trend-based forecasts, or may plateau and decline with implementation of climate resilience goals and strategies.

BE IT FURTHER RESOLVED, that the City and applicable bureaus shall seek and identify opportunities to invest in Portland’s ‘human infrastructure’ by supporting programs to retrain our workforce as the city transitions to a clean energy economy; and

This provision of the resolution is expected to be implemented as a future action.

BE IT FURTHER RESOLVED, that the City shall consult with its Tribal Government Partners, the State of Oregon, local governments, and other key stakeholder including labor, business, environment, neighborhoods and communities of color in advancing this policy;

The Mayor’s Office staff has sought input from the entities identified above to implement this process requirement of the resolution.

Guiding principles of the 2035 Comprehensive Plan

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

Economic prosperity

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

The adopted code changes will prohibit fossil fuel storage expansion at existing terminals and prohibit new terminal development, impacting associated job growth and tax revenue. The adopted code
restrictions on fossil fuel terminal development would also limit potential financial risks from a major accident involving fossil fuel infrastructure.

**Human health**

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

Major benefit – The adopted code changes will reduce the scale of low, but potentially catastrophic, safety risks associated with the growth of fossil fuel infrastructure, including oil train derailments, explosive accidents at liquefied natural gas (LNG) and liquefied petroleum gas (LPG) facilities, and seismic risks of tank farms. Fossil fuel emissions and coal dust are also significant sources of air pollution associated with respiratory disorders.

**Environmental health**

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

Major benefit – The human health benefits described above also extend to environmental health. The adopted code changes will reduce the scale of environmental health risks associated with the growth of fossil fuel infrastructure, including oil train derailments along the Columbia River, LNG and LPG facilities in riparian areas, and seismic risks of tank farms along the Willamette River. Fossil fuel emissions are also a significant source of air pollution.

**Equity**

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

The adopted code changes will prohibit expansion at existing fuel terminals and prohibit new terminal development, impacting associated middle-wage, industrial job growth that disproportionately benefits workers of color. Restricting potential increases in regional supply of fossil fuels could also have regressive impacts of increasing fuel costs, disproportionately affecting lower-income people.

**Resilience**

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

Major benefit – The adopted code changes will restrict development of fossil fuel terminals consistent with City and State objectives on climate change and public safety. While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, substituting these fuels for higher-carbon fuels does not begin to approach the goal of an 80% reduction in carbon emissions by 2050 established in Portland’s Climate Action Plan or the State’s 75% goal.
2035 Comprehensive Plan policies specifically implemented in this project

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

Overall project direction: Fossil fuel distribution

Policy 6.48 Fossil fuel distribution. Limit fossil fuel distribution and storage facilities to those necessary to serve the regional market.

The adopted code changes will implement Policy 6.48 by restricting development and expansion of fossil fuel distribution terminals. Analysis to date on the potential impacts of code amendments in constraining fossil fuel supply to meet regional demand is limited. Fossil fuel demand in this growing region may increase moderately, as indicated by trend-based forecasts reviewed in Section 4, or may plateau and decline with implementation of climate resilience goals and strategies. The adopted code changes will limit the growth capacity of fossil fuel terminals in Portland to meet regional demand to new facilities with less than 2 million gallons of storage capacity and exempted end-user facilities (such as jet fuel storage for airport expansion).

Related policy directions

Policy 4.81 Disaster-resilient development. Encourage development and site-management approaches that reduce the risks and impacts of natural disasters or other major disturbances and that improve the ability of people, wildlife, natural systems, and property to withstand and recover from such events.

Policy 4.82 Portland Harbor facilities. Reduce natural hazard risks to critical public and private energy and transportation facilities in the Portland Harbor.

Policies 4.81 and 4.82 are partly met by prohibiting fuel terminal development in Portland’s industrial areas that are predominantly in locations with high susceptibility to soil liquefaction (see Figure 7 in Section 4). Adopted code changes do not allow for incremental expansion at existing terminals, which is one pathway to providing financial returns to cover improvement costs for safety improvements. Instead, a future code-change project is recommended in Section 7 to develop building code amendments that improve seismic resilience and require seismic upgrades comparable to proposed requirements on unreinforced masonry buildings.

Policy 6.2 Diverse and expanding economy. Align plans and investments to maintain the diversity of Portland’s economy and status as Oregon’s largest job center with growth across all sectors (commercial, industrial, creative, and institutional) and across all parts of the city.

Policy 6.5 Economic resilience. Improve Portland’s economic resilience to impacts from climate change and natural disasters through a strong local economy and equitable opportunities for prosperity.

Policy 6.6 Low-carbon and renewable energy economy. Align plans and investments with efforts to improve energy efficiency and reduce lifecycle carbon emissions from business operations. Promote employment opportunities associated with the production of renewable energy, energy
efficiency projects, waste reduction, production of more durable goods, and recycling.

The adopted code changes are consistent overall with the range of direction in Policies 6.2, 6.5 and 6.6, prohibiting development and expansion of new fossil fuel terminals that conflict with resilience and climate action goals. The adopted code changes will limit the growth capacity of fossil fuel terminals in Portland to new facilities with less than 2 million gallons of storage capacity and exempted end-user facilities (such as jet fuel storage for airport expansion).

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

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

*Policy 7.6 Energy Efficient Transportation. Provide opportunities for non-auto transportation including alternative vehicles, buses, light rail, bikeways, and walkways. The City shall promote the reduction of gasoline and diesel use by conventional buses, autos and trucks by increasing fuel efficiency and by promoting the use of alternative fuels.*

*Policy 7.8 Energy Supply. The City shall promote conservation as the energy resource of first choice. The City shall also support environmentally acceptable, sustainable energy sources, especially renewable resources such as solar, wind, hydroelectric, geothermal, biomass (wood, farm and municipal waste), cogeneration, and district heating and cooling.*

The adopted code changes are consistent with Policies 7.6 and 7.8, promoting the use of alternative energy sources by restricting development and expansion of fossil fuel terminals.

**2015 Climate Action Plan**

*Goal: Reduce local carbon emissions 80 percent from 1990 levels by 2050, with an interim goal of 40 percent by 2030.*

As described in Section 4, lower-carbon fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, but they do not approach the goal of an 80% reduction in carbon emissions by 2050 in Portland’s Climate Action Plan or the State’s 75% goal. Investments in major infrastructure typically take decades to recoup, and the transition to renewables needs to go much faster than that to stabilize global emissions. The adopted code changes are consistent with the 80% goal of the Climate Action Plan by restricting development of fossil fuel terminals.
3. Public and stakeholder involvement

Section 3 summarizes public and stakeholder involvement activities that have helped shape and inform this project. Stakeholder focus group results are further explained in Appendix A of this report.

What have we heard leading up to this project?

Public hearings at the Planning and Sustainability Commission and City Council on the Pembina terminal development proposal in 2014 and Resolution 37168 in 2015 drew testimony from hundreds of people. The overall theme of that testimony was strong objection to the Pembina project and support for the fossil fuel resolution. Primary reasons included the neighborhood safety and health risks and inconsistency with the City’s climate action objectives. The Resolution also drew letters with strong opposition from state and regional business associations.

Following adoption of the Resolution in November 2015, City Council added the related Policy 6.48 on fossil fuel distribution to the 2035 Comprehensive Plan, reflecting the recently adopted policy direction in the Resolution. Public involvement in the Comprehensive Plan Update included public hearings in April 2016 on City Council amendments and thousands of comments on the 2035 Comprehensive Plan over the previous 8 years. The adopted code amendments are consistent with several sustainability-related policies in the Plan. Addressing issues with policy tradeoffs, the 2035 Comprehensive Plan calls for a balanced, integrated approach to implement multiple goals. As described in Section 2, the adopted code amendments provide major benefits toward implementing three of the Plan’s five guiding principles and integrates consideration of the other two guiding principles.

Public involvement activities in this project

Extensive public comments were received on the Discussion Draft, Proposed Draft, and Recommended Draft, which influenced substantial changes between the adopted code changes and prior draft versions. Two overall themes of the public input include 1) extensive comments from residents, community groups and environmental advocates for a bold change in direction to oppose fossil fuel terminal development and 2) objections to the code changes by business, labor, and fuel industry representatives in order to accommodate regional growth, everyday fuel needs, and transition investments.

The City Council received emailed and verbal testimony from over 300 people who called generally for a “full ban” on new fossil fuel terminals and strengthened restrictions on expansion of existing terminals. Letters and verbal testimony were also provided by representatives of various organizations in support and opposition to the draft code changes, including environmental organizations, community groups, business groups, and fuel terminal operators. Testimony particularly focused on draft allowances for expansion of existing terminals.

The PSC also received emailed and verbal testimony from over 600 people generally calling for a full ban on new fossil fuel terminals and strengthened restrictions on expansion of existing terminals. While comments varied, predominant recommendations included removing the 5-million-gallon terminal size threshold and adding discretionary review criteria on expansion to address climate and safety impacts.
Similar testimony for more stringent restriction on fuel terminal development was submitted by 350PDX, Portland Audubon, Center for Sustainable Economy, Physicians for Social Responsibility, Columbia Riverkeeper, Columbia River Inter-Tribal Fish Commission, Sierra Club, Climate Solutions, League of Women Voters, and others. Additional themes of their comments and recommendations included support for a nonconforming use designation on fossil fuel terminals, new restrictions on ownership aggregation to prevent circumvention of the terminal size threshold, and support for additional building code requirements to improve seismic safety.

In contrast, testimony objecting to the draft restrictions on fuel terminal development were submitted by Portland Business Alliance, Port of Portland, Columbia Pacific Building and Construction Trades Council, NW Natural, Burlington Northern Santa Fe Railroad, Working Waterfront Coalition, Arc Terminals, Western States Petroleum Association, and others. Examples of their concerns included: inconsistency with the Resolution’s direction for various exemptions and economic impacts analysis; substantial growth is expected in the use of some fossil fuels (e.g., jet fuel, natural gas, transition fuels); and a request for exemption of public utilities that are already regulated to serve regional end users.

Likewise, comments on the Discussion Draft included extensive emailed comments for a full ban on fossil fuel terminals. Contrasting comments from business and labor organizations included opposition to recommended code changes, requests for more time and analysis, and clarifications to address practical considerations. Letters were received from NW Natural, Port of Portland, Columbia Pacific Building and Construction Trades Council, Kinder Morgan, Arc Terminals, and Western States Petroleum Association (WSPA). Some examples of comments included that growth rates will change over time, that fuels meeting Oregon’s Clean Fuel Standard should be excluded, inclusion of non-fuel methanol is inconsistent, and the economic analysis is cursory. WSPA submitted draft code language, including focusing terminal restrictions on extra-regional facilities beyond the West Coast (PADD V) region and a new Energy Corridor Overlay Zone that protects the historic energy cluster for infrastructure growth.

Public involvement in concept development for the project consisted primarily of four stakeholder focus groups, which were held in June 2016 to review preliminary code concepts and help identify and understand potential implementation issues. The focus groups highlighted the range of stakeholder perspectives and interests concerning recommended zoning changes. Figure 4 summarizes the themes of issues raised in the focus groups. Other outreach activities have included meetings with interagency partners, terminal operators, and other interested stakeholders. These activities and what we heard in them are further described in the appendix of this report.

**Inter-governmental coordination**

The Mayor’s Office staff has sought input from Tribal Government Partners to shape and inform the draft code amendments. An In-House Draft Report was circulated to inter-bureau partners in June 2016. Their comments have helped to shape and inform the Discussion Draft and subsequent drafts, particularly addressing code administration and legal limitations.
## Figure 4. Summary themes of stakeholder focus group comments

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>FUEL TERMINAL REPRESENTATIVES</th>
<th>ENVIRONMENTAL AND HEALTH ORGANIZATIONS</th>
<th>STATE AND REGIONAL BUSINESS ORGANIZATIONS</th>
<th>NEIGHBORHOOD AND EQUITY ORGANIZATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Key issues</strong></td>
<td>▶ We’ve operated safely for decades. We meet the federal/state low-carbon fuel standards.</td>
<td>▶ Looking for strong, model code. Expect community backlash if expectations not met.</td>
<td>▶ Resolution requires more research on economic impacts, etc.</td>
<td>▶ Safety and pollution are our priority. Look closely at seismic and explosion risks.</td>
</tr>
<tr>
<td></td>
<td>▶ Difficult to participate: very quick process; emotionally driven; antitrust restrictions.</td>
<td>▶ Safety needs to be integral with climate - Mosier oil train wreck; terminals in liquefaction soils.</td>
<td>▶ How will the code hold up in 5 years?</td>
<td>▶ A reasonable expectation for growth is smart.</td>
</tr>
<tr>
<td></td>
<td>▶ Unintended impacts: harder to meet clean fuel standards; more trucks on road; costs to rest of the state.</td>
<td>▶ Include disaster risks in economic analysis. Bonding or insurance for worst case.</td>
<td>▶ What is the goal? If climate or safety, zoning tool is not the right fit.</td>
<td>▶ This is aggressive. Without LNG, won’t China burn more coal?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>▶ Portland is not an economic island. Statewide impact.</td>
<td>▶ Rail safety in the Gorge is also a key issue that this can’t resolve.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>▶ Big political decision. Don’t rush it.</td>
<td></td>
</tr>
<tr>
<td><strong>New land use category</strong></td>
<td>▶ If unclear, permit staff could be pressured - unpredictable results.</td>
<td>▶ Regulate both existing and new facilities.</td>
<td>▶ Need clear definitions: region, export, end user.</td>
<td>▶ Why allow it in IG2?</td>
</tr>
<tr>
<td></td>
<td>▶ Use federal West Coast PADD 5 “region.”</td>
<td>▶ New code must effectively implement the policy.</td>
<td>▶ Do not make terminals non-conforming or an ambiguous limited use.</td>
<td>▶ A new export terminal in contaminated harbor is unlikely.</td>
</tr>
<tr>
<td><strong>Definition of fossil fuels</strong></td>
<td>▶ Natural gas considered a low carbon fuel by State, so why included here?</td>
<td>▶ Excluding methanol undermines policy.</td>
<td>▶ Federal and state are going a different direction, requiring cleaner fossil fuels. Why restrict cleaner fuels at cross purposes?</td>
<td>▶ Make way for bio-diesel as a cleaner fuel.</td>
</tr>
<tr>
<td></td>
<td>▶ Tomorrow’s cleaner fuels won’t meet today’s definitions.</td>
<td>▶ If end use is mostly fuel, then limit it.</td>
<td></td>
<td>▶ Methanol not a fuel in Oregon - overreaching.</td>
</tr>
<tr>
<td><strong>Terminal development restrictions</strong></td>
<td>▶ Some sites are already built-out.</td>
<td>▶ One new LNG tank is a big risk. So is coal.</td>
<td>▶ Don’t come at sideways. Unclear rationales will lead to appeals.</td>
<td>▶ Fuels are okay if they have no emissions.</td>
</tr>
<tr>
<td></td>
<td>▶ Our non-contiguous sites are connected by pipelines.</td>
<td></td>
<td>▶ Size limits would put region on “import diet.”</td>
<td>▶ Option C preferred.</td>
</tr>
<tr>
<td></td>
<td>▶ Can’t comment on size.</td>
<td></td>
<td>▶ Dated, low forecast.</td>
<td>▶ Allow for modest growth of LNG and oil; not coal.</td>
</tr>
</tbody>
</table>

**Terminal development restrictions**

- Some sites are already built-out.
- Our non-contiguous sites are connected by pipelines.
- Can’t comment on size.
4. Background conditions

This section of the report describes background conditions that inform the adopted zoning changes. Topics include access to energy, impacts on the economy, climate change impacts, and health and safety impacts of draft zoning code changes. Background information on changing energy markets in the Pacific Northwest and Portland’s existing fossil fuel terminals is included in the Section 1. Legal and policy background information is presented in Section 2.

Access to energy

Energy consumption in Oregon

Oregon residents and businesses rely on Portland’s fossil fuel distribution and storage facilities as a wholesale distribution hub to meet their energy consumption needs. Estimated state energy consumption by fossil fuels and other sources are shown in Figure 5. Residents and businesses in much of Southern Washington also rely on Portland terminals for access to fuels.

Figure 5. Oregon energy consumption estimates, 2014

Source: Energy Information Administration, State Energy Data System

Four refineries in the Puget Sound area supply nearly all of the petroleum fuels consumed in Oregon, delivered primarily through the Olympic Pipeline that terminates at the cluster of 10 petroleum terminals in Northwest Portland. From there, petroleum products are delivered to Oregon and Southern Washington markets via truck, pipeline and barge. NW Natural supplies natural gas to its Western Oregon market area and operates peak-consumption storage terminals in Northwest Portland.
and Newport. Thus, fossil fuel terminals in Portland are a primary statewide distribution hub for transportation fuels and natural gas.

**Energy consumption forecasts and the demand for additional storage capacity**

Analysis to date is limited on the energy consumption forecasts and how the adopted code changes would impact the demand for additional fossil fuel storage capacity. Fossil fuel demand in this growing region may increase moderately, as indicated by trend-based forecasts, or may plateau and decline with implementation of climate resilience goals and strategies. National forecasts of energy consumption by the U.S. Energy Information Administration show varying growth trajectories by energy type, including a relatively flat outlook for petroleum fuels, decline for coal, and moderate growth for natural gas and renewables (see Figure 6).

Liquid bulk cargo in Portland Harbor is projected to expand at a range of 0.5% to 1.0% average annual growth (AAG) to 2040 (BST Associates, 2012), providing an estimate of potential market expansion needs for petroleum fuels, which could mean a need for an additional 10-20% increase in storage capacity. However, based on this forecast, ECONorthwest (2012) estimated that there was no additional land needed for new liquid bulk terminals in Portland. The 1.9% average annual growth forecast to 2034 (NW Natural 2014 Integrated Resource Plan) provides an estimate of market expansion needs for natural gas distribution facilities.

**Figure 6. U.S. energy production and consumption projections to 2040**

![U.S. energy consumption projections](source)

Even if regional fossil fuel demand follows trend-based local forecasts, there is a wide margin between the size of recently proposed crude oil, coal, and LNG terminals in the Pacific Northwest and the scale of expected growth of existing Portland fuel terminals that generally serve the regional market area, as shown in Figure 7.

Contradictory stakeholder comments were received that local growth projections are too high, too low, and could change substantially with market innovations. To address this uncertainty, periodic monitoring for code effectiveness is recommended in Section 7 as a future implementation project,
Figure 7. Estimated storage capacity at existing and proposed fuel terminals

<table>
<thead>
<tr>
<th>Operator</th>
<th>Facility type</th>
<th>Location</th>
<th>Site acres</th>
<th>Storage capacity</th>
<th>New Storage capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Petroleum fuels</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Portland terminals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chevron</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>21</td>
<td>1,600,000</td>
<td></td>
</tr>
<tr>
<td>Kinder Morgan Willbridge</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>33</td>
<td>1,551,000</td>
<td></td>
</tr>
<tr>
<td>Arc Logistics</td>
<td>Asphalt/crude oil</td>
<td>NW Portland</td>
<td>39</td>
<td>1,518,200</td>
<td></td>
</tr>
<tr>
<td>NuStar</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>22</td>
<td>1,191,000</td>
<td></td>
</tr>
<tr>
<td>McCall Oil</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>19</td>
<td>930,000</td>
<td></td>
</tr>
<tr>
<td>Conoco Phillips</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>21</td>
<td>760,000</td>
<td></td>
</tr>
<tr>
<td>BP West Coast</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>18</td>
<td>601,500</td>
<td></td>
</tr>
<tr>
<td>Kinder Morgan Linnton</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>13</td>
<td>420,000</td>
<td></td>
</tr>
<tr>
<td>Equilon/Shell</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>13</td>
<td>400,000</td>
<td></td>
</tr>
<tr>
<td>Pacific Terminal Services</td>
<td>Petroleum terminal</td>
<td>NW Portland</td>
<td>2</td>
<td>278,000</td>
<td></td>
</tr>
<tr>
<td>Recently proposed new terminals or reinvestment in Pacific NW</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vancouver Energy</td>
<td>Crude oil terminal</td>
<td>Vancouver WA</td>
<td>47</td>
<td>NA</td>
<td>2,160,000</td>
</tr>
<tr>
<td>Imperium Renewables</td>
<td>Biofuels terminal</td>
<td>Grays Harbor WA</td>
<td>11</td>
<td>NA</td>
<td>720,000</td>
</tr>
<tr>
<td>NuStar</td>
<td>Petroleum terminal</td>
<td>Vancouver WA</td>
<td>19</td>
<td>775,000</td>
<td>Reuse tanks</td>
</tr>
<tr>
<td><strong>Gaseous fuels</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Portland terminals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NW Natural GasCo</td>
<td>LNG plant/terminal</td>
<td>NW Portland</td>
<td>41</td>
<td>7,500,000</td>
<td>2035 forecast 3,428,000</td>
</tr>
<tr>
<td>Recently proposed natural gas terminals/storage in Pacific NW</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon LNG terminal</td>
<td>New LNG terminal</td>
<td>Warrenton OR</td>
<td>96</td>
<td>NA</td>
<td>84,000,000</td>
</tr>
<tr>
<td>Jordan Cove LNG</td>
<td>New LNG terminal</td>
<td>Coos Bay OR</td>
<td>400</td>
<td>NA</td>
<td>84,000,000</td>
</tr>
<tr>
<td>NW Natural North Mist</td>
<td>Gas reservoir storage</td>
<td>Mist OR</td>
<td>2,644</td>
<td>NA</td>
<td>2.5 Bcf gas</td>
</tr>
<tr>
<td>Other recent proposals (now inactive) for gaseous fuel terminals</td>
<td>LPG plant</td>
<td>Portland</td>
<td>38</td>
<td>NA</td>
<td>34,000,000</td>
</tr>
<tr>
<td>Pembina</td>
<td>Propane terminal</td>
<td>Portland</td>
<td>38</td>
<td>NA</td>
<td>34,000,000</td>
</tr>
<tr>
<td>Haven Energy</td>
<td>Propane terminal</td>
<td>Longview WA</td>
<td>24</td>
<td>NA</td>
<td>23,000,000</td>
</tr>
<tr>
<td>NW Innovation</td>
<td>Methanol plant</td>
<td>Kalama WA</td>
<td>83</td>
<td>NA</td>
<td>67,000,000</td>
</tr>
<tr>
<td><strong>Coal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Portland terminals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recently proposed coal terminals in Pacific NW</td>
<td>Coal terminal</td>
<td>Longview WA</td>
<td>100</td>
<td>NA</td>
<td>~20</td>
</tr>
<tr>
<td>Ambre Energy</td>
<td>Coal transload facility</td>
<td>St. Helens OR</td>
<td>NA</td>
<td>no storage</td>
<td></td>
</tr>
<tr>
<td>Gateway Pacific Terminal</td>
<td>Coal terminal</td>
<td>Bellingham WA</td>
<td>334</td>
<td>NA</td>
<td>80</td>
</tr>
</tbody>
</table>

Terminology: bbls = barrels, Dth = decatherms, LNG = liquified natural gas, LPG = liquified propane gas, Bcf = billion cubic feet, AAG = average annual growth.

Sources: Oregon DEQ for petroleum tank data. NW Natural 2014 Integrated Resource Plan for existing capacity and forecast at 1.9% AAG. BST, Portland Harbor Forecast (2012) for petroleum terminals at 1.0% AAG.
including monitoring for changes in regional fuel demand over time. The adopted code changes will limit the growth capacity of fossil fuel terminals in Portland to meet regional demand to new facilities with less than 2 million gallons of storage capacity and exempted end-user facilities (such as jet fuel storage for airport expansion).

**Impacts of draft code changes on the economy**

**Jobs and wages at Portland’s fuel terminals**

In 2014, the 11 existing fuel terminals in Portland shown in Figure 3 provided approximately 280 jobs at their sites and supported an estimated 720 total jobs in the metropolitan area. The annual payroll at those terminals was $23 million, which supported total personal income of about $92 million in the metropolitan area.

BPS calculated these supported employment and income estimates from the induced and indirect impacts from metropolitan area purchases by these firms and their employees. For example, the jobs of the Longshore Union workers who unload fuels from tankers at these fuel terminals are not counted as direct jobs at the terminal sites. The multipliers used for these calculations were estimated from the average employment and income effects of marine terminals in Portland (Martin Associates, 2012). The job and wage estimates were calculated from Quarterly Census of Employment and Wages (QCEW) data.

Portland’s industrial area jobs also have an important urban equity role in that they consist primarily of middle-wage jobs that do not require 4-year college degrees, which the overall economy has been losing since 2000. In contrast, jobs in commercial districts are concentrated primarily in low- and high-wage quartiles (fourths) of overall city employment. Middle-wage job growth supports the “income self-sufficiency” objectives of the Portland Plan and 2035 Comprehensive Plan (Policy 6.28) to expand access to self-sufficient wage levels.

Long-term job growth to 2035 is estimated at 1.6% average annual growth in the warehousing, transportation and utilities sector in Portland’s 2016 Economic Opportunities Analysis and Metro’s 2014 Urban Growth Report. Applying this growth rate to Portland’s existing fuel terminals, approximately 110 net new permanent jobs are expected between 2014 and 2035, which is the equivalent of about four new terminals at their current average size. The total metropolitan area job impact of this fuel terminal expansion would be approximately 290 new jobs by 2035. If fuel terminal job growth occurred at a slower 1.0% average annual rate, matching the forecast growth of liquid bulk cargo volumes in Portland Harbor, approximately 65 net new terminal jobs would be generated by 2035, supporting a total 170 new jobs in the metro area. Pembina’s proposed propane terminal in 2014 was estimated to create 30 to 40 new permanent jobs and 600-800 temporary construction jobs.

The adopted code changes will limit the growth capacity of fossil fuel terminals in Portland, along with resulting job and income growth, to new facilities with less than 2 million gallons of storage capacity and exempted end-user facilities.

**Tax revenues of new terminals**

State and local revenues from income and property taxes vary widely by facility. For example, property taxes on the depreciated improvements value of existing fuel terminals are much lower than new construction. If fuel terminals added 110 net new direct jobs by 2035 and the resulting state and local
tax revenues is typical of businesses and developed facilities in Portland’s Working Harbor (Martin Associates, 2016), the estimated new state and local tax revenues in fiscal year 2035 (in 2015 dollars) would be $1.6 million. In contrast, the proposed $500 million Pembina project was estimated to generate approximately $12 million in annual property tax revenue, reflecting the increased improvements value and property taxes of new construction.

The adopted code changes will limit the growth capacity of fossil fuel terminals in Portland, along with the resulting state and local tax revenue, to new facilities with less than 2 million gallons of storage capacity and exempted end-user facilities. Prohibiting large scale new terminals such as Pembina could result in similar levels of foregone property taxes. However, development of the limited land supply along Portland Harbor for new auto or grain terminals would also result in substantial local and state tax revenues, offsetting foregone taxes on new fossil fuel terminals.

**Growth opportunities in fossil fuel distribution**

The most recent cargo forecast for Portland Harbor in 2012 projected 1.0% AAG in liquid bulk tonnage to 2040 as a high scenario and 0.5% AAG as a low scenario (BST Associates, 2012). Based on this forecast, ECONorthwest (2012) estimated no additional land need for new liquid bulk terminals. Since 2012, several new fuel terminals have been proposed in the Pacific Northwest, as shown in Figure 2.

Updating the liquid bulk forecast at this point would be challenging for several reasons. Most of the recent fuel terminal proposals have since been abandoned or appear to be dormant. Policy and permitting uncertainty complicate the development feasibility of new terminals and transportation infrastructure. Crude oil prices have fallen sharply in 2015 and 2016, reducing the current market potential for major investments. Expanding global industrial product markets after the Great Recession slowed substantially in 2015. And energy distribution markets could change abruptly with continuing product innovations and location shifts in global production.

In the long term, Portland has competitive advantages for accommodating energy terminal development as a Pacific Rim gateway location to growing Asian markets, the Columbia River’s low-gradient railroad access for heavy cargo through the Cascades, and Oregon’s freight infrastructure hub. On the other hand, Portland’s industrial land supply for continuing growth is limited, and expanding cargo markets for autos, grain and dry bulks are competing for current growth capacity.

**Other economic impacts**

Energy infrastructure and terminal investments appear to have low but potentially catastrophic risks of major accidents, as described below. Examples include seismic resilience of petroleum terminals in the event of a Cascadia Subduction Zone earthquake, oil train derailments, explosions at LNG (liquefied natural gas) and LPG (liquefied petroleum gas, such as propane) facilities, and others.

**Clean Energy** is a target industry in the City of Portland. An emerging cluster of Portland area business activity in solar and wind energy manufacturing, green building development, and other fields of sustainable urban innovation present long-term business growth opportunities. Substantial local investment in fossil fuel infrastructure and large new terminals could hinder local growth momentum in Clean Energy industries.
Climate change impacts of draft code changes

Climate impact of fossil fuels
Fossil fuels are major contributors to climate change and pollution, as described in Portland’s 2015 Climate Action Plan. Greenhouse gas emissions from the burning of fossil fuels and land use changes, including deforestation, are primary causes of climate change. The Intergovernmental Panel on Climate Change’s most recent report documents the overwhelming evidence that human activities have been the major driver of recent warming of the Earth’s surface, and that climate change and its consequences will continue into the future (IPCC, 2013).

The magnitude of future climate impacts depends largely on the trajectory of future global greenhouse gas emissions. Greenhouse gas emissions from human activities have continued to rise in recent decades, reaching the highest rates in human history between 2000 and 2010 (IPCC, 2014). About half of all carbon dioxide emissions, the most prevalent greenhouse gas, between 1750 and 2010 occurred in the last 40 years. The energy, industry and transportation sectors have dominated these emissions increases. On the current trajectory, global transportation emissions will double by 2050.

Transition to “renewable” and “clean” fuels
The U.S. Environmental Protection Agency (USEPA) implements the federal Renewable Fuel Standard (RFS) that requires transportation fuel sold in the U.S. to contain a minimum volume of renewable fuels. The RFS originated with the Energy Policy Act of 2005 and was expanded and extended by the Energy Independence and Security Act of 2007 (EISA). Similarly, the Oregon Department of Environmental Quality (ODEQ) implements the Oregon Clean Fuel Program. ODEQ describes “clean fuel” as a fuel with a lower carbon intensity than that of the fuel it replaces.

Examples of “clean fuels” in Oregon’s program include most types of ethanol, biodiesel, natural gas, biogas, electricity, propane and hydrogen. The Oregon Clean Fuel Standard sets 2015 as a baseline that represents 10 percent ethanol blended with gasoline and 5 percent biodiesel blended with diesel. The rule also requires a 10 percent reduction in average carbon intensity from 2015 levels by 2025.

Terminal representatives and business stakeholders urged that adopted zoning code changes not create a disincentive or barrier to compliance with these federal and state rules, which may require additional tank capacity to implement. Environmental and public health organization representatives pointed out that City Resolution 37168 addresses fossil fuels generally, including lower-carbon fossil fuels like natural gas and propane. The adopted code changes will prohibit expansion of fossil fuel tank storage at existing terminals, but allows for additional storage for non-fossil fuel additives (such as ethanol) that can support compliance with the renewable and clean fuel standards. The adopting ordinance also includes recommendations for future tracking of information on compliance with the Clean Fuels Program and reporting back to City Council by 2019, which could prompt code adjustments as needed to avoid hindering program compliance.
Velocity of transition to non-fossil fuel energy

Portland’s Climate Action Plan sets a goal for an 80% reduction in greenhouse gas emissions by 2050. Oregon’s climate action goals similarly call for 75% reduction by 2050. While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, they don’t begin to approach the 80% reduction that the City is striving for or the State’s 75% goal. ODEQ estimates that the greenhouse gas emissions reduction from switching from gasoline to compressed natural gas, for example, is 18%; for propane, it is 15%. The lower-carbon fossil fuels do have appeal as a bridge to widespread use of renewable energy, but investments in major infrastructure typically take decades to recoup, and the transition to renewables needs to go much faster than that to stabilize global emissions.

During recent hearings and analysis on Resolution 37168 and the Pembina terminal proposal, the question of whether to differentiate between fossil fuels with different carbon content was widely discussed. In the lead up to the resolution, an option was proposed that would oppose new coal and oil infrastructure but allow for other fossil fuels that could show a likely net decrease in carbon emissions. City Council decided not to apply this option in the resolution.

Health, safety and environmental impacts of draft code changes

Seismic resilience and liquefaction soils

The 2035 Comprehensive Plan sets policy direction (4.75 and 4.76) to encourage disaster-resilient development and specifically to reduce natural hazard risks to critical energy and transportation infrastructure in Portland Harbor.

The 2016 Critical Energy Infrastructure Hub Study underway by the Portland Bureau of Emergency Management includes a literature review and modeled risks of structural damage to critical infrastructure from earthquakes, floods, landslides, volcanic activity, wildfire and other sources. Along with petroleum and natural gas infrastructure, the study is also assessing infrastructure risks to emergency services, transportation, electricity, potable water and waste water. The study area includes the Northwest and Linton industrial areas. PBEM has identified significant seismic risks at the fuel terminals from a major Cascadia Subduction Zone earthquake because of their location in a filled riverfront plateau area with moderate- to high-susceptibility location for soil liquefaction.

As shown in Figure 7, the Oregon Department of Geology and Mineral Industries (DOGAMI) has mapped most of the riverfront plateau areas, which account for over 90 percent of Portland’s industrial zoning, as having high susceptibility for soil liquefaction, along with areas along the Central City riverfront and much of the Brooklyn and Sellwood-Moreland neighborhoods. Most of the existing fuel terminals in the Willbridge area are mapped as having moderate susceptibility for soil liquefaction, and the others are mapped in the high susceptibility areas. The adopted code amendments will improve the seismic resilience of new bulk fossil fuel terminals by precluding their development in areas with high susceptibility to soil liquefaction.

City Council deleted a draft code allowance for up to 10% expansion of existing terminals for seismic replacement of storage tanks, following testimony by some terminal operators that a 10% limitation would not provide an adequate incentive to cover improvement costs of tank replacement. Instead, the City Council directed the Portland Bureau of Emergency Management and the Bureau of Development Services to study future amendments to building and fire codes to improve seismic safety of fossil fuel infrastructure.
Figure 8. Soil liquefaction susceptibility map of Portland
develop building code amendments to improve seismic resilience and require seismic upgrades comparable to proposed requirements on unreinforced masonry buildings.

**Safety of liquefied gas terminals**

Liquefied natural gas (LNG) and liquefied petroleum gas (LPG), such as propane, facilities pose safety risks from potential explosions and fire. The Pembina propane terminal, which was proposed in 2015 at the Port of Portland Terminal 6, is an apt case study. The Pembina terminal would have required environmental zoning code amendments that did not move forward.

The issue of safety risks was discussed extensively during review of the proposed Pembina terminal, and a quantitative risk assessment study was prepared to inform that review process (*Det Norske Veritas (U.S.A.), Inc., 2015*). The study estimated the risk from flammable releases, such as jet fires, pool fire, flash fire, vapor cloud explosions, fireball and Boiling Liquid Expanding Vapor Explosion (BLEVE).

The risk was presented as individual risk in the form of location-specific risk contours extending outward from the proposed facilities, and as societal risk in the form of potential loss of life and cumulative frequency of various accidents. The highest offsite risk level was found to be 1 fatality in 1,000 years in areas directly north and south of facility. The nearest residential zones are located beyond the risk level contour of 1 fatality in 100 million years. The cumulative societal risk was estimated at 1 statistical fatality every 38 years. The study also included various facility design and siting recommendations to mitigate identified risks.

Another risk assessment (*Northwest Citizen Science Initiative, 2015*) on the Pembina project was presented by environmental groups and neighbors including the Hayden Island Neighborhood Association. The analysis identifies additional sources of risk from BLEVE cascades, terrorist events and magnitude 9 earthquakes. The authors recommend not locating a propane terminal within 10 miles of the Portland/Vancouver urban area.

Public safety risks from a new LNG or LPG facility are estimated to be very low relative to other urban hazards, although possible impacts could be catastrophic. The adopted code amendments are expected to reduce public safety risks by prohibiting development of large new LNG or LPG facilities exceeding 2 million gallons of storage capacity.

**Oil train accidents**

On June 3, 2016 an oil train traveling through the Columbia River Gorge partially derailed in Mosier en route to Tacoma. The 16-car derailment resulted in a 1,000-barrel spill and fires that lasted nearly a day. Small amounts of oil reportedly reached the river, and nearby drinking water and wastewater facilities in Mosier were affected.

An *Associated Press analysis* of accident records found that 26 oil-train derailments or fires have occurred nationally in the last decade. The national geography of increasing oil extraction in the inland Great Plains states and refineries concentrated on the coasts is contributing to this trend. Risk of how often such derailments are likely to occur in the Columbia Gorge is disputed, with *one estimate* as high as one every 30 months.

*Preliminary reporting* on the cause of the Mosier derailment pointed to failed bolts in the track that are difficult to detect. Union Pacific reported that improvements are underway to replace bolts on 530
miles of curved track nationwide. Railroad safety is regulated at the federal level and monitored by the Federal Railroad Administration. A recent Government Accounting Office report has identified challenges and delays in implementing some federal rail safety regulations.

The adopted code amendments could incrementally reduce rail accident risks by restricting development and expansion of fossil fuel terminals in Portland as a West Coast rail hub location. However, restricting the location of new petroleum terminals in the city of Portland is not expected to substantially affect the volume of petroleum cargo transported by rail to Puget Sound refineries.

The Portland/Vancouver area is a rail hub location, where West Coast rail lines running north-south intersect the low gradient east-west rail corridor along both sides of the Columbia River. Roughly half of the east-west rail cargo destined for the Seattle-Tacoma area, in addition to Oregon-bound rail cargo, moves through the Portland metropolitan area. Derailment risk within Portland is reduced by the numerous siding destinations and congestion of the “Portland Triangle” area where UP and BNSF lines come together. However, derailment risks to natural resources, especially along rivers, and to rural communities appear to be significant.
5. Code concepts and analysis

This section of the report describes the adopted zoning change concepts by topic area, including the related policy directions, implementation issues, and rationale for the adopted zoning changes.

1. Types of distribution and storage facilities to be regulated

Policy direction:
- City Council Resolution 37168 (adopted November 2015) calls for opposing expansion of infrastructure for transportation and storage of fossil fuels, subject to various exceptions, including safety improvements, service to end users, and infrastructure that accelerates transition to non-fossil fuel energy.
- 2035 Comprehensive Plan Policy 6.48 Fossil Fuel Infrastructure (adopted June 2016, not effective until 2018) also calls for limiting fossil fuel distribution and storage facilities to those necessary to serve the regional market.

Preliminary code concepts:
- Limit development of new Bulk Fossil Fuel Terminals as a regulated land use.
- Bulk Fossil Fuel Terminals are engaged in freight movement or wholesaling of fossil fuels at facilities that are characterized by having (1) marine, pipeline or railroad transport access and (2) either transloading facilities for transferring a shipment between transport modes (such as from rail to ship) or bulk storage facilities exceeding 2 million gallons of fossil fuels. Examples include petroleum terminals, liquid natural gas terminals, and coal terminals. Functionally, these terminals are typically regional gateway facilities, where fossil fuels enter and exit the region, but the use classification is intended to be clearly identifiable and not rely on a definition of region.
- Exceptions that are not Bulk Fossil Fuel Terminals:
  - Retail sales of fossil fuels, such as gasoline or propane filling stations;
  - Distributors, wholesalers, and industrial service uses that receive and deliver fossil fuels exclusively by truck;
  - End-user facilities that store fossil fuels for use as an input (including off-site storage), such as manufacturing, agriculture, and airports;
  - Uses that recover or reprocess used petroleum products;
  - Waste-related uses that transfer or store solid or liquid wastes, such as landfills.

Implementation issues:
- Definition of region – Portland is a regional distribution hub for energy and other products, and this zoning change is not intended to restrict energy access to the growing region. However, the regional market area of Bulk Fossil Fuel Terminals varies by product and is difficult to define. Portland’s 10 petroleum terminals generally serve Oregon and Southern Washington. This market area substantially exceeds the Portland metropolitan area, which is often colloquially referred to as the region. Some terminal representatives pointed out that the federal government’s 5-state West Coast PADD 5 region is generally their regional market area. Bureau
of Development Services (BDS) staff commented that zoning does not regulate the target market (destination) of wholesale products, and the zoning code does not define region. Business organization representatives commented that the energy markets and related market areas are likely to change over time. Therefore, the adopted land use incorporates the concept of a regional market into the size limits, and a zoning definition of region is not adopted here.

- **Storage capacity size threshold** - The Bulk Fossil Fuel Terminal use category is intended to apply to regional gateway facilities where fossil fuels are brought into the region. The 2-million-gallon capacity threshold is small compared to the existing petroleum terminals, which range from 11.6 million to 67 million gallons, with most facilities having more than 25 million gallons of storage capacity. In response to testimony, the PSC reduced the terminal size threshold from 5 million to 2 million gallons of storage, in order to include facilities that are large enough to unload unit trains. This change would apply to both new and existing terminal and would extend the terminal restrictions beyond the 11 largest fuel terminals in Willbridge and Linnton areas of NW Portland to also include smaller existing fuel distributors. Staff identified 24 additional petroleum, pipeline, and gaseous fuel distributors that may be affected.

- **Site aggregation** – A potential loophole to the terminal size threshold was identified in PSC testimony through site aggregation of smaller facilities. The reference to partnerships and corporations in the existing definition of “ownership” is an inclusive term, which includes subsidiaries of a larger corporation and would prevent a larger parent corporation from using different subsidiaries on contiguous lots. To further prevent potential circumvention of the terminal size threshold through site aggregation, the PSC recommended adding criteria in the use description to identify aggregated sites that each have storage smaller than 2 million gallons but effectively function as a larger terminal.

- **End users** – Resolution 37168 lists a specific exception to not restrict service directly to end users. At a small scale, services to end users include retail gasoline filling stations, natural gas access lines in street right-of-way to residential and business customers, and heating oil tanks at home sites. Larger scale end users with fossil fuel storage and access infrastructure also include manufacturers, jet fuel facilities serving PDX Airport, vessel fuel facilities on Portland Harbor, and others where fossil fuels are used as an input. The City Council added code amendments that exempt storage of aviation fuel serving regional airports and marine vessel fueling at Portland Harbor.

- **Inclusion of regulated utilities** - NW Natural, the natural gas utility that serves western Oregon and parts of southwest Washington, has recommended that its facilities should not be subject to new zoning restrictions because its distribution facilities provide service to end users, which are exempted in Resolution 37168. NW Natural’s service to end users in Oregon is regulated by the Oregon Public Utility Commission. The company periodically prepares an Integrated Resources Plan (IRP) to document its forecast for natural gas use by its customers. The IRP also details how NW Natural proposes to meet changes in natural gas demand and is statutorily obligated to do so in ways that result in the “least cost” to customers, while managing risk and complying with all applicable environmental and workplace regulations. The PUC conducts a public review process of the IRP and ultimately either “acknowledges” the IRP or identifies shortcomings the
company must address in a revised IRP. The PSC considered and did not act on NW Natural’s request to exempt regulated utilities. One commissioner expressed concern that a regulated utility could potentially sell fossil fuel from local storage facilities to customers who are not regional end users.

- Interpretation of use category – Terminal and business representatives commented that ambiguity in the use description could result in conflicting expectations, pressured interpretations, appeals, and inconsistent code implementation. While underlying policy accommodates regional access and exceptions that may be difficult to clearly define, the adopted land use designation is defined by clear and objective size thresholds and marine/railroad/pipeline access.

2. **Definition of fossil fuels**

   **Policy direction**: City Council Resolution 37168 applies to fossil fuel infrastructure and storage generally, and does not distinguish among types or carbon intensity of fossil fuels.

   **Preliminary code concept**:
   - Definition of fossil fuels: petroleum products (such as crude oil and gasoline), coal, and gaseous fuels (such as natural gas and propane) that are made from decayed plants and animals that lived millions of years ago and are used primarily as a source of energy.
   - Exclusion of non-fuel products – Petrochemicals that are used primarily for non-fuel products are excluded, such as asphalt, plastics, lubricants, fertilizer, roofing and paints.
   - Methanol is included as a fossil fuel. Development of methanol storage and transportation facilities would be prohibited similarly to LNG and LPG terminals.
   - Denatured ethanol and similar fuel additives and biodiesel/renewable diesel with less than 5% fossil fuel content are not fossil fuels.
   - Biogas from wastewater treatment plants, anaerobic digesters, landfills and other sources is not a fossil fuel.

   **Implementation issues**:
   - Definition of fossil fuels – Definitions of fossil fuels vary by source. Here are some examples.
     - Oregon Department of Environmental Quality (ODEQ) – Fossil fuels: fuels such as oil, natural gas, and coal that are made from decayed plants and animals that lived millions of years ago. These fuels are made of hydrogen and carbon (hydrocarbons).
     - U.S. Environmental Protection Agency (USEPA), 40 C.F.R. § 60.41 - Fossil fuel means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.
     - Oregon Department of Energy Administrative Rule, OAR 345-001-0010 - “Fossil fuel” means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials that serves as useful energy.

   - Renewable and clean fuel standards – As described in Section 4, USEPA implements the federal Renewable Fuel Standard (RFS) that requires transportation fuel sold in the U.S. to contain a minimum volume of renewable fuels. Similarly, ODEQ implements the Oregon Clean Fuel
Program. ODEQ identifies examples of “clean fuels” in Oregon as most types of ethanol, biodiesel, natural gas, biogas, electricity, propane and hydrogen. Terminal representatives and business stakeholders urged that adopted zoning code changes not create a disincentive or barrier to compliance with these federal and state rules, which may require additional tank capacity to implement. Environmental and public health organization representatives pointed out that City Resolution 37168 addresses fossil fuels generally, including clean fuels.

- Methanol – Large methanol plants have recently been proposed in Tacoma, Kalama, and St. Helens. Methanol plants tend to have structural similarities to LNG and LPG terminals, including large-scale and gas pipeline access, and they can have similar safety and climate impacts. Stakeholder focus groups were asked whether any special inclusions, such as methanol, should be considered. Most people commenting noted that methanol is primarily used in the production of plastics and other non-fuel uses. Views differed among environmental organizations commenting. Some noted that excluding it undermines the policy. The adopted code limits development of large methanol plants similarly to LNG or LPG terminals.

- Denatured ethanol – A terminal operator pointed out that “pure” ethanol made from corn or other non-fossil source is required by the Alcohol and Tobacco Tax and Trade Bureau to be denatured in order to be transported to the site. Denatured ethanol typically contains up to 5% methanol, so that it is toxic and undrinkable. Storage of denatured ethanol is exempted. In other words, denatured ethanol tanks would not be counted as part of the maximum storage capacity of fossil fuel terminals.

- Biogas products from landfills – Bureau of Environmental Services (BES) staff commented that biogas from landfills and other sources are not fossil fuels and should not be restricted by the adopted zoning changes. The adopted description of fossil fuel terminals specifically excludes waste-related uses, such as landfills, which are regulated as a separate land use in the zoning code. Also, the adopted definition of fossil fuels, described as being made from decayed plants and animals that lived millions of years ago, would not include biogas from a landfill.

3. Prohibition of new bulk fossil fuel terminals

Policy direction:
- City Council Resolution 37168 (adopted November 2015) calls for opposing expansion of infrastructure for transportation and storage of fossil fuels, subject to various exceptions, including safety improvements, service to end users, and infrastructure that accelerates transition to non-fossil fuel energy.
- 2035 Comprehensive Plan Policy 6.48 Fossil Fuel Infrastructure (adopted June 2016, not effective until 2018) also calls for limiting fossil fuel distribution and storage facilities to those necessary to serve the regional market.

Preliminary code concept:
- Prohibit new Bulk Fossil Fuel Terminals in all base zones.
Implementation issues:

- Policy implementation – City Resolution 37168 reflected a major change in policy direction on fossil fuel distribution and storage facilities. Prohibition of new Bulk Fossil Fuel Terminals is intended as an unambiguous, assertive approach to implement this policy change, responding to increasingly evident safety risks of fossil fuel infrastructure, aggressive climate change goals, and changing energy markets in the Pacific Northwest.

- Community expectations – Several hundred people provided email and verbal testimony asking for a “full ban” on new and expanded fossil fuel terminals. Climate resilience advocates are widely represented in the Portland community and the Pacific Northwest. Public involvement in Resolution 37168 and this project reveal broad community expectations for a bold approach to restrict fossil fuel distribution facilities in Portland.

- Providing regional market access to fuels – Analysis to date is limited on the potential impacts of the prohibition on constraining regional fuel supply. Fossil fuel demand in this growing region may increase moderately, as indicated by trend-based forecasts, or may plateau and decline with implementation of climate resilience goals and strategies. The fossil fuels consumed in Oregon are generally not extracted or refined in the state. As a result, fossil fuel terminals provide multimodal transportation efficiency and price advantages for distributing fuels to the growing population of the regional market area.

- Option to set size limits on new fossil fuel terminals – The Discussion Draft proposed storage capacity size standards to limit new fossil fuel terminal development. Figure 7 in Section 4 indicates a wide margin between the size of recently proposed crude oil, coal and LNG terminals in the Pacific Northwest and the scale of expected growth by existing Portland fuel terminals that serve the regional market area. Recommended terminal size limitations within that margin would allow for expansion at existing terminals and moderately sized new terminal development to meet potential market area consumption needs. Instead, BPS's Proposed Draft and the PSC’s Recommended Draft code changes would prohibit new Bulk Fossil Fuel Terminals, a more restrictive approach to more assertively implement the new policy directions and respond to extensive community comments on the draft code changes. As recommended by the PSC, existing terminals could expand storage facilities up to 10 percent through seismic upgrades that replace existing tanks, providing the opportunity to meet modest growth in potential market area consumption needs.

- Balanced, integrated policy approach – The adopted restrictions on fossil fuel distribution facilities entail tradeoffs among public goals for environmental protection, public health and safety, meeting energy needs, and economic prosperity, as described in Section 4. The Comprehensive Plan calls for a balanced, integrated approach in land use regulations to meet these public objectives, as described in Section 2. The adopted code changes provide for significant environmental and safety benefits in restricting development and expansion of fossil fuel terminals and provide for limited expansion of fossil fuel terminals to adequately meet regional energy needs and integrate economic prosperity and equity considerations.
4. “Limited use” classification of existing facilities

**Policy direction:**
- City Council Resolution 37168 includes various exemptions to not restrict safety or efficiency improvements, service to end users, emergency backup capacity, infrastructure for recovery or re-processing of used petroleum products, or infrastructure that will accelerate the transition to non-fossil fuel energy sources.
- 2035 Comprehensive Plan Policy 6.48 Fossil Fuel Infrastructure (adopted June 2016, not effective until 2018) also calls for limiting fossil fuel distribution and storage facilities to those necessary to serve the regional market.
- 2035 Comprehensive Plan Policies 4.75 and 4.76 call for encouraging disaster-resilient development and reducing natural hazard risks to critical energy and transportation infrastructure in Portland Harbor.

**Preliminary code concept:**
- Classify existing Bulk Fossil Fuel Terminals in industrial and general employment zones as “limited uses” that can continue to operate. Fossil fuel storage at existing terminals is limited to the existing capacity on the effective date of these regulations, and expansion is prohibited.

**Implementation issues:**
- Prohibition of expansion at existing terminals - City Council received extensive testimony to prohibit expansion at existing terminals and opted to do so. Similar to the prohibition of new Bulk Fossil Fuel Terminals, prohibition of terminal expansion demonstrates an unambiguous, assertive approach to implement bold policy change, emphasizing fuel infrastructure safety and climate resilience. These adopted code changes are generally more restrictive than the exceptions in the resolution that call for not restricting improvements at existing fuel terminals that improve safety, provide wholesale fuel supply to local or regional end users, add backup capacity, or add mixing tanks for clean/renewable fuels.

- Option to restrict expansion at existing terminals as a legal, non-conforming use – In the Proposed Draft, Bulk Fossil Fuel Terminals were classified as a prohibited use, under which existing terminals would become legal, non-conforming uses. The Proposed Draft assumed some opportunity to approve expansion of existing terminal storage capacity that would allow the existing terminals to add new fuel additive tanks to meet clean and renewable fuel standards, seismic upgrades of existing tanks, and emergency backup capacity, consistent with Resolution 37168. However, comments from BDS clarified that such expansion would be difficult to approve through a non-conforming situation review. BDS recommends considering an alternative approach to set limitations on expansion. In response, BPS and the PSC recommended classifying Bulk Fossil Fuel Terminals as a limited use with clear and objective standards that limit expansion of existing terminals.
Option to allow 10% expansion at existing terminals – The PSC recommended code amendments to allow limited expansion of fossil fuel storage at these existing terminals that (a) include “seismic upgrades” which replace existing tanks, (b) add no more than 10 percent of the capacity of replaced tanks, and (c) result in no more than 10 percent cumulative expansion of the total terminal capacity on the effective date of these code changes. See Figure 9 above. City Council deleted this draft code allowance for up to 10% expansion with seismic upgrades of storage tanks, following testimony by some terminal operators that a 10% limitation would not provide an adequate incentive to cover improvement costs of tank replacement. Instead, a future code-change project is recommended in Section 7 to develop building code amendments that improve seismic resilience and require seismic upgrades comparable to proposed requirements on unreinforced masonry buildings.
• Option to restrict expansion at existing terminals as a conditional use – A large number of comments to PSC supported stronger restrictions on expansions at existing terminals through adding binding limits as well as criteria for safety and climate impacts. BDS staff have commented that they do not have staff expertise to implement discretionary land use review criteria addressing greenhouse gas emissions or safety impacts of hazardous material storage and transportation. If new conditional use criteria are added to limit or require no net increase of greenhouse gas emissions or safety impacts of hazardous material storage and transportation facilities, applicants would be required to hire specialized consultants to show compliance of the particular criterion, which would affect the complexity, predictability, and cost of land use reviews in new ways. This change would be inconsistent with 2035 Comprehensive Plan Policy 6.16 Regulatory Climate, which calls for improving development review processes and regulations to encourage predictability and support local and equitable employment growth and encourage business retention. Given the level of community scrutiny about fossil fuel terminal expansion, this discretionary public review process could add significantly to the cost and uncertainty of investments at fossil fuel terminals.

• Option to not restrict expansion at existing terminals - The Discussion Draft recommended code concepts (storage capacity size standards to limits new fossil fuel terminal development) that would not restrict development on existing terminals. This option was intended to be consistent with the exceptions in the resolution (as described in the previous point) and to accommodate potential growth in regional fuel demand. Instead, the Proposed Draft code changes applied a legal, non-conforming use status on existing Bulk Fossil Fuel Terminals, a more restrictive approach to more assertively implement the new policy directions and respond to extensive community comments on the recommended code changes.

• Divergent stakeholder views – Extensive comments on the Recommended Draft, Proposed Draft and Discussion Draft recommended tight limits on expansion of existing fuel terminals. In contrast, stakeholder focus group participants generally urged that existing fuel terminals should not be changed to a non-conforming use for reasons ranging from providing a critical product to not discouraging desired seismic and safety improvements on existing facilities. Stakeholder group comments from environmental and public health organizations generally supported restricting expansion of existing terminals, while some participants cautioned about political and legal tradeoffs of making the existing fuel terminals nonconforming.
6. Zoning code changes

This section of the report specifies the adopted code language, along with code commentary pages that clarify expected implementation. The section is formatted to facilitate readability, showing adopted code changes on the right-hand pages and related code commentary on the facing left-hand pages.
Commentary

Table 100-1 Open Space Zone Primary Uses

The amendments to this table reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones.
### Table 100-1
Open Space Zone Primary Uses

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>OS Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>N</td>
</tr>
<tr>
<td>Group Living</td>
<td>N</td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
</tr>
<tr>
<td>Retail Sales And Service</td>
<td>CU [1]</td>
</tr>
<tr>
<td>Office</td>
<td>N</td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>N</td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Parking</td>
<td>N</td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>CU</td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>N</td>
</tr>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
</tr>
<tr>
<td>Manufacturing And Production</td>
<td>CU [6]</td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td>N</td>
</tr>
<tr>
<td>Wholesale Sales</td>
<td>N</td>
</tr>
<tr>
<td>Industrial Service</td>
<td>N</td>
</tr>
<tr>
<td>Bulk Fossil Fuel Terminal</td>
<td>N</td>
</tr>
<tr>
<td>Railroad Yards</td>
<td>N</td>
</tr>
<tr>
<td>Waste-Related</td>
<td>N</td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
</tr>
<tr>
<td>Basic Utilities</td>
<td>L/CU [5]</td>
</tr>
<tr>
<td>Community Service</td>
<td>CU [4]</td>
</tr>
<tr>
<td>Parks And Open Areas</td>
<td>L/CU [2]</td>
</tr>
<tr>
<td>Schools</td>
<td>CU</td>
</tr>
<tr>
<td>Colleges</td>
<td>N</td>
</tr>
<tr>
<td>Medical Centers</td>
<td>N</td>
</tr>
<tr>
<td>Religious Institutions</td>
<td>N</td>
</tr>
<tr>
<td>Daycare</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Other Categories</strong></td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>L[7]</td>
</tr>
<tr>
<td>Aviation And Surface Passenger Terminals</td>
<td>N</td>
</tr>
<tr>
<td>Detention Facilities</td>
<td>N</td>
</tr>
<tr>
<td>Mining</td>
<td>CU</td>
</tr>
<tr>
<td>Radio Frequency Transmission Facilities</td>
<td>L/CU [3]</td>
</tr>
<tr>
<td>Rail Lines And Utility Corridors</td>
<td>CU</td>
</tr>
</tbody>
</table>

Y = Yes, Allowed  L = Allowed, But Special Limitations  CU = Conditional Use Review Required  
N = No, Prohibited
Commentary

Table 110-1 Single-Dwelling Zone Primary Uses

The amendments to this table reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones.
### Table 110-1
Single-Dwelling Zone Primary Uses

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>RF</th>
<th>R20</th>
<th>R10</th>
<th>R7</th>
<th>R5</th>
<th>R2.5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Group Living</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Sales And Service</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Office</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Parking</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing And Production</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Wholesale Sales</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Industrial Service</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Bulk Fossil Fuel Terminal</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Railroad Yards</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Waste-Related</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schools</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Colleges</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Medical Centers</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Religious Institutions</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Other Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aviation And Surface Passenger Terminals</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Detention Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Mining</td>
<td>CU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Railroad Lines And Utility Corridors</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
</tbody>
</table>

Y = Yes, Allowed
L = Allowed, But Special Limitations
CU = Conditional Use Review Required
N = No, Prohibited
Table 120-1 Multi-Dwelling Zone Primary Uses

The amendments to this table reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones.
### 33.120 Multi-Dwelling Zones

#### Table 120-1

Multi-Dwelling Zone Primary Uses

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>R3</th>
<th>R2</th>
<th>R1</th>
<th>RH</th>
<th>RX</th>
<th>IR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Parking</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU [4]</td>
<td>N</td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing And Production</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Wholesale Sales</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Industrial Service</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Bulk Fossil Fuel Terminal</strong></td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Railroad Yards</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Waste-Related</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colleges</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>L/CU [11]</td>
<td></td>
</tr>
<tr>
<td>Medical Centers</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>L/CU [11]</td>
<td></td>
</tr>
<tr>
<td><strong>Other Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aviation And Surface Passenger Terminals</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Detention Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Mining</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Rail Lines And Utility Corridors</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
</tbody>
</table>

**Notes:**
- **Y** = Yes, Allowed
- **N** = No, Prohibited
- **CU** = Conditional Use Review Required
- **L** = Allowed, But Special Limitations

---

Commentary

Table 130-1 Commercial Zone Primary Uses

The amendments to this table reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones.
### Table 130-1
#### Commercial Zone Primary Uses

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>CN1</th>
<th>CN2</th>
<th>CO1</th>
<th>CO2</th>
<th>CM</th>
<th>CS</th>
<th>CG</th>
<th>CX</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>L [12]</td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>L [5]</td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>L [6]</td>
<td>L [6]</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU [5, 7]</td>
<td>N</td>
</tr>
<tr>
<td>Bulk Fossil Fuel Terminal</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Railroad Yards</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Waste-Related</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks And Open Areas</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Schools</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Colleges</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Medical Centers</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Religious Institutions</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Daycare</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>
### Other Categories

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aviation And Surface Passenger Terminals</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td></td>
</tr>
<tr>
<td>Detention Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td></td>
</tr>
<tr>
<td>Mining</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Rail Lines And Utility Corridors</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
</tbody>
</table>

Y = Yes, Allowed  
L = Allowed, But Special Limitations  
CU = Conditional Use Review Required  
N = No, Prohibited
33.140.050 Neighborhood Contact

As an alternative to a land use review, a public notice and meeting requirement applies to development of fuel storage structure, such as a new tank, at a Bulk Fossil Fuel Terminal, similar to the requirement for multi-dwelling residential development. This notice and meeting would create public awareness about the project and serve to discuss a proposal in an informal basis.
33.140 Employment and Industrial Zones

Sections:

General

33.140.010 General Purpose of the Zones
33.140.020 List of the Employment and Industrial Zones
33.140.030 Characteristics of the Zones
33.140.040 Other Zoning Regulations

Use Regulations

33.140.100 Primary Uses
33.140.110 Accessory Uses
33.140.130 Nuisance-Related Impacts
33.140.140 On-Site Waste Disposal
33.140.150 Neighborhood Contact

Site Development Standards

33.140.200 Lot Size
33.140.205 Floor Area Ratio
33.140.210 Height
33.140.215 Setbacks
33.140.220 Building Coverage
33.140.225 Landscaped Areas
33.140.227 Trees
33.140.230 Ground Floor Windows in the EX Zones
33.140.235 Screening
33.140.240 Pedestrian Standards
33.140.242 Transit Street Main Entrance
33.140.245 Exterior Display, Storage, and Work Activities
33.140.250 Trucks and Equipment
33.140.255 Drive-Through Facilities
33.140.265 Residential Development
33.140.270 Detached Accessory Structures
33.140.275 Fences
33.140.280 Demolitions
33.140.290 Nonconforming Development
33.140.295 Parking and Loading
33.140.300 Signs
33.140.310 Superblock Requirements
33.140.315 Recycling Areas
33.140.050 Neighborhood Contact

A. **Purpose.** Neighborhood contact is required when a new storage structure for any type of fuel will be built on a Bulk Fossil Fuel Terminal because of the impacts that fuel projects can have on the surrounding community. The neighborhood contact requirement provides an opportunity for community input on the design of the project by providing a setting for the applicant and neighborhood residents to discuss a proposal in an informal manner. Sharing information and concerns early offers the opportunity to identify ways to improve a proposal and to resolve conflicts.

B. **Neighborhood contact requirement.** Proposals meeting the following conditions are subject to the neighborhood contact requirement as specified in Section 33.700.025, Neighborhood Contact. All of the steps in 33.700.025 must be completed before a building permit is requested.

1. The proposed development has not been subject to a land use review; and

2. The proposed development includes at least one new structure for the storage of any type of fuel.
Commentary

33.140.100 Primary Uses
The amendments to this section reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones and reclassify existing terminals in industrial and general employment zones as limited uses. Regulation of Bulk Fossil Fuel Terminals implements policy direction in City of Portland Resolution 37168 (adopted November 2015) and 2035 Comprehensive Plan Policy 6.48 (adopted June 2016, expected to take effect in 2018), both of which address fossil fuel distribution and storage facilities.

The limited use designation would prohibit expansion of fossil fuel tank capacity at existing Bulk Fossil Fuel Terminals.
33.140.100 Primary Uses

A. No change

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

1. – 16. No change

17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].

a. Existing Bulk Fossil Fuel Terminals. Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date]. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] is prohibited. Storing coal on the site is prohibited.

b. New Bulk Fossil Fuel Terminals are prohibited.
Commentary

Table 140-1 Employment and Industrial Zone Primary Uses
The amendments to this section reflect changes to prohibit new Bulk Fossil Fuel Terminals in all base zones and reclassify existing terminals in industrial and general employment zones as limited uses.
<table>
<thead>
<tr>
<th>Use Categories</th>
<th>EG1</th>
<th>EG2</th>
<th>EX</th>
<th>IG1</th>
<th>IG2</th>
<th>IH</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>CU</td>
<td>CU</td>
<td>Y</td>
<td>CU [1]</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Group Living</td>
<td>CU</td>
<td>CU</td>
<td>L/CU [2]</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>Y</td>
<td>Y</td>
<td>L [7]</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing And Production</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Wholesale Sales</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Industrial Service</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Railroad Yards</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks And Open Areas</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Schools</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Colleges</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Medical Centers</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Religious Institutions</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td><strong>Other Categories</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aviation And Surface Passenger Terminals</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Detention Facilities</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Mining</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
</tr>
<tr>
<td>Rail Lines And Utility Corridors</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
</tbody>
</table>

Y = Yes, Allowed  
CU = Conditional Use Review Required  
L = Allowed, But Special Limitations  
N = No, Prohibited
33.910.030 Definitions

The definition of fossil fuels was added to clarify the land use category Bulk Fossil Fuel Terminals.

Petrochemicals that are used primarily for non-fuel products are excluded, such as asphalt, plastics, lubricants, fertilizer, roofing, and paints. However, methanol is an exception that is included as a fossil fuel, because large methanol storage and distribution facilities tend to have structural similarities to liquid natural gas (LNG) and liquid petroleum gas (LPG) terminals, including large-scale storage and gas pipeline access, and because they can have similar safety and climate impacts.

Fuels containing 5% or less fossil-fuel volume are not considered fossil fuels under this definition. For example, "pure" ethanol made from corn or other non-fossil source is required by the Alcohol and Tobacco Tax and Trade Bureau to be denatured in order to be transported to the site. Denatured ethanol typically contains up to 5% methanol, so that it is toxic and undrinkable.

Some fossil fuels under this definition are also classified as "renewable fuels" in the federal Renewable Fuel Standard and "clean fuels" in Oregon’s Clean Fuel Standard, such as liquid natural gas and liquid propane gas. These federal and state standards require transportation fuel sold within their jurisdiction to contain a minimum volume of renewable or clean fuels.
33.910 Definitions

The definition of words with specific meaning in the zoning code are as follows:

**Fossil Fuel.** Fossil fuels are petroleum products (such as crude oil and gasoline), coal, methanol, and gaseous fuels (such as natural gas and propane) that are made from decayed plants and animals that lived millions of years ago and are used as a source of energy. Denatured ethanol and similar fuel additives with less than 5 percent fossil fuel content, biodiesel/renewable diesel with less than 5 percent fossil fuel content, and petroleum-based products used primarily for non-fuel uses (such as asphalt, plastics, lubricants, fertilizer, roofing, and paints) are not fossil fuels.
33.920 Descriptions of the Use Categories

Sections:
Introduction to the Use Categories
  33.920.010 Purpose
  33.920.020 Category Titles
  33.920.030 Classification of Uses
Residential Use Categories
  33.920.100 Group Living
  33.920.110 Household Living
Commercial Use Categories
  33.920.200 Commercial Outdoor Recreation
  33.920.210 Commercial Parking
  33.920.220 Quick Vehicle Servicing
  33.920.230 Major Event Entertainment
  33.920.240 Office
  33.920.250 Retail Sales And Service
  33.920.260 Self-Service Storage
  33.920.270 Vehicle Repair
Industrial Use Categories
  33.920.300 Bulk Fossil Fuel Terminal
  33.920.310 Industrial Service
  33.920.320 Manufacturing And Production
  33.920.330 Railroad Yards
  33.920.340 Warehouse And Freight Movement
  33.920.350 Waste-Related
  33.920.360 Wholesale Sales
Institutional Use Categories
  33.920.400 Basic Utilities
  33.920.410 Colleges
  33.920.420 Community Service
  33.920.430 Daycare
  33.920.450 Medical Centers
  33.920.460 Parks And Open Areas
  33.920.470 Religious Institutions
  33.920.480 Schools
Other Use Categories
  33.920.500 Agriculture
  33.920.510 Aviation And Surface Passenger Terminals
  33.920.520 Detention Facilities
  33.920.530 Mining
  33.920.540 Radio Frequency Transmission Facilities
  33.920.550 Rail Lines And Utility Corridors
33.920.300 Bulk Fossil Fuel Terminal

Bulk Fossil Fuel Terminals are added as a new land use category to regulate their development in the Zoning Code. Regulation of Bulk Fossil Fuel Terminals implements policy direction in City of Portland Resolution 37168 (adopted November 2015) and 2035 Comprehensive Plan Policy 6.48 (adopted June 2016, expected to take effect in 2018), both of which address fossil fuel distribution and storage facilities.

Bulk Fossil Fuel Terminals are characterized by having (1) marine, pipeline or railroad transport access and (2) either trans-loading facilities for transferring a shipment between transport modes (such as from rail to ship) or bulk storage facilities exceeding 2 million gallons of fossil fuels. The 2-million-gallon threshold is sized to include facilities that are large enough to unload unit trains. Functionally, these terminals tend to be regional gateway facilities, where fossil fuels enter and exit the region. Additionally, Policy 6.48 calls for limiting fossil fuel distribution and storage facilities to those necessary to serve the regional market. However, the use classification is intended to be clearly identifiable by physical characteristics and not rely on a definition of region.

The regional market area of Bulk Fossil Fuel Terminals varies by product and is difficult to define. Portland’s 10 petroleum terminals generally serve Oregon and Southern Washington. This market area substantially exceeds the Portland metropolitan area, which is often colloquially referred to as the region. Some terminal representatives pointed out that the federal government’s 5-state West Coast PADD 5 region is generally their regional market area.

The use description is clarified with criteria that are intended to prevent the aggregation of new facilities smaller than 2 million gallons into a larger terminal that could effectively circumvent the terminal storage capacity threshold.

Resolution 37168 lists a specific exception to not restrict service directly to end users. At a small scale, services to end users include retail gasoline filling stations, natural gas access lines in street right-of-way to residential and business customers, and heating oil tanks at home sites. Larger scale end users with fossil fuel storage and access infrastructure also include manufacturers, jet fuel facilities for PDX Airport, vessel fuel facilities on Portland Harbor, and others, where fossil fuels are used as an input.
33.920.300 Bulk Fossil Fuel Terminal

A. Characteristics. Bulk Fossil Fuel Terminals are establishments primarily engaged in the transport and bulk storage of fossil fuels. Terminal activities may also include fuel blending, regional distribution, and wholesaling. The firms rely on access by marine, railroad, or regional pipeline to transport fuels to or from the site, and either have transloading facilities for transferring a shipment between transport modes, or have storage capacity exceeding 2 million gallons for fossil fuels. There is minimal on-site sales activity with the customer present.

B. Accessory uses. Accessory uses may include retail sales of petroleum products, offices, food membership distribution, parking, storage, truck fleet parking and maintenance areas, rail spur or lead lines, and docks.

C. Examples. Examples include crude oil terminals, petroleum products terminals, natural gas terminals, propane terminals, and coal terminals.

D. Exceptions.

1. Truck or marine freight terminals that do not store, transport or distribute fossil fuels are classified as Warehouse And Freight Movement uses.

2. Truck or marine freight terminals that do not have transloading facilities and have storage capacity of 2 million gallons or less are classified as Warehouse And Freight Movement uses. However, multiple fossil fuel facilities, each with 2 million gallons of fossil fuel storage capacity or less but cumulatively having a fossil fuel storage capacity in excess of 2 million gallons, located on separate parcels of land will be classified as a Bulk Fossil Fuel Terminal when two or more of the following factors are present:
   a. The facilities are located or will be located on one or more adjacent parcels of land. Adjacent includes separated by a shared right-of-way;
   b. The facilities share or will share operating facilities such as driveways, parking, piping, or storage facilities; or
   c. The facilities are owned or operated by a single parent partnership or corporation.

3. Gasoline stations and other retail sales of fossil fuels are not Bulk Fossil Fuel Terminals.

4. Distributors and wholesalers that receive and deliver fossil fuels exclusively by truck are not Bulk Fossil Fuel Terminals.

5. Industrial, commercial, institutional, and agricultural firms that exclusively store fossil fuel for use as an input are not Bulk Fossil Fuel Terminals.

6. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.

7. The storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility are not Bulk Fossil Fuel Terminals.

8. Uses that recover or reprocess used petroleum products are not Bulk Fossil Fuel Terminals.
33.920.310 Industrial Service
33.920.320 Manufacturing And Production
33.920.330 Railroad Yards
33.920.340 Warehouse And Freight Movement

A. **Characteristics.** Warehouse And Freight Movement firms are involved in the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

B. **Accessory uses.** Accessory uses may include offices, food membership distribution, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.

C. **Examples.** Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns and light rail barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

D. **Exceptions.**
   1. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
   2. Miniwarehouses are classified as Self-Service Storage uses.
   3. Establishments that engage in the transfer or storage of fossil fuels, rely on access by marine, railroad or regional pipeline to transport fuels to or from the site, and either have transloading facilities or have storage capacity exceeding 2 million gallons for fossil fuels are classified as Bulk Fossil Fuel Terminal uses.

33.920.350 Waste-Related
33.920.360 Wholesale Sales

A. **Characteristics.** Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.

B. **Accessory uses.** Accessory uses may include offices, food membership distribution, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.

C. **Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.
D. Exceptions.

1. Firms that engage primarily in sales to the general public are classified as Retail Sales And Service.

2. Firms that engage in sales on a membership basis are classified as either Retail Sales And Service or Wholesale Sales, based on a consideration of the characteristics of the use.

3. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse And Freight Movement.

4. Establishments that engage in the regional wholesaling of fossil fuels, rely on access by marine, railroad or regional pipeline to transport fuels to or from the site, and either have transloading facilities or have storage capacity exceeding 2 million gallons for fossil fuels are classified as Bulk Fossil Fuel Terminal uses.
7. Other implementation recommendations

This section of the report recommends future implementation directions for building code amendments to address seismic resilience and periodic monitoring for code effectiveness.

Seismic resilience

The adopting ordinance sets direction to implement this future action:

1. Portland Bureau of Emergency Management (PBEM) and Portland Office of Government Relations are directed to develop proposals for State building code changes to improve seismic resilience and require seismic upgrades comparable to proposed requirements on unreinforced masonry buildings. City Bureaus, including the Bureau of Development Services, PBEM, and Fire Bureau, shall work with the State of Oregon to require seismic upgrades of storage tanks within a firm deadline for replacement of older, unsafe tanks.

Seismic resilience is one of the underlying rationales for fossil fuel distribution policies and the adopted code amendments. Seismic safety requirements of land development are addressed in building codes, which are adopted and amended at the state level.

Monitoring for code effectiveness

The adopting ordinance sets direction to implement this future action:

2. Portland Bureau of Planning and Sustainability (BPS) is directed to periodically monitor the effectiveness of these zoning code amendments to implement underlying policies and consider code adjustments in response to regional fuel demand and market changes, product innovation, safety and climate action considerations, and related regulatory changes. BPS shall report to City Council no later than December 31, 2019 on the implementation of this ordinance, including:

   a. the number and description of any requests by existing terminal operators to replace and expand their facilities;

   b. the number and description of building permits issued for fossil fuel tanks between 200,000 and 2 million gallons;

   c. the trends in fossil fuel energy use and non-fossil energy use in Oregon;

   d. the status of local and state regulatory proceedings that may improve seismic resilience of fossil fuel storage infrastructure; and

   e. information on compliance with the Oregon Clean Fuels Program.
A monitoring and adaptation approach would provide for ongoing code effectiveness within a context of changing energy markets, products, and associated regulations.
Appendix A: Stakeholder focus group results

Public involvement in the concept development for the Fossil Fuel Terminal Zoning Project consisted primarily of four stakeholder focus groups as well as meetings with fuel terminals and other individuals or organizations. The focus groups were held in June 2016. The purpose of the focus groups was to help identify and understand the issues that should help shape the preliminary zoning code being considered by this project. The focus groups also helped to expeditiously reach out to a broad range of stakeholders. While their perspectives and interests are shared on some topics, they diverge on other topics.

In addition to the stakeholder focus groups, BPS staff met with several fuel terminals to explain the proposal, answer questions, and discuss their individual concerns. This was needed because antitrust regulations constrained discussion about certain topics, for example supply chains, in the presence of representatives from other fuel terminals. Primarily, the terminal operators explained their operations and facilities, many of which differed substantially from other terminals.

Who participated?

Figure 9 lists the participants of the four focus groups conducted. Ten to twelve participants were invited to each meeting, although not everyone was able to attend. The first focus group consisted of fuel terminal representatives who have a direct stake in the recommended regulations. The second group was environmental and public health organizations, some of whom advocated for the resolution before City Council and have community safety and sustainability in mind. The third group were state and regional business and government organizations. Their interest was to protect the state economy by testing the proposal against economic realities. The fourth group was neighborhood and equity community organizations whose interests were to protect neighborhoods adjacent to the terminals and underserved communities who may rely on terminals for employment. Additionally, the Mayor’s Office invited input from Native communities and tribal governments.

Preliminary code concepts discussed

- Identify “bulk fossil fuel terminals” as a regulated land use, characterized by inter-regional transport access and larger storage facilities.
- Either prohibit new terminals or set storage capacity limits high enough to accommodate regional growth.
- Allow existing terminals to expand for seismic upgrades, access to greener fuels and capacity for regional growth.

What discussion questions were asked?

The focus groups were provided background materials describing the preliminary code change concepts about two weeks before the focus group meetings. BPS staffed prompted the focus group across four topics:
<table>
<thead>
<tr>
<th>STAKEHOLDER</th>
<th>DATE</th>
<th>ATTENDEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fuel terminal representatives</td>
<td>Thursday, June 02, 2016</td>
<td>Gilbert Betancourt, Phillips 66</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nick Giotta, Phillips 66</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Stephanie Williams, Phillip 66</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Andrew Holbrook, Kinder Morgan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shanna Brownstein, Northwest Natural</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kevin Jones, McCall Oil</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pamela Brady, BP West Coast</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jerry Henderson, Chevron</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kevin Buffum, Pacific Terminal Services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Steve Kober, NuStar</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Will Rasmussen, WSPA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Frank Holmes, WSPA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chris West, Pac/West and Arc Terminals</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nathan Eggers, Arc Terminals</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jerome Jackson, NuStar</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rob Hill, NuStar</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zach Klonoski, Mayor’s Office</td>
</tr>
<tr>
<td>Environmental and health organizations</td>
<td>Tuesday, June 07, 2016</td>
<td>Regna Merritt, Ore. Physicians for Social Responsibility</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Trish Weber, Center for Sustainable Economy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Meredith Connolly, Climate Solutions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kristen Sheeran, Climate Solutions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nick Caleb, 350PDX/CSE</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bob Salinger, Audubon Society</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dan Serren, Columbia Riverkeeper</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adriana Voss-Andreae, 350PDX</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Micah Meskel, Portland Audobon</td>
</tr>
<tr>
<td>State and regional business organizations</td>
<td>Thursday, June 09, 2016</td>
<td>Jana Jarvis, Oregon Trucking Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Greg Theisen, Port of Portland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ellen Wax, Working Waterfront</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jay Clemens, Associated Oregon Industries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mark Landauer, Oregon Public Ports Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Marion Haynes, Portland Business Alliance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Corky Collier, Columbia Corridor Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kelly Ross, NAIOP</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shanna Brownstein, Northwest Natural</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Emerald Bogue, Port of Portland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Susan Lahsene, Port of Portland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Phil Grillo, Davis Wright Tremaine</td>
</tr>
<tr>
<td>Neighborhood and equity organizations</td>
<td>Tuesday, June 14, 2016</td>
<td>Jeff Geisler, Hayden Island Neighborhood Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td>John Bradley, Northwest District Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Travis Argue, UA Local 290</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Willy Myers, Columbia Pacific Building Trades</td>
</tr>
</tbody>
</table>
1. Issues that should shape the project
2. Types of distribution and storage facilities to be regulated
3. Definition of fossil fuels
4. Zoning approach for limiting new storage facilities

In addition to specific questions within each topic, participants were invited to share any general and wrap-up comments during the focus group.

What we heard

For each topic area, the results of the focus groups are summarized in Figure 4 of Section 3. That table summarizes the main themes and concerns raised during the focus groups.

Key issues

Fuel terminal representatives objected to this policy direction in general. They discussed their safe operating history and commitment to implement the federal and state standards for renewable and clean fuels. There were challenges to participating in the conversation, but they agreed to work cooperatively on this project to get the code right. For example, anti-trust laws precluded the group from engaging in certain conversations because it would involve disclosing information about their supply chains and could be considered collusion in court of law. This group was concerned with the fast timeline and felt the policies should be discussed first.

They also felt the process was emotionally driven, not having considered the unintended consequences. For example, with renewable and clean fuel standards constantly in flux, they felt that zoning rules could make it more difficult to meet these standards. Restricting growth here in Portland at the end of the Olympic Pipeline could put more trucks on the road, instead of more efficient pipeline or rail transportation. The group asserted that there could also be significant economic impacts on the rest of the state, given that 95% of Oregon’s fuel passes through Portland first. Lastly, fuel terminal representatives expressed concern for additional administrative burdens that a new land use category would bring. For example, what steps would be necessary for these firms to demonstrate that they were existing operations prior to the new zoning rules? Additionally, they warned that their site configuration may pose a challenge to effective zoning rules, as they are often non-contiguous operations connected by interconnected pipelines.

Environmental and public health organizations felt the policy direction was less aggressive toward fossil fuels than what the City Council resolution had proclaimed. They felt the resolution sought to outright prohibit new development and expansion on existing facilities. Because of this, they cautioned about community backlash if this proposal did not meet expectations. In this vein, they highlighted that Portland will be the first city to fully implement this type of policy, so the project could be an opportunity to set a strong precedent and model code for other cities. This group also felt that resident health and safety was also a top priority. They noted the seismic risks posed by fuel terminal tank farms that lie on liquefaction zones as well as the June 2016 oil train wreck in Mosier. For these reasons, they felt Portland Bureau of Emergency Management (PBEM) and other environmental justice groups should be involved in safety considerations. Lastly, the group felt the economic impact statement should include more than the impact on jobs. It should also consider the risks of economic and financial damages from a natural disaster. Members of this focus group offered to provide technical analysis on the impacts that the proposed options could have on the environment and public health and safety.
Some noted that risks should be accounted for through bonding or insurance requirements under worst-case scenarios.

**State and regional business organizations** felt that this undertaking requires more research. The resolution set required tasks, including an economic impact analysis and an examination of relevant laws, and they felt these tasks should be completed before laying the groundwork through code development. They felt the marine cargo forecast for liquid bulks of 1% growth is outdated and too low. (Note, an opposite reaction was expressed by environmental and health organization representatives who felt this figure was too high.) Similarly, they feared that the code may not hold up well in five years because of constantly changing energy markets. For example, in five years Portland could be shipping cleaner fuels to the Midwest. Some members expressed concern that the zoning code may not be the right tool to achieve some of the GHG (greenhouse gas) reduction and public safety goals that this resolution aimed to achieve. If the goal is public safety, then the City should require or create incentives for seismic upgrades. They stated that, if the goal is to reduce greenhouse gases, then prohibiting the export of cleaner-burning fuels, such as LNG (liquefied natural gas), may have the opposite intended effect. Lastly, the group asserted the important role that Portland’s fuel terminal facilities play in rest of the state economy. They warned of political and economic repercussions that these decisions could have. They shared the view with fuel terminal representatives that this is a big political decision—the timeline is too short and the process should not be rushed.

**Neighborhood and equity community organizations** communicated that safety, pollution and accidental releases were their top priority when considering zoning for fuel terminals. They wanted a close examination of the seismic and explosion risks associated with fuel terminals. For example, which terminals are in liquefaction zones? Where are the storage tanks located in relation to neighborhoods? They sought honesty about the risks posed to the Linnton neighborhood specifically. Rail safety in the Columbia Gorge was also a key issue. The June 2016 incident in Mosier highlighted the risks. A potential solution they offered would be more pipelines, but they are difficult to get built. This group recognized the difficulty in managing competing values. They felt a reasonable expectation of growth is a smart idea. One participant described the proposal as aggressive, adding that by prohibiting LNG export terminals, global export destinations like China may end up burning dirtier fuels, such as coal. They felt this also meant Portland would forego export profits.

**New land use category**

**Fuel terminal representatives** were concerned for the clarity of the rules. They felt that the definition of “bulk terminal” is very important to be clear. If the definition was open to interpretation, then permit staff could be pressured. They warned that creating “bulk fuel terminal” as a specifically regulated use could lead to unpredictable results. This group was also concerned with the definition of “region.” They were unsure if off-shore distribution was the issue, advocating for using the federally recognized West Coast region (PADD 5) as the definition of “regional market.” PADD 5 includes Oregon, Washington, California, Nevada, Arizona, Alaska and Hawaii.

**Environmental and public health organizations** wanted to see the regulation go beyond new facilities and also look at limits on expansion at existing facilities. They felt the City Council resolution was clear and unambiguous about opposing expansion of fossil fuel infrastructure, which includes expansions at existing sites. They emphasized the importance for getting the right definition of “bulk terminal” and the associated size limit (or prohibition)—these must be correct in order to effectively implement the policy. Some members questioned whether seismic upgrades at existing facilities could be allowed but
expansions prohibited. This group also urged the inclusion of PBEM’s work on hazards in liquefaction zones in this project.

**State and regional business organizations** echoed the concerns for clear and correct definitions that the fossil fuel representatives posed. “Region,” “export,” “end user,” and “fossil fuel” are all important terms to get right. They also were strongly opposed to making existing facilities non-conforming uses, as well as making them limited uses with unclear exceptions. This would expose projects to discretionary land use actions, which is costly and unpredictable, and hence risky. It would likely make improvements that the community values, such as seismic upgrades, more difficult to attain.

**Neighborhood and equity community organizations** were skeptical that a new export terminal would be proposed in the Portland area in the wake of Pembina. They felt that Superfund sites were too expensive to acquire and build on. The group also wondered whether a new zone for fossil fuels ought to be created instead of a land use. They questioned why it ought to be allowed in IG2.

**Definition of fossil fuels**

**Fuel terminal representatives** were primarily concerned with the long-term applicability of the proposed rules. Energy markets and new technologies are constantly in flux, and it is difficult to know what the size requirements might be for newer—perhaps cleaner—fuels, particularly blended fuels. This group sought clarification for what “green fuels” meant. They noted that the proposed inclusion of LNG among city-regulated fossil fuels is inconsistent with the State of Oregon’s inclusion of LNG as a “clean fuel.” They called for periodic review of the rules when tomorrow’s cleaner fuels become known, as they may not meet today’s definitions. They cautioned about unintended consequences of placing restrictions on fossil fuel terminals, such as potentially putting more trucks on the road by restricting growth at facilities with pipeline, marine and rail access. This may result in considerably more GHG emissions. They also felt that methanol should not be included in the list of regulated fuels because it is used more as a value-added commodity than a fuel. They shared this last viewpoint with most other focus groups, except the environmental and health organizations.

**Environmental and public health organizations** looked to the intent of the City Council resolution and noted that it included propane, methanol, natural gas and other low-carbon fuels. At the same time, they agreed that code changes should provide flexibility to meet Oregon’s low carbon fuel standard. They noted that methanol is currently being used as a fuel, so excluding it undermines the policy. The group sought clarification on how to address non-fuels. Some suggested that the GHG emissions of these input commodities should help ground their use. Others thought that the proportions (e.g., in blended fuels) should be considered—if the product is mostly used as a fossil fuel, then it should be regulated and restricted. Lastly, they highlighted how even one new LNG tank in Portland is a major safety issue. Although not explosive, coal also poses a significant risk, especially in transportation. Because of these risks, they believed that the resolution should be implemented through health and safety standards.

**State and regional business organizations** expressed frustration that while the federal and state government are going one direction requiring cleaner-burning fuels, the City of Portland appears to be choosing to restrict distribution of these cleaner fuels in another policy direction. Some members thought the City could try to incentivize a higher blend of renewables, and others warned of the disincentives that could discourage investment—disincentives should limit GHG emissions, not seismic upgrades.
Neighborhood and equity community organizations thought that restricting methanol exports would be an overreach. They said it is not being used as a fuel in the United States, and instead it is a value-added product used in manufacturing of plastics and other goods. Including methanol would negatively impact the manufacturing sector that requires it as an input, and it could open the door to regulating other non-fuel commodities, such as paints and asphalt. In general, they felt that if we can make certain fuels cleaner burning, then it poses minimal threat. They asserted that, since there is no clear transitional path away from our dependency on fossil fuels, we should make way for cleaner alternatives, such as blended bio-diesel.

Terminal development restrictions

Fuel terminal representatives were concerned with potential restrictions precluding development on certain site configurations, which have some peculiarities. For example, where two existing tank farms are non-contiguous (e.g., at Willbridge) and are connected by facility pipelines, they should be allowed an option for expansion. Additionally, some sites may already be built out and cannot accommodate the new growth that is expected. This group could not comment on facility size and anticipated growth, because of anti-trust laws, but they noted that it is critically important. For this reason, they could not provide feedback on the implementation options presented.

Environmental and public health organizations generally preferred Option A. However, some recognized the legal challenges posed by federal restrictions. They wondered if health and human safety risks may provide a defensible rationale. Some members also noted that while prohibiting all new facilities and making existing facilities non-conforming uses might be more legally defensible, it is much less politically feasible. Finally, some members of this group were skeptical of the 1% annual growth forecast for liquid bulks. They felt this was too high, which is contrary to what the state and regional business organization representatives stated.

State and regional business organizations criticized the approach to implementing the City Council resolution. They felt that zoning to regulate tank size approaches the problem sideways, and the unclear rationale could lead to appeals and legal challenges. One participant advocated to prohibit exports more directly, rather than a sideways approach. They cautioned that tank size limits could essentially put the region on an “import diet,” even if the intent of the limit is to reduce throughput. They did not think this proposal accounted for these unintended impacts. Docked ships in the harbor may need an LNG tank to power their facilities and improve air quality, for example. They also noted that there are economic advantages and efficiency gains to being a bigger facility, and placing restrictions on size will have consequences that we don’t want—lower wages for example. Lastly, they felt the 1% annual growth forecast for liquid bulks was outdated—an updated forecast would be higher. This was the opposite of what environmental and public health organizations stated.

Neighborhood and equity community organizations generally preferred Option C, calling it a realistic proposal that allows for some growth but doesn’t restrict it too much. While the group was fairly resolute that coal is not a good alternative, they recognized that LNG is a cleaner-burning fuel. However, since the facilities in the region are already at capacity, Option C would allow for some wiggle room for the region’s growth. They felt it would allow the “invisible hand” to guide the market more easily. They recommended that the City review the size limits every few years as the market changes.
Provide affordable housing through an Inclusionary Housing program (Ordinance; amend Title 33, Planning and Zoning)

The City of Portland Ordains:

Section 1. The Council finds:

**General Findings**

1. Portland has grown by more than 80,000 people in 29,000 households since 2000, but housing supply has not come close to meeting the demand. The resulting low vacancy rates and price increases have been severe. Between 2006 and 2015 the Oregon Office of Economic Analysis estimated that the Portland housing market was underbuilt by approximately 23,000 units of housing - insufficient just to keep up with population growth.

2. Portland’s continued population growth and ongoing economic recovery have had a significant impact on rental housing, resulting in a more than 30% increase in average rents over the last five years, consistently low vacancy rates between 2.6% and 3.2% over the last three years, and high occupancy rates above 96.5% for the last five years. As noted in the City’s 2015 Report on the State of Housing in Portland, in the last year average rents across the City increased between 8-9%, or roughly $100 per month. At the same time, low-wage workers have experienced a decrease in inflation-adjusted wages and a reduced ability to find adequate and affordable rental housing.

3. The 2035 Comprehensive Plan sets policy direction with housing growth and affordability:
   a. Policy 5.2 Housing growth. Strive to capture at least 25 percent of the seven-county region’s residential growth.
   b. Policy 5.26 Regulated affordable housing target. Strive to produce and fund at least 10,000 new regulated affordable housing units citywide by 2035 that will be affordable to households in the 0-80 percent MFI bracket.
   c. Policy 5.32 Affordable housing in centers. Encourage income diversity in and around centers by allowing a mix of housing types and tenures.
   d. Policy 5.35 Inclusionary housing. Use inclusionary zoning and other regulatory tools to effectively link the production of affordable housing to the production of market-rate housing.
   e. Policy 5.36 Impact of regulations on affordability. Evaluate how existing and new regulations affect private development of affordable housing, and minimize negative impacts where possible. Avoid regulations that facilitate economically-exclusive neighborhoods.

4. On October 7, 2015, the Council, through Ordinance 187371, declared a housing emergency for a period of one year.

5. On February 3, 2016, the Council adopted Resolution 37187 and expressed support for considering an inclusionary housing ordinance if the Oregon Legislature eliminated the statewide preemption of local inclusionary housing ordinances.
6. The 2016 Oregon Legislature passed Senate Bill 1533, which lifted the preemption of local inclusionary housing ordinances and authorized local governments to require that a certain portion of housing units within a multifamily structure are sold or rented as affordable housing.

7. On September 7, 2016, the housing emergency declared by Ordinance 187371 was extended for one year, through October 6, 2017 (Ordinance 187793). The Bureau of Planning and Sustainability (BPS), in coordination with the Bureau of Development Services (BDS) and the Portland Housing Bureau (PHB), was directed to develop a legislative proposal to amend Title 33 to implement a mandatory program for inclusionary housing that is consistent with Senate Bill 1533 (2016). BPS and the Planning and Sustainability Commission (PSC) were directed to forward to the Council the PSC’s recommendation on the legislative proposal.

8. On November 8, 2016, the PSC forwarded a unanimous recommendation with conditions to amend the Zoning Code and the Housing Code to implement an Inclusionary Housing program in Portland.

Findings on Statewide Planning Goals

9. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with statewide planning goals. Only the stated goals addressed below apply.

10. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The process to prepare these amendments provided several opportunities for public involvement in accordance with City of Portland policies and procedures.

    The findings addressing Portland Comprehensive Plan Goal 9, Citizen Involvement, and its related policies also demonstrate consistency with this goal.

11. **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 process for identifying and adopting the Inclusionary Housing amendments supports this goal for the following reasons:

    - The process followed all procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610;
    - The amendments meet relevant goals and policies of the City’s adopted Comprehensive Plan as described below in the findings for Portland’s Comprehensive Plan Goals and Policies;
    - The amendments are based on an identification of issues and problems as described in the general findings and in the project report and supporting documents contained in Exhibit A.

    See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.

12. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. These amendments are consistent with this goal by providing an opportunity to purchase bonus FAR that can increase the opportunities for economic activity. The findings for Portland Comprehensive Plan Goal 5, Economic Development also demonstrate that the amendments are consistent with this goal.
13. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The findings for Portland Comprehensive Plan Goal 4, Housing, demonstrate that the amendments are consistent with Goal 10.

14. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The findings for Portland Comprehensive Plan Goal 6, Transportation, and relevant sub-policies demonstrate that the amendments are consistent with Goal 12.

The Oregon Transportation Planning Rule (TPR) implements 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. These amendments will not have a significant effect on existing or planned transportation facilities because the amendments do not significantly change current land use regulations in a way that will significantly affect an existing or planned transportation facility. The amendments in the commercial zones include an FAR bonus but also include changes to count residential floor area in the maximum FAR standard. The current commercial base zones do not have a maximum density standard. The intensity of residential development is controlled by the maximum height and lot coverage standards, which are not changed by these amendments. In the Central City and Gateway plan districts, the FAR bonus replaces the existing residential bonus options. Therefore, the FAR and density bonuses are not expected to significantly increase residential development and in turn there will be no significant impact on the transportation system.

15. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use, the efficient use of land, and the provision of livable communities. The findings for Portland Comprehensive Plan Goal 2, Urban Development, Goal 3, Neighborhoods demonstrates that these amendments provide for livable communities and are therefore consistent with this goal.

**Findings on Metro Urban Growth Management Functional Plan**

16. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the accessory short-term rental amendments.

17. **Title 1, Housing Capacity**, requires cities and or counties to maintain or increase its housing capacity. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. These amendments are consistent with this title because they do not amend the Comprehensive Plan Map and the Zoning Code changes do not lower the minimum density standards in the base zones. Therefore, there is no loss of housing capacity. The findings for Portland Comprehensive Plan Goal 4, Housing, also demonstrate that these amendments are consistent with this title.

18. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. These amendments do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones. The findings addressing Portland Comprehensive Plan Goal 5, Economic Development, also demonstrate that the amendments do not conflict with Title 4.
19. Title 7, Housing Choice, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The findings for Portland Comprehensive Plan Goal 4, Housing, demonstrate that the amendments are consistent with this title.

**Findings on Portland's Comprehensive Plan Goals**

20. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the accessory short-term rentals amendments.

**GOAL 1, METROPOLITAN COORDINATION**

21. 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 notification of the proposal, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development per ORS 197.610, and to Metro, Tri-Met, and the Oregon Department of Transportation per 33.740.020. In addition, nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

**GOAL 2, URBAN DEVELOPMENT**

22. Goal 2, Urban Development, and Policy 2.2, Urban Diversity call for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they require affordable housing to be provided in conjunction with the development of market-rate housing, which will lead to expanded opportunities for affordable housing. In addition, the amendments include provisions that create density and FAR bonus options as one of the incentives offered by the City of Portland to offset the costs of providing affordable housing.

23. Policy 2.9, Residential Neighborhoods, calls for allowing for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods. The amendments are consistent with this policy because they encourage a range of housing types by requiring affordable housing to be provided in conjunction with the development of market-rate housing.

24. Policy 2.15, Living Closer to Work, calls for locating greater residential densities near major employment centers, locating affordable housing close to employment centers, and encouraging home-based work where the nature of the work is not disruptive to the neighborhood. As described in the findings for Goal 2, Urban Development, the amendments require affordable housing to be provided in conjunction with the development of market-rate housing. In addition, the amendments include provisions that create density and FAR bonus options as one of the incentives offered by the City of Portland to offset the costs of providing affordable housing. The IH requirements apply to higher density residential development with more than 20 dwelling units, which is generally located in the Central City and mixed use centers and corridors that have a mix of housing and employment. Therefore, these amendments will promote locating affordable housing close to employment centers.

25. Policy 2.19 Infill and Redevelopment, calls for encouraging infill and redevelopment in the Central City, at transit stations, and along Main Streets. The amendments are consistent with this policy.
because the amendments require affordable housing to be provided in conjunction with the development of market-rate housing. The IH requirements apply to higher density residential development with more than 20 dwelling units, which is the type of development generally located in the Central City, at transit stations, and along Main Streets. In addition, the amendments include provisions that create density and FAR bonus options as one of the incentives offered by the City of Portland to offset the costs of providing affordable housing.

GOAL 3, NEIGHBORHOODS

26. Goal 3, Neighborhoods, calls for preserving and reinforcing the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the city's residential quality and economic vitality. The amendments are consistent with this goal and preserve the stability of the city's neighborhoods for the reasons stated in the findings for Goal 2, Urban Development, and the findings below.

27. Policy 3.3 Neighborhood Diversity, calls for promoting neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City’s neighborhoods. The amendments are consistent with this policy because the IH program will require affordable housing to be provided in conjunction with the development of market-rate housing, which will lead to income diversity within individual buildings and overall in the neighborhood.

GOAL 4, HOUSING

28. Goal 4, Housing, and Policy 4.1, Housing Availability, call 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 policy because they directly address providing housing for different levels of financial capabilities by requiring affordable housing to be provided in conjunction with the development of market-rate housing, which will lead to income diversity within individual buildings and overall in the neighborhood. In addition, the amendments include density and FAR bonus options as one of the incentives offered that will lead to different housing types and densities, especially in the Central City and Portland’s centers and corridors.

29. Policy 4.2, Maintain Housing Potential, calls for retaining housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use, especially in the case of Comprehensive Plan Map amendments. These amendments do not conflict with this policy because they do not amend the Comprehensive Plan Map. Therefore, there is no loss of land reserved for residential or mixed use development.

30. Policy 4.7, Balanced Communities, call for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region. These amendments directly address many of the objectives of this policy that call for a distribution of household incomes in the Central City, Gateway, and other town centers; maintaining income diversity within neighborhoods over the long-term; and promoting the development of mixed-income housing. The Inclusionary Housing Program is designed to help maintain income diversity in neighborhoods by requiring a share of units in new multi-dwelling developments that must be affordable at lower income levels than typical market-rate development.
31. **Policy 4.11 Affordability**, promotes the development and preservation of quality housing that is affordable across the full spectrum of household incomes. The amendments are consistent with this policy because the IH program will promote the development of needed affordable housing by requiring affordable housing to be provided in conjunction with the development of market-rate housing.

32. **Policy 4.14 Neighborhood Stability**, calls for neighborhood stability by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction. The amendments are consistent with this policy because the IH program will promote the development of a variety of rental housing options that must be affordable at lower income levels than typical market-rate development and promote stability through dedicated affordable units in mixed-income developments.

33. **Policy 4.15 Regulatory Costs and Fees**, calls for consideration of the impact of regulations and fees in the balance between housing affordability and other objectives such as environmental quality, urban design, maintenance of neighborhood character, and protection of public health, safety, and welfare. One of the key points raised in testimony has been the potential impact the IH program will have on development feasibility. The IH program is consistent with this policy because the inclusion rates set in Title 33 work in conjunction with the financial incentives authorized in Title 30 to minimize the cost of compliance.

**Objective C** specifically calls for allowing reduced parking requirements for housing where the parking demand is reduced and impacts are minimal. Providing off-street parking also represents a significant development cost, especially for structured parking. The amendments implement this objective by eliminating the minimum parking requirements in areas of Portland that have high-quality transit service in order to reduce the development cost of new housing.

**GOAL 6, TRANSPORTATION**

34. **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. These amendments are consistent with this goal because they do not change the functional classification of an existing or planned transportation facility, or change standards implementing a functional classification system.

The amendments are expected to change the income mix and diversity of housing, but not significantly increase residential development to the extent that the new development generates the types of travel, levels of travel, or travel access that are inconsistent with the functional classification of an existing or planned transportation facility; degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or the comprehensive plan; or degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or the comprehensive plan.

35. **Policy 6.27 Off-Street Parking**, calls for regulating off-street parking to promote good urban form and the vitality of commercial and employment areas. **Objective A** directly the City to consider eliminating requirements for off-street parking in areas of Portland where there is existing or planned high-quality transit service and good pedestrian and bicycle access. Providing off-street parking also
represents a significant development cost, especially for structured parking. Therefore, in order to reduce the development cost of new housing, the amendments will eliminate the minimum parking requirements in areas of Portland that have high-quality transit service.

**GOAL 9, CITIZEN INVOLVEMENT**

36. **Goal 9, Citizen Involvement**, calls for improving the methods for citizen involvement in the ongoing land use decision-making process, and providing opportunities for citizen participation in the implementation, review, and amendment of the Comprehensive Plan. **Policy 9.1** calls for encouraging citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public. The preparation of these amendments provided multiple opportunities for citizen involvement, in accordance with the legislative procedure requirements of Title 33.740, Legislative Procedure. The development of these amendments included the following notifications and opportunities for citizen involvement: The preparation of these amendments has provided numerous opportunities for public involvement, including:

a. The Bureau of Planning and Sustainability maintained and updated as needed a project website that included basic project information, announcements of public events, project documents and staff contact information.

b. On July 11, 2016 the Inclusionary Housing Zoning Code Draft Concept was published and posted on the BPS website.

c. On July 28, 2016 PHB and BPS staff presented the Inclusionary Housing Zoning Code Project and Inclusionary Housing Program to community stakeholders at an Inclusionary Housing Program Forum at the Jade/APANO Multicultural Space.

d. On September 1, 2016 PHB and BPS staff presented the Inclusionary Housing Zoning Code Project and Inclusionary Housing Program to community stakeholders at an Inclusionary Housing Program Forum hosted by the Oregon Opportunity Network.

e. On September 19, 2016 BPS staff presented the Inclusionary Housing Zoning Code Project to neighborhood stakeholders of the Southeast Uplift Land Use/Transportation Committee.

f. On September 20, 2016, notice of the proposed action was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. DLCD received the notice later that day.

g. On September 20, 2016, the Inclusionary Housing Zoning Code Project Proposed Draft was published and posted on the Bureau website.

h. On September 20, 2016, notice of the Planning and Sustainability Commission hearing on the Inclusionary Housing Zoning Code Project Proposed Draft was mailed to 378 people, including all neighborhood and business associations, and all those who had requested notice, as required by state law and administrative rules and the City’s zoning code. The notice also announced the availability of the Inclusionary Housing Zoning Code Project Proposed Draft report on the BPS website.

i. On September 28, 2016 BPS staff presented the Inclusionary Housing Zoning Code Project to neighborhood stakeholders of the Northeast Coalition of Neighborhoods Land Use/Transportation Committee.

j. On October 5, 2016 BPS staff presented the Inclusionary Housing Zoning Code Project to community stakeholders at a public event for Diversity and Civic Leadership Partners at Portland Community College.

k. On October 10, 2016 BPS staff presented the Inclusionary Housing Zoning Code Project to the Portland Historic Landmarks Commission.
l. On October 11, 2016 the Planning and Sustainability Commission held a work session on the proposal. PHB and BPS staff presented the Inclusionary Housing Zoning Code Proposed Draft and Title 30 program recommendations.

m. On October 20, 2016 BPS staff presented the Inclusionary Housing Zoning Code Project to the Portland Design Commission.

n. On October 14, 2016, the Inclusionary Housing Zoning Code Project Revised Proposed Draft was published and posted on the Bureau website.

o. On October 25, 2016, the Planning and Sustainability Commission held a public hearing on the proposal.

p. On November 8, 2016, the Planning and Sustainability Commission voted to recommend the Inclusionary Housing Zoning Code Project to City Council, including PSC-recommended changes to the Proposed Draft

q. On November 21, 2016, the Inclusionary Housing Zoning Code Project Recommended Draft was published and posted on the Bureau website.

r. On November 21, 2016, notice of the City Council hearing on the Inclusionary Housing Zoning Code Project Recommended Draft was mailed to 419 people. The notice also announced the availability of the Inclusionary Housing Zoning Code Project Recommended Draft report on the BPS website.

s. On November 29, 2016, the City Council held a work session on the Inclusionary Housing Zoning Code Project.

t. On December 8, 2016, City Council held a hearing on the Inclusionary Housing Zoning Code Project Recommended Draft. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.

u. On December 21, 2016, voted to adopt the Zoning Code changes in the Fossil Fuel Terminal Zoning Amendments.

The findings for Statewide Planning Goal 1, Citizen Involvement also demonstrate compliance with this goal and policy.

GOAL 10, PLAN REVIEW AND IMPLEMENTATION

37. Goal 10, Plan Review and Administration, calls for the periodic review so that the Comprehensive Plan and implementing ordinances remain an up-to-date and workable framework for land use development. Policy 10.6, Amendments to the Comprehensive Plan Goals, Policies, and Implementing Measures, requires that all proposed amendments to implementing ordinances be reviewed by the Planning and Sustainability Commission prior to action by the City Council. These amendments are consistent this policy because the Planning and Sustainability Commission reviewed these amendments at a public hearing on October 25, 2016 and made a recommendation to the City Council on November 8, 2016.

38. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, requires that amendments to the zoning and subdivision regulations be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. The amendments are consistent with this policy and its objectives as follows:

a. The amendments address a present land use and development situation – the affordable housing crisis as documented in the 2015 State of Housing Report, Ordinance 187371, and Ordinance 187793. The IH program will promote the development of needed affordable housing by requiring affordable housing to be provided in conjunction with the development of market-rate housing.
b. The amended regulation is simple and concise by using clear and objective standards and not requiring a discretionary land use review for the limited expansion of an existing terminal.

NOW, THEREFORE, the Council directs:

a. Adopt Inclusionary Housing Zoning Code Project, *Recommended Draft* dated November 21, 2016, attached as Exhibit A.

b. Adopt the commentary in Exhibit A, Inclusionary Housing Zoning Code Project, *Recommended Draft* dated November 21, 2016, as legislative intent and further findings.

c. Amend Title 33, Planning and Zoning, as shown in Exhibit A, Inclusionary Housing Zoning Code Project, *Recommended Draft* dated November 21, 2016.

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

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. The amendments to the Portland City Code Title 33 (Planning and Zoning) set forth in Exhibit A, shall be effective on and after February 1, 2017.

Passed by the Council:  

DEC 21 2016

Mary Hull Caballero
Auditor of the City of Portland
By

Mayor Charles Hales
Prepared by: Tom Armstrong
Date Prepared: November 21, 2016

Deputy
Provide affordable housing through an Inclusionary Housing program (Ordinance: Amend Title 33, Planning and Zoning)

<table>
<thead>
<tr>
<th>INTRODUCED BY</th>
<th>CLERK USE: DATE FILED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner/Auditor: Charlie Hales</td>
<td>NOV 29 2016</td>
</tr>
</tbody>
</table>

**COMMISSIONER APPROVAL**
- Mayor—Finance and Administration - Hales
- Position 1/Utilities - Fritz
- Position 2/Works - Fish
- Position 3/Affairs - Saltzman
- Position 4/Safety - Novick

**BUREAU APPROVAL**
- Bureau: Planning and Sustainability
- Bureau Head: Susan Anderson
- Prepared by: Tom Armstrong
- Date Prepared: 11/16/16

**Impact Statement**
- Completed [ ] Amends Budget [ ]

**Portland Policy Document**
- If "Yes" requires City Policy paragraph stated in document.
- Yes [ ] No [x]

**City Auditor Office Approval:** required for Code Ordinances

**City Attorney Approval:** required for contract, code, easement, franchise, comp plan, charter

**Council Meeting Date:** December 8, 2016

**AGENDA**
- TIME CERTAIN [x]
- Start time: 2:00 p.m.
- Total amount of time needed: 3 hours (for presentation, testimony and discussion)
- CONSENT [ ]
- REGULAR [ ]
- Total amount of time needed: ___ (for presentation, testimony and discussion)

**FOUR-FIFTHS AGENDA**

<table>
<thead>
<tr>
<th>COMMISSIONERS VOTED AS FOLLOWS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>YEAS</td>
</tr>
<tr>
<td>1. Fritz</td>
</tr>
<tr>
<td>2. Fish</td>
</tr>
<tr>
<td>3. Saltzman</td>
</tr>
<tr>
<td>4. Novick</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fritz</td>
<td>✔</td>
</tr>
<tr>
<td>Fish</td>
<td>✔</td>
</tr>
<tr>
<td>Saltzman</td>
<td>✔</td>
</tr>
<tr>
<td>Novick</td>
<td>✔</td>
</tr>
<tr>
<td>Hales</td>
<td>✔</td>
</tr>
</tbody>
</table>
Inclusionary Housing Zoning Code Project

As-Adopted Report

Ordinance #188162
Adopted December 21, 2016
Effective February 1, 2017
The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.
Table of Contents

1. Introduction........................................................................................................................................... 1
2. Policy direction ...................................................................................................................................... 6
3. Public and stakeholder involvement ................................................................................................. 12
4. Zoning Code changes ......................................................................................................................... 15
5. Other implementation recommendations .......................................................................................... 124
Acknowledgments

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

Portland City Council
Charlie Hales, Mayor
Nick Fish, Commissioner
Amanda Fritz, Commissioner
Dan Saltzman, Commissioner
Steve Novick, Commissioner

Planning and Sustainability Commission
Katherine Schultz, Chair
André Baugh, Vice Chair
Chris Smith, Vice Chairs
Jeff Bachrach
Mike Houck
Katie Larsell
Gary Oxman
Michelle Rudd
Eli Spevak
Teresa St Martin
Margaret Tallmadge

Bureau of Planning and Sustainability
Charlie Hales, Mayor, Commissioner–in-charge
Susan Anderson, Director

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

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

Portland Housing Bureau Inclusionary Housing Program Development Panel of Housing Experts
Shannon Callahan – Office of Commissioner Saltzman
Matthew Tschabold – Portland Housing Bureau
Sarah Zahn – Portland Housing Advisory Commission, Gerding Edlen
Dike Dame – Portland Housing Advisory Commission, Williams and Dame Development
Dr. Lisa Bates – Portland State University
Dr. Ronald Lehr – KeyBanc Capital Markets Inc.
Amanda Saul – Enterprise Community Partners
Vivian Satterfield – OPAL Environmental Justice Oregon
Margaret Tallmadge – Coalition of Communities of Color, Portland Planning and Sustainability Commission
Eric Cress – Urban Development + Partners
Greg Goodman – Downtown Development Group, Portland Business Alliance
Kira Cador – Rembold Companies
Nolan Lienhardt – ZGF, 1,000 Friends of Oregon
1. Introduction

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

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

Core components of the comprehensive inclusionary housing program development framework:
- Technical analysis
- Panel of housing experts
- Community-wide discussion series
- Intra-bureau technical team
- Technical Consulting Advisors David Paul Rosen and Associates and ECONorthwest

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

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

Public Outreach and Community Involvement
In addition to the public meetings of the panel of housing experts, the technical analysis consulting advisors and the intra-bureau technical team held three community-wide public meetings at various stages of the feasibility assessment and program development process that have been hosted by community organizations. Project staff held citywide presentations and information sessions with each neighborhood coalition in the City of Portland Neighborhood Association framework.
Inter-Bureau Technical Team
Staff from the bureaus of Development Services, Housing, Planning and Sustainability, the Portland Development Commission and the Office of the City Attorney served on an inter-bureau technical team to provide data, information, and guidance on the development of a comprehensive inclusionary housing program.

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

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

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

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

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

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

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

Where will these zoning code amendments apply?

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

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

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

#### Mixed Use Zones

<table>
<thead>
<tr>
<th>Mandatory Inclusionary Requirement:</th>
<th>20% of Units at 80% Area Median Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incentives:</td>
<td>• Density Bonus</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• Density Bonus Units Exempt from Parking Requirements</td>
</tr>
<tr>
<td>Deeper Affordability Option:</td>
<td>10% of Units at 60% Area Median Income</td>
</tr>
<tr>
<td>Incentives:</td>
<td>• Density Bonus</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• Density Bonus Units Exempt from Parking Requirements</td>
</tr>
</tbody>
</table>

#### Central City Zones with 2:1, 3:1 and 4:1 Base FAR

<table>
<thead>
<tr>
<th>Mandatory Inclusionary Requirement:</th>
<th>20% of Units at 80% Area Median Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incentives:</td>
<td>• Density Bonus of 3.0 FAR</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td>Deeper Affordability Option:</td>
<td>10% of Units at 60% Area Median Income</td>
</tr>
<tr>
<td>Incentives:</td>
<td>• Density Bonus of 3.0 FAR</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• SDC Waivers on Affordable Units</td>
</tr>
</tbody>
</table>

#### Central City Zones with Base FAR 5:1 and Higher

<table>
<thead>
<tr>
<th>Mandatory Inclusionary Requirement:</th>
<th>20% of Units at 80% Area Median Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incentives:</td>
<td>• Density Bonus of 3.0 FAR</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on All Residential Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td>Deeper Affordability Option:</td>
<td>10% of Units at 60% Area Median Income</td>
</tr>
<tr>
<td>Incentives:</td>
<td>• Density Bonus of 3.0 FAR</td>
</tr>
<tr>
<td></td>
<td>• 10 Year Property Tax Exemption on all Residential Units</td>
</tr>
<tr>
<td></td>
<td>• CET Exemption on Affordable Units</td>
</tr>
<tr>
<td></td>
<td>• SDC Waivers on Affordable Units</td>
</tr>
</tbody>
</table>

### Off Site Options to Satisfy Inclusionary Housing Program Requirements

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

# of Affordable Units Required Off-Site

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

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

# of Affordable Units Required Off-Site

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

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

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

1. A phase-in a lower inclusion rate for both the mandatory and voluntary options outside the Central City and Gateway plan districts. These inclusion rates will start at 15 percent of units at 80 percent MFI and 8 percent of units at 60 percent MFI. On January 1, 2019, the rates will increase to 20 percent of units at 80 percent MFI and 10 percent of units at 60 percent MFI.

2. Provide an option to satisfy the inclusionary housing requirements by providing a certain number of units or bedrooms at the requisite affordability rate. The intent is to encourage the creation of more family housing (units with 2 or more bedrooms) in multi-dwelling development.

3. Provide an exemption from minimum parking standards for all dwelling units in development projects that are close to transit (less than 1500 feet from a transit station or less than 500 feet from a transit street with 20-minute peak hour service) that provide on-site or off-site affordable dwelling units. The exemption will also apply to affordable dwelling units that are located on sites that are far from transit. Neither exception will apply when a fee-in-lieu of affordable housing is paid.

4. Change the Central City FAR bonus and transfer system to allow development projects that do not trigger inclusionary housing requirements (i.e. commercial projects) to increase floor area through a historic resource transfer or the voluntary inclusionary housing bonus before accessing other bonus or transfer options. This amendment is intended to encourage historic preservation and seismic upgrades.

5. Title 33 Zoning Code technical clean-up amendments to the Recommended Draft.

What’s in this report?

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

This report consists of five parts:

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

Section 2 describes how the proposed code changes implement relevant City policies in Resolution 37187 and the Comprehensive Plan.

City of Portland Inclusionary Housing Resolution 37187

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

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

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

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

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

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

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

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

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

Guiding principles of the 2035 Comprehensive Plan

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

Economic prosperity

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

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

Human health

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

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

Environmental health

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

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

Equity

*Guiding Principle: Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address, and prevent repetition of the injustices suffered by communities of color throughout Portland’s history.*
The proposed code changes advances goals to increase equitable access to housing. These proposed code changes support greater access to and expansion of economic opportunities in the Central City and other high opportunity areas for all groups facing longstanding disparities, including education, housing and employment barriers, so that they can share in employment and economic prosperity.

**Resilience**

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

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

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

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

**Overall project direction: Inclusionary housing**

**Policy 5.35 Inclusionary housing**

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

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

**Policy 3.3 Equitable development**

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

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

**Policy 5.10 Coordinate with fair housing programs**

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

**Policy 5.14 Preserve communities**

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

**Policy 5.16 Involuntary displacement**

When plans and investments are expected to create neighborhood change, limit the involuntary displacement of those who are under-served and under-represented. Use public investments
and programs, and coordinate with nonprofit housing organizations (such as land trusts and housing providers) to create permanently-affordable housing and to mitigate the impacts of market pressures that cause involuntary displacement.

**Policy 5.22 New development in opportunity areas**
Locate new affordable housing in areas that have high/medium levels of opportunity in terms of access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities. *See Figure 1.*

**Policy 5.23 Higher-density housing**
Locate higher-density housing, including units that are affordable and accessible, in and around centers to take advantage of the access to active transportation, jobs, open spaces, schools, and various services and amenities.

**Policy 5.25 Housing preservation**
Preserve and produce affordable housing to meet needs that are not met by the private market by coordinating plans and investments with housing providers and organizations.

**Policy 5.26 Regulated affordable housing target**
Strive to produce and fund at least 10,000 new regulated affordable housing units citywide by 2035 that will be affordable to households in the 0-80 percent MFI bracket.

**Policy 5.27 Funding plan**
Encourage development or financial or regulatory mechanisms to achieve the regulated affordable housing target set forth for 2035.

**Policy 5.29 Permanently-affordable housing**
Increase the supply of permanently-affordable housing, including both rental and homeownership opportunities.

**Policy 5.34 Affordable housing resources**
Pursue a variety of funding sources and mechanisms including new financial and regulatory tools to preserve and develop housing units and various assistance programs for households whose needs are not met by the private market.

**Policy 5.38 Workforce housing**
Encourage private development of a robust supply of housing that is affordable to moderate-income households located near convenient multimodal transportation that provides access to education and training opportunities, the Central City, industrial districts, and other employment areas.
Existing Comprehensive Plan policies specifically implemented in this project

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

**Policy 3.3 Neighborhood Diversity**
Promote neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City's neighborhoods.

**Policy 4.1 Housing Availability**
Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of Portland’s households now and in the future.

**Policy 4.7 Balanced Communities**
Strive for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region.
**Policy 4.9 Fair Housing**
Ensure freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability.

**Policy 4.10 Housing Diversity**
Promote creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community.

**Policy 4.11 Housing Affordability**
Promote the development and preservation of quality housing that is affordable across the full spectrum of household incomes.

**Policy 4.12 Housing Continuum**
Ensure that a range of housing from temporary shelters, to transitional, and to permanent housing for renters and owners is available, with appropriate supportive services for those who need them.

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

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

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

**2015 Climate Action Plan**

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

**Objective 4Q Affordable Housing Access to Transit**
Use regulatory and voluntary tools to promote affordable and accessible housing development along existing and planned high capacity transit lines, frequent transit routes and in opportunity areas identified by the Portland Housing Bureau.
3. Public and stakeholder involvement

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

Public comments received for this project

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

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

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

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

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

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

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

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

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

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

Central City 2035 Plan

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

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

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

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

Inter-governmental coordination

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

Zoning Code Amendments to Implement Inclusionary Housing Policy
Additional Use & Development Regulations

33.203 Accessory Home Occupations
33.205 Accessory Dwelling Units
33.207 Accessory Short-Term Rentals
33.209 Aviation
33.218 Community Design Standards
33.219 Convenience Stores
33.224 Drive-Through Facilities
33.229 Elderly and Disabled High Density Housing
33.236 Floating Structures
33.237 Food Production and Distribution
33.239 Group Living
33.243 Helicopter Landing Facilities
33.245 Inclusionary Housing
33.248 Landscaping and Screening
33.251 Manufactured Housing and Manufactured Dwelling Parks
33.254 Mining and Waste-Related
33.258 Nonconforming Situations
33.262 Off-Site Impacts
33.266 Parking and Loading
33.272 Public Recreational Trails
33.274 Radio Frequency Transmission Facilities
33.278 Permit-Ready Houses
33.279 Recreational Fields for Organized Sports
33.281 Schools and School Sites
33.284 Self-Service Storage
33.285 Short Term Housing and Mass Shelters
33.288 Special Street Setbacks
33.293 Superblocks
33.296 Temporary Activities
33.299 Wind Turbines
Chapter 33.245 Inclusionary Housing
The new regulations require new development with more than 20 dwelling units in one building to provide either 20% of the dwelling units to be affordable at 80% MFI or 10% of the dwelling units to be affordable at 60% MFI, or pay a fee-in-lieu.

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

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

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

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

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

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

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

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

33.245.020 Where These Regulations Apply
The regulations of this chapter apply to the following:

A. New buildings with 20 or more dwelling units; and

B. Alterations to existing buildings that add 20 or more dwelling units.

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

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

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

1. Central City and Gateway plan districts. Inside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:

   a. 10 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or

   b. 20 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income.

2. Outside the Central City and Gateway plan districts. Outside the Central City and Gateway plan districts, affordable dwelling units must be provided at one of the following rates:

   a. Rates before January 1, 2019:

      (1) 8 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income; or
This is a new chapter. For ease of readability the text is not underlined

(2) 15 percent of the total number of dwelling units or bedrooms in the new building or the alteration must be affordable to those earning no more than 80 percent of the area median family income.

b. Rates on and after January 1, 2019. The rates shown in Paragraph A.1. apply outside the Central City and Gateway plan districts on and after January 1, 2019.

B. Off-site affordable dwelling units. When the affordable dwelling units will be located off-site, affordable dwelling units must be provided at one of the following rates:

1. New dwelling units. When the affordable dwelling units will be provided by constructing new dwelling units off-site, one of the following rates apply. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:
   a. 10 percent of the total number of dwelling units in the new building or alteration must be affordable to those earning no more than 30 percent of the area median family income; or
   b. 20 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.

2. Existing dwelling units. When the affordable dwelling units will be provided by dedicating existing dwelling units as affordable, one of the following rates apply. The number of affordable dwelling units required is calculated based on the development that triggers the regulations of this chapter:
   a. 15 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 30 percent of the area median family income; or
   b. 25 percent of the total number of dwelling units in the new building or the alteration must be affordable to those earning no more than 60 percent of the area median family income.

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

A. The applicant must provide a letter from the Portland Housing Bureau certifying that the development meets the standards stated above and any administrative requirements. The letter is required to be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review; and

B. If affordable dwelling units will be provided the property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of the building permit for the development that triggers this chapter, and the covenant must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau.
Commentary

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

Sections:

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

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

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

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

A. Purpose. The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the availability of support commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the City's housing goals are met.

B. Maximum density. The maximum densities for the multi-dwelling zones are stated in Table 120-3. All new housing built, or converted from other uses, must be on sites large enough to comply with the density standards. The number of units allowed on a site is based on the presumption that all site development standards will be met. The allowed density is not a special right that justifies adjusting other development standards.

1. In RH and IR zones, the maximum FAR is 4 to 1 in the areas shown on Maps 120-2 through 120-20. In all other areas the maximum FAR is 2 to 1.

2. In the IR zone, residential development within 150 feet of another residential zone has the same maximum density permitted in that zone. Where two or more residential zones are within 150 feet of a site, the maximum residential density is that of the lower density residential zone.

C. Minimum density. The minimum density requirements for the multi-dwelling zones are stated in Table 120-3. Land within an Environmental zone may be subtracted from the calculation of minimum density. A site that is nonconforming in minimum density may not move further out of conformance with the minimum density standard. However, units may be added to the site that bring the site closer to conformance without coming all the way into conformance.

1. In R3 and R2 zones, if maximum density is two units then minimum density is two units. If maximum density is one unit, minimum density is one unit.

2. In the R1 zone, if the site is less than 10,000 square feet in area, the minimum density is 1 unit per 2,000 square feet.

3. On sites where trees that are 12 or more inches in diameter are proposed for preservation, minimum density may be reduced as follows:
   a. The maximum allowed reduction in minimum density is shown in Table 120-6.
   b. When this provision is used to reduce density, the owner must execute a covenant with the City. The covenant is not required if the site is also part of a proposed Land Division. The covenant must:
      (1) Require that all trees used to reduce the minimum density be preserved for at least 10 years;
Commentary

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

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

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

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

The inclusionary housing project is adding an additional density/FAR bonus that will be available in all zones and utilized more often because it will be automatically awarded when a project triggers the mandatory inclusionary housing chapter (33.245). This paragraph is being amended to make it clear that the maximum increase on any site whether from a transfer or a bonus is 3:1 in RH and RX and no more than 100 percent of the maximum number of dwelling units allowed.
(2) Allow trees used to reduce the minimum density that die, or become diseased or dangerous to be removed and replaced within the 10 year preservation period. The trees must be determined to be dead, diseased, or dangerous by an arborist, and a Title 11 tree permit must be obtained. If a tree used to reduce the minimum density is dead, diseased, or dangerous as the result of a violation, Tree Review is required; and

(3) The covenant must meet the requirements of Section 33.700.060 and be recorded before a development permit is issued.

<table>
<thead>
<tr>
<th>Table 120-6 Reduction in Minimum Residential Density from Tree Preservation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required Minimum Residential Density</td>
</tr>
<tr>
<td>---------------------------------------</td>
</tr>
<tr>
<td>Up to 7 units</td>
</tr>
<tr>
<td>8-12 units</td>
</tr>
<tr>
<td>13-17 units</td>
</tr>
<tr>
<td>18 or more units</td>
</tr>
<tr>
<td>4 or more</td>
</tr>
</tbody>
</table>

D. **Floor area ratio.** The floor area ratio (FAR) states the amount of floor area allowed. There is no maximum limit on the number of dwelling units within the allowable floor area, but the units must comply with all building and housing code requirements. The FAR also includes any nonresidential uses that are allowed. Minimum density requirements may also apply.

E. **Maximum increase in density or FAR.** In the RH and RX zones, an increase in FAR through the use of bonuses and transfers of more than 3 to 1 is prohibited. In all other multi-dwelling zones, an increase in the number of units through the use of bonuses, including amenity bonuses, and transfers of more than 100 percent is prohibited.

F. **Inclusionary housing bonus density or FAR.** The following density and FAR bonus options are allowed in the R3 through RX zones. Sites in the IR zone are not eligible for the bonus density options. Adjustments to this Subsection, or to the amount of maximum density or floor area allowed through the bonuses in this Subsection, are prohibited. Amenity bonuses described in 33.120.265 may allow additional bonus density:

1. **Mandatory inclusionary housing.** Bonus density or FAR is allowed up to the maximum stated in Table 120-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.

2. **Voluntary inclusionary housing.** Bonus density or FAR up to the maximum stated in Table 120-3 is allowed when affordable housing is provided as follows:
33.120.205.F.2. Voluntary inclusionary housing bonus

The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).
a. Bonus density or FAR is allowed for projects that voluntarily provide affordable housing at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated below and any administrative requirements of the Portland Housing Bureau. The letter must be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:

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

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

33.120.205.F Bonus density or FAR continued

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

For sites where density is calculated in number of dwelling units, the amount of floor area purchased through the fund will be converted to dwelling units at a rate of 1 dwelling unit per 800 square feet. The average square footage of multi-dwelling development assumed in the Buildable Lands Inventory is 800 square feet net per housing unit. This unit size is based on average unit sizes that have been observed in multi-dwelling development that has occurred over the last two development cycles.
(3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off-site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:

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

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

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

1. Calculating the amount of density or FAR transferred. In the R3, R2, and R1 zones, transferable density is calculated in terms of dwelling units. In the RH and RX zones, transferable density is calculated by FAR.

2. Maximum increase in density or FAR. In the RH and RX zones, an increase in FAR on the receiving site of more than 3 to 1 is prohibited. In all other R zones, an increase in the number of units of more than 100 percent of the receiving site is prohibited.

3. Development standards. Buildings on sites receiving transferred density or FAR must meet the development standards of the base zone, overlay zone, or plan district, except for maximum density, which is regulated by paragraph E.2 above.

4. General standards for transfers of density or FAR.
a. Except for transfers from the sites of Landmarks, the transfers may be only 
between sites within a block or between sites that would be abutting except for 
a right-of-way.

b. Density or FAR from the site of a Landmark may be transferred to any site 
allowed by Paragraph 5 below, within the recognized neighborhood where the 
Landmark is located, or to any site within two miles of the Landmark.

45. Zoning.

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

b. RH Zone. Density or FAR may be transferred from a site zoned RH to a site zoned 
   RX or RH. Density may be transferred from the site of a Landmark zoned RH to a 
   site zoned RX, RH, or EX.

c. R3, R2, and R1 Zones. Density may be transferred among sites zoned R3, R2, and 
   R1.

56. Covenants. The property owner must execute a covenant with the City that is 
attached to and recorded with the deed of both the site transferring and the site 
receiving the density reflecting the respective increase and decrease of potential 
density. The covenant for the receiving site must meet the requirements of Section 
33.700.060. The covenant for the Landmark transferring the density must meet the 
requirements of 33.445.610.D., Covenant.
<table>
<thead>
<tr>
<th>Standard</th>
<th>R3</th>
<th>R2</th>
<th>R1</th>
<th>RH</th>
<th>RX</th>
<th>IR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Density (See 33.120.205)</td>
<td>1 unit per 3,000 sq. ft.</td>
<td>1 unit per 2,000 sq. ft.</td>
<td>1 unit per 1,000 sq. ft.</td>
<td>FAR of 2 to 1 or 4 to 1</td>
<td>FAR of 4 to 1</td>
<td>See 120.205</td>
</tr>
<tr>
<td>Maximum Density with Inclusionary Housing Bonus (See 33.120.205.E)</td>
<td>1 unit per 2,400 sq. ft.</td>
<td>1 unit per 1,600 sq. ft.</td>
<td>1 unit per 800 sq. ft.</td>
<td>FAR of 2.5 to 1 or 5 to 1 [1]</td>
<td>FAR of 5 to 1</td>
<td>NA</td>
</tr>
<tr>
<td>Minimum Density (See 33.120.205)</td>
<td>1 unit per 3,750 sq. ft.</td>
<td>1 unit per 2,500 sq. ft.</td>
<td>1 unit per 1,450 sq. ft.</td>
<td>1 unit per 1,000 sq. ft.</td>
<td>1 unit per 500 sq. ft.</td>
<td>none</td>
</tr>
<tr>
<td>Maximum Height (See 33.120.215)</td>
<td>35 ft.</td>
<td>40 ft.</td>
<td>25/45 ft.</td>
<td>25/65 ft. 75/100 ft.</td>
<td>100 ft.</td>
<td>75/100 ft.</td>
</tr>
<tr>
<td>Minimum Setbacks</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>3 ft.</td>
<td>0 ft.</td>
<td>0 ft.</td>
<td>1 ft. for every 2 ft. of bldg. height, but in no case less than 10 ft.</td>
</tr>
<tr>
<td>- Front building setback</td>
<td>- - See Table 120-4</td>
<td>- - See Table 120-4</td>
<td>- See Table 120-4</td>
<td>- See Table 120-4</td>
<td>- See Table 120-4</td>
<td></td>
</tr>
<tr>
<td>- Street building setback</td>
<td>18 ft.</td>
<td>18 ft.</td>
<td>5/18 ft.</td>
<td>5/18 ft.</td>
<td>5/18 ft.</td>
<td></td>
</tr>
<tr>
<td>- Side and rear building setback.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Garage entrance setback (See 33.120.220)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Setbacks (See 33.120.220)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit Street or Pedestrian District</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>20 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Max. Building Coverage (See 33.120.225)</td>
<td>45% of site area</td>
<td>50% of site area</td>
<td>60% of site area</td>
<td>85% of site area</td>
<td>100% of site area</td>
<td>70% of site area</td>
</tr>
<tr>
<td>Max. Building Length (See 33.120.230)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Min. Landscaped Area (See 33.120.235)</td>
<td>35% of site area</td>
<td>30% of site area</td>
<td>20% of site area</td>
<td>15% of site area</td>
<td>none</td>
<td>20% of site area</td>
</tr>
<tr>
<td>Required Outdoor Areas (See 33.120.240)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Notes:
[1] If the base FAR is 2 to 1 then the maximum with bonus is 2.5 to 1. If the base FAR is 4 to 1, then the maximum with bonus is 5 to 1.
33.120.265.B.3 Amenity Bonus Regulations
This language is being added to clarify that additional density allowed through the inclusionary housing density bonus is counted toward the total 50 percent increase allowed on an R3, R2 or R1 site. The inclusionary housing bonus density options have been calibrated to be a 25 percent density increase so that there is room for additional density to be added to a site in exchange for these other public amenities.
33.120.265 Amenity Bonuses

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

The amount of the bonus for each option is a result of balancing several factors. These include:
- The likelihood that the amenity will be provided without the use of incentives;
- The potential cost to the developer; and
- The importance of the amenity.

B. **Regulations.**

1. **Qualifying types of development.** The amenity bonus provisions are applicable to all housing types in the R3, R2, and R1 zones.

2. **Computation of the bonus.** The percentages of all the bonus options included in the project are added together. The total is then applied to the allowed number of units to determine the additional units allowed. Fractions of additional units earned are not counted.

3. **Maximum bonus.** The maximum density increase allowed for a development is 50 percent including density increased through an inclusionary housing bonus allowed by 33.120.205.F. Increases over 50 percent are prohibited.

4. **Compliance with the standards.** The bonus amenity standards must be met in full to receive the bonus; exceptions are prohibited. In addition, adjustments to the development standards of the base zone, overlay zone, or plan district are prohibited if the project is to receive any density bonuses. It is the responsibility of the applicant to document that all of the amenity bonus requirements are met. Documentation is required prior to issuance of building permits for the bonus units.

5. **Base zone site development standards.** The additional units must comply with all applicable site development standards. Any development feature provided to comply with the requirements of the base zone, such as the required outdoor area requirement, may not be counted towards the calculation of bonus density.
Commentary

33.120.265.C Amenity bonuses
The list of amenity bonus options has not been amended. They are included in this draft for informational purposes only.
6. Covenants.
   a. The applicant must sign a covenant that ensures that the amenities provided to receive any bonus density will continue to be provided for the life of the project.
   b. The covenant must comply with the standards in 33.700.060, Covenants with the City.
   c. If the bonus density is earned through preservation of trees under Paragraph C.9, the covenant must also specify that if the trees are determined to be dead, diseased, or dangerous by an arborist, they must be removed and replaced under a tree permit in accordance with Title 11, Trees. If a tree used to earn bonus density is dead, diseased, or dangerous as the result of a violation, Tree Review is required.

C. The amenity bonus options.
   1. Outdoor recreation facilities. Outdoor recreational facilities may include a tennis or basketball court, ball field, swimming pool, horseshoe pit, gazebo, permanent picnic tables, and similar items. The density bonus is 2 percent for each 1/2 of 1 percent of the overall project development cost spent on outdoor recreation facilities. There is a maximum of 10 percent density increase allowed for this bonus.
   2. Children's play areas. The density bonus for this amenity is 5 percent. A qualifying children's play area must comply with all of the following standards:
      a. Size and layout. Each children's play area must be at least 1,000 square feet and clearly delineated. Each must be of such shape to allow a square 25 feet on a side to fit in the area. At least 400 square feet of the area must be in grass. Children's play areas must be separated from any other outdoor recreational facilities.
      b. Play equipment. Each children's play area must include a play structure at least 100 square feet in area, a swing structure with at least 4 swings, and at least one of the following: a slide, permanent sandbox, permanent wading pool, or other children's play equipment commonly found in a public park. Equipment must be of adequate materials to match the expected use, and manufactured to American Society for Testing and Materials (ASTM) F1487-11 standards or other comparable standards applicable to public playground equipment.
      c. Fencing. Each children's play area must be fenced along any perimeter which is within 10 feet of a street, alley, property line, or parking area.
   3. Three bedroom units. A bonus of 5 percent is allowed if 10 percent of the development's units have at least 3 bedrooms. A bonus of 10 percent is allowed if 20 percent or more of the development's units have at least 3 bedrooms. If between 10 percent and 20 percent of the units have at least 3 bedrooms, then the bonus is prorated.
4. Storage areas. The density bonus for this amenity is 5 percent. The bonus is allowed if all units are provided with interior storage and additional storage for large items, as indicated below.
   
a. Interior storage. Interior storage areas must comply with all of the following minimum dimensions:
   
   (1) Kitchens — 20 square feet of drawers and 50 square feet of shelf space. Shelves must have at least 12 inches of vertical clearance.
   
   (2) Bedroom closets — 16 square feet in floor area, and one in each bedroom.
   
   (3) Linen closet — 10 square feet of shelving, and may be located in a hallway or bathroom.
   
   (4) Entry closet — 10 square feet of floor area.
   
   b. Storage for large items. Storage areas must be fully enclosed, be dry, and have locks if they are not located in the dwelling. They must be at least 50 square feet in floor area, and at least 7 feet high. They must be located so as to be easily accessible for large items, such as barbecues, bicycles, and sports equipment.

5. Sound insulation. The density bonus for this amenity is 10 percent. To qualify for this bonus, the interior noise levels of residential structures must be reduced in 3 ways. The reductions address noise from adjacent dwellings and from outdoors, especially from busy streets.
   
a. The sound insulation of all party walls, walls between corridors and units, and in floor-ceiling assemblies must comply with a Sound Transmission Class (STC) of 55 (50 if field-tested). STC standards are stated in the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon).
   
b. The STC rating on all entrance doors assemblies from interior corridors must be at least 30, as documented by acoustic laboratory tests of the doors.
   
c. The STC rating on all windows, skylights, and exterior doors, must be at least 35, as documented by acoustic laboratory tests.

6. Crime prevention. The density bonus for this amenity is 10 percent. The bonus is allowed if all units have security features which comply with items 1 through 6 of the Residential Security Recommendations of the Portland Police Bureau. In addition, exterior lights which comply with the lighting standards of the Crime Prevention Division of the Portland Police Bureau must be provided. Development plans must be certified by the Crime Prevention Division of the Portland Police Bureau as complying with these provisions.

7. Solar water heating. The density bonus for this amenity is 5 percent. The bonus is allowed if solar-heated water is provided to all units. Systems may be active or passive. Systems must qualify for the Oregon State solar energy tax credit or be rated by the Solar Rating and Certification Corporation (SRRC). Applicants must provide documentation that the provisions are met.
Commentary

33.120.320 Inclusionary Housing
This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19 for more information.
8. Larger required outdoor areas. The density bonus for this amenity is 5 percent. To qualify for this amenity, at least 96 square feet of outdoor area is required for each dwelling unit. All other standards of 33.120.240, above, must be met.

9. Tree preservation. Development proposals that preserve more than the required number or percentage of the trees on the site may use this amenity bonus option. The density bonus is 5 percent for each tree that is preserved in addition to those required to be preserved on the site. Each tree counted toward the bonus must be documented in an arborist report that the following are met:
   a. Be at least 12 inches in diameter;
   b. Not be dead, dying, or dangerous; and
   c. Not be on the Nuisance Plants List.

**33.120.320 Inclusionary Housing**

The regulations pertaining to inclusionary housing are stated in Chapter 33.245, Inclusionary Housing.
33.130 Commercial Zones Table of Contents
Mandatory inclusionary housing requirements are being added to the zoning code as chapter 33.245. See page 19 for more details. This amendment adds the inclusionary housing reference section to the table of contents for this base zones chapter.
33.130 Commercial Zones

Sections:
General
  33.130.010 Purpose
  33.130.020 List of the Commercial Zones
  33.130.030 Characteristics of the Zones
  33.130.040 Other Zoning Regulations
Use Regulations
  33.130.100 Primary Uses
  33.130.110 Accessory Uses
  33.130.130 Nuisance-Related Impacts
Development Standards
  33.130.200 Lot Size
  33.130.205 Floor Area Ratio
  33.130.210 Height
  33.130.215 Setbacks
  33.130.220 Building Coverage
  33.130.225 Landscaped Areas
  33.130.227 Trees
  33.130.230 Ground Floor Windows
  33.130.235 Screening
  33.130.240 Pedestrian Standards
  33.130.242 Transit Street Main Entrance
  33.130.245 Exterior Display, Storage, and Work Activities
  33.130.250 General Requirements for Residential and Mixed-Use Developments
  33.130.253 Additional Requirements in the CM Zone
  33.130.255 Trucks and Equipment
  33.130.260 Drive-Through Facilities
  33.130.265 Detached Accessory Structures
  33.130.270 Fences
  33.130.275 Demolitions
  33.130.285 Nonconforming Development
  33.130.290 Parking and Loading
  33.130.295 Signs
  33.130.305 Superblock Requirements
  33.130.310 Recycling Areas
  33.130.320 Inclusionary Housing
33.130.205.B Floor Area Ratio
Floor area ratio for residential uses will now be counted against the total allowable FAR. This change in regulation allows the standardization of the base and bonus structure and more clarity as to the relationship of the bonus FAR in relation to the inclusionary housing requirements. Previous development standards in some zones (such as CM and CS) did not count the residential floor area of a development against the total FAR maximums. In this situation, a mixed use or multi-family development project was limited primarily by maximum site coverage, minimum setbacks, and maximum height development standards. The base and bonus FAR approach works within the existing allowable height maximums.

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

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

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

A. Purpose. Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. The bonus FAR options allow additional floor area as an incentive for providing affordable housing.

B. FAR standard. The floor area ratios are stated in Table 130-3 and apply to all nonresidential development. Floor area for residential uses is not calculated as part of the FAR for the site and is allowed in addition to the FAR limits.

C. Maximum increase in FAR. An increase in FAR of more than 3 to 1 is prohibited. The total increased FAR includes FAR from transfers and additional FAR allowed from bonus provisions.

D. Bonus FAR. The following FAR bonus options are allowed in the commercial zones. Adjustments to this Subsection, or to the maximum floor area allowed through the following bonuses, are prohibited:

1. Mandatory inclusionary housing. Bonus FAR is allowed up to the maximum stated in Table 130-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.

2. Voluntary inclusionary housing. Bonus FAR up to the maximum stated in Table 130-3 is allowed when affordable housing is provided as follows:

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

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

   • Inside the Central City and Gateway plan districts:
     – 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
     – 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
• Outside the Central City and Gateway plan districts until January 1, 2019:
  – 8 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
  – 15 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.

• The rates shown in Subsubparagraph D.2.a.(1) that apply inside the Central City and Gateway plan districts apply outside the Central City and Gateway plan districts on and after January 1, 2019.

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

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

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

1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;

2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by paragraph C.1 above;

3. Receiving site. The transfer must be to a site that is:
   a. Zoned C or EX; and
   b. Within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark;

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

Table 130-3
The Maximum Floor Area Ratio standards have been adjusted to account for the change in that residential uses will now be counted against the total allowable FAR. This change in regulation allows the standardization of the base and bonus structure and more clarity as to the relationship of the bonus FAR in relation to the inclusionary housing requirements.

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

33.130.320 Inclusionary Housing
This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19.
Table 130-3
Summary of Development Standards in Commercial Zones

<table>
<thead>
<tr>
<th>Standard</th>
<th>CN1</th>
<th>CN2</th>
<th>CO1</th>
<th>CO2</th>
<th>CM</th>
<th>CS</th>
<th>CG</th>
<th>CX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum FAR (see 33.130.205)</td>
<td>0.75 to 1</td>
<td>2.5 to 1</td>
<td>2.5 to 1</td>
<td>2.5 to 1</td>
<td>4 to 1</td>
<td>4 to 1</td>
<td>3 to 1</td>
<td>3 to 1</td>
</tr>
<tr>
<td>Maximum FAR with Bonus (see 33.130.210.C)</td>
<td>2.5 to 1</td>
<td>2.5 to 1</td>
<td>2.5 to 1</td>
<td>4 to 1</td>
<td>4 to 1</td>
<td>4 to 1</td>
<td>3.5 to 1</td>
<td>6 to 1</td>
</tr>
<tr>
<td>Maximum Height (see 33.130.210)</td>
<td>30 ft.</td>
<td>30 ft.</td>
<td>30 ft.</td>
<td>45 ft.</td>
<td>45 ft.</td>
<td>45 ft.</td>
<td>45 ft.</td>
<td>75 ft.</td>
</tr>
<tr>
<td>Min. Building Stbks (see 33.130.215)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Street Lot Line or Lot Line Abutting an OS, RX, C, E, or I Zone Lot</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
</tr>
<tr>
<td>Lot Line Abutting other R Zoned Lot</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
<td>See Table 130-4</td>
</tr>
<tr>
<td>Garage Entrance Setback (see 33.130.250.E)</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
<td>5/18 ft</td>
</tr>
<tr>
<td>Max. Building Stbks (see 33.130.215)</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Street Lot Line Transit Street or Pedestrian District</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Building Coverage (see 33.130.220)</td>
<td>Max. of 85% of site area</td>
<td>Max. of 65% of site area</td>
<td>Max. of 50% of site area</td>
<td>Max. of 65% of site area</td>
<td>Min. of 50% of site area</td>
<td>Min. of 50% of site area</td>
<td>Max. of 85% of site area</td>
<td>No Limit</td>
</tr>
<tr>
<td>Min. Landscaped Area (see 33.130.225)</td>
<td>15% of site area</td>
<td>15% of site area</td>
<td>15% of site area</td>
<td>15% of site area</td>
<td>None</td>
<td>None</td>
<td>15% of site area</td>
<td>None</td>
</tr>
<tr>
<td>Ground Floor Window Stds. Apply (see 33.130.230)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Pedestrian Requirements (see 33.130 240)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

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

33.140 Employment and Industrial Zones Table of Contents

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

Sections:

General
- 33.140.010 General Purpose of the Zones
- 33.140.020 List of the Employment and Industrial Zones
- 33.140.030 Characteristics of the Zones
- 33.140.040 Other Zoning Regulations

Use Regulations
- 33.140.100 Primary Uses
- 33.140.110 Accessory Uses
- 33.140.130 Nuisance-Related Impacts
- 33.140.140 On-Site Waste Disposal

Site Development Standards
- 33.140.200 Lot Size
- 33.140.205 Floor Area Ratio
- 33.140.210 Height
- 33.140.215 Setbacks
- 33.140.220 Building Coverage
- 33.140.225 Landscaped Areas
- 33.140.227 Trees
- 33.140.230 Ground Floor Windows in the EX Zones
- 33.140.235 Screening
- 33.140.240 Pedestrian Standards
- 33.140.242 Transit Street Main Entrance
- 33.140.245 Exterior Display, Storage, and Work Activities
- 33.140.250 Trucks and Equipment
- 33.140.255 Drive-Through Facilities
- 33.140.265 Residential Development
- 33.140.270 Detached Accessory Structures
- 33.140.275 Fences
- 33.140.280 Demolitions
- 33.140.290 Nonconforming Development
- 33.140.295 Parking and Loading
- 33.140.300 Signs
- 33.140.310 Superblock Requirements
- 33.140.315 Recycling Areas
- 33.140.320 Inclusionary Housing
Commentary

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

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

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

A. Purpose. Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development.

B. The floor area standards. The FARs are stated in Table 140-3. The FARs apply to all nonresidential development in all of the zones and to residential uses in the EX zone. The FAR standards of plan districts supersede the FAR standards of this chapter.

C. Maximum increase in FAR. An increase in FAR of more than 3 to 1 is prohibited. The total increased FAR includes FAR from transfers and additional FAR allowed from bonus provisions.

D. Bonus FAR. In the EX zone, bonus FAR is allowed as follows. Sites in the other employment and industrial zones are not eligible to use the bonus options. Adjustments to this Subsection, or to the maximum floor area allowed through the following bonuses, are prohibited:

1. Mandatory inclusionary housing. Bonus FAR is allowed up to the maximum stated in Table 140-3 for development that triggers the requirements of 33.245, Inclusionary Housing. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.

2. Voluntary inclusionary housing. Bonus FAR up to the maximum stated in Table 140-3 is allowed when affordable housing is provided as follows:

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

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

         • Inside the Central City and Gateway plan districts:

            – 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or

            – 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.
Outside the Central City and Gateway plan districts until January 1, 2019:

- 8 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
- 15 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.

The rates shown in Subsubparagraph D.2.a.(1) that apply inside the Central City and Gateway plan districts apply outside the Central City and Gateway plan districts on and after January 1, 2019.

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

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

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

- 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
- 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.
b. Bonus density or FAR is allowed in exchange for payment into the Affordable Housing Fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). The Portland Housing Bureau collects and administers the Affordable Housing Fund, and determines the fee. PHB determines the fee per square foot and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

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

1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;

2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by paragraph C.1 above;

3. Receiving site. The transfer must be to a site that is:
   a. Zoned C or EX; and
   b. Within the recognized neighborhood where the Landmark is located, or to any site within two miles of the Landmark; and

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

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

1. Maximum increase in FAR. An increase in FAR on the receiving site of more than 3 to 1 is prohibited. The total increased FAR includes FAR transferred from Landmarks, and additional FAR allowed at the receiving site from bonus provisions, or from other transfers;

2. Development standards. The building on the receiving site must meet the development standards of the base zone, overlay zone, and plan district except floor area ratio, which is regulated by Paragraph D.1 above;

3. Receiving site. The transfer must be to a site that is:
   a. Zoned EG1 or EG2; and

Commentary

Table 140-3
The 5:1 Maximum FAR allowance for the EX zone reflects early implementation of the CM3 base and bonus allowances identified in the Mixed Use Zones Project. Central City EX base allowances reflect specific plan district bonuses outside the base zone.

33.140.320 Inclusionary Housing
This amendment provides a reference to the mandatory inclusionary housing requirements in proposed Zoning Code chapter 33.245. See page 19.
3.4. The property owner executes a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respective increase and decrease of potential density. The covenant must meet the requirements of Section 33.700.060, Covenants with the City. The covenant for the Landmark transferring the density must meet the requirements of 33.445.610.D., Covenant.

### Table 140-3
**Development Standards**

<table>
<thead>
<tr>
<th>Standard</th>
<th>EG1</th>
<th>EG2</th>
<th>EX</th>
<th>IG1</th>
<th>IG2</th>
<th>IH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum FAR</td>
<td>3 to 1</td>
<td>3 to 1</td>
<td>3 to 1</td>
<td>no limit</td>
<td>no limit</td>
<td>no limit</td>
</tr>
<tr>
<td>(see 33.140.205)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum FAR with Inclusionary Housing Bonus</td>
<td>NA</td>
<td>NA</td>
<td>5 to 1</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>(see 33.140.205.C)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Height</td>
<td>45 ft.</td>
<td>no limit</td>
<td>65 ft</td>
<td>no limit</td>
<td>no limit</td>
<td>no limit</td>
</tr>
<tr>
<td>(see 33.140.210)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min. Building Setbacks</td>
<td>5 ft.</td>
<td>25 ft.</td>
<td>0</td>
<td>0</td>
<td>25 ft.</td>
<td>5 ft.</td>
</tr>
<tr>
<td>Street Lot Line</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(see 33.140.215)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Lot line abutting an OS, C, E, or I zoned lot</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>- Lot line abutting an R zoned lot</td>
<td>See Table 140-4</td>
<td>15 ft.</td>
<td>See Table 140-4</td>
<td>See Table 140-4</td>
<td>15 ft.</td>
<td>15 ft.</td>
</tr>
<tr>
<td>Max. Building Stbks</td>
<td>10 ft.</td>
<td>None</td>
<td>10 ft.</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>(see 33.140.215)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit Street or Pedestrian District</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Building Coverage</td>
<td>85% of site area</td>
<td>85% of site area</td>
<td>100% of site area</td>
<td>100% of site area</td>
<td>85% of site area</td>
<td>100% of site area</td>
</tr>
<tr>
<td>(see 33.140.220)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min. Landscaped Area</td>
<td>15% of site area</td>
<td>15% of site area</td>
<td>None</td>
<td>None</td>
<td>15% of site area</td>
<td>None</td>
</tr>
<tr>
<td>(see 140.225)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Floor Window Standards apply</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>(see 33.140.230)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pedestrian Standards</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Apply (see 33.140.240)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 33.140.320 Inclusionary Housing

The standards pertaining to inclusionary housing are stated in Chapter 33.245, Inclusionary Housing.
33.266.110 Minimum Require Parking Spaces

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

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

33.266.110 Minimum Required Parking Spaces

A. **Purpose.** The purpose of required parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Multi-dwelling development that includes a large number of units may require some parking to support existing and future uses in the area and serve residents and guests, especially those with disabilities. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.

B. **Minimum number of parking spaces required.**

1. Minimum for sites located close to transit. There is no minimum parking requirement for sites located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service.

2. Minimum for sites located far from transit. For sites located more than 1500 feet from a transit station, or more than 500 feet from a transit street with 20-minute peak hour service, the minimum number of parking spaces required is stated in Table 266-1.

1. The minimum number of parking spaces for all zones is stated in Table 266-1. Table 266-2 states the required number of spaces for use categories. The standards of Tables 266-1 and 266-2 apply unless specifically superseded by other portions of the City Code.

32. Joint use parking. Joint use of required parking spaces may occur where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required parking spaces is allowed only if the uses and housing types to which the parking is accessory are allowed in the zone where the parking is located. Joint use of required parking spaces is allowed if the following documentation is submitted in writing to BDS as part of a building or zoning permit application or land use review:

a. The names and addresses of the uses and of the owners or tenants that are sharing the parking;

b. The location and number of parking spaces that are being shared;

c. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
Commentary

33.266.110 D.8 Exceptions to the minimum number of parking spaces
This regulation exempts parking requirements for affordable units that are built far from transit. The intention of this exception is reduce parking requirements for the affordable units in a proposal to help offset the cost of providing the affordable units through inclusion in the incentive package as identified by the Portland Housing Bureau.
d. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.

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

1. Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 AM on weekdays. More spaces may be reserved, but they are not required.

2. The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.

3. Signs must be posted indicating these spaces are reserved for carpool use before 9:00 AM on weekdays.

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

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

2. **All other uses.** No parking is required for all other uses.

**D.E. Exceptions to the minimum number of parking spaces.**

1.-7. [No change]

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

Tables 266-1 and 266-2 are included for reference
9. No parking is required for affordable dwelling units that are located on sites that are 1500 feet or more from a transit station or 500 feet or more from a transit street with 20-minute peak hour service if the affordable dwelling units are provided as required by Chapter 33.245, Inclusionary Housing, or voluntarily provided as specified in the following bonus options. This exception does not apply when a fee-in-lieu of affordable housing is paid. This exception only applies to the site that triggers the requirements of 33.245, or the site that is taking advantage of one of the FAR bonus options listed below:

   a. 33.120.205.F.2;
   b. 33.130.205.D.2;
   c. 33.140.205.D.2
   d. 33.526.230.C.2.

Table 266-1
Minimum Required and Maximum Allowed Parking Spaces By Zone [1], [2]

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

[1] Regulations in a plan district or overlay zone may supersede the standards of this table.
[2] Uses subject to a Conditional Use or Impact Mitigation Plan review may establish different parking minimum and maximum requirements through the review.
<table>
<thead>
<tr>
<th>Use Categories</th>
<th>Specific Uses</th>
<th>Standard A</th>
<th>Standard B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Categories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household Living</td>
<td>1 per unit, except SROs exempt and in RH, where it is 0 for 1 to 3 units and 1 per 2 units for four + units</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Group Living</td>
<td>1 per 4 residents</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td><strong>Commercial Categories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Sales And Service</td>
<td>Retail, personal service, repair oriented</td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 196 sq. ft. of net building area</td>
</tr>
<tr>
<td>Restaurants and bars</td>
<td>1 per 250 sq. ft. of net building area</td>
<td>1 per 63 sq. ft. of net building area</td>
<td></td>
</tr>
<tr>
<td>Health clubs, gyms, lodges, meeting rooms, and similar. Continuous entertainment such as arcades and bowling alleys</td>
<td>1 per 330 sq. ft. of net building area</td>
<td>1 per 185 sq. ft. of net building area</td>
<td></td>
</tr>
<tr>
<td>Temporary lodging</td>
<td>1 per rentable room; for associated uses such as restaurants, see above</td>
<td>1.5 per rentable room; for associated uses such as restaurants, see above</td>
<td></td>
</tr>
<tr>
<td>Theaters</td>
<td>1 per 4 seats or 1 per 6 feet of bench area</td>
<td>1 per 2.7 seats or 1 per 4 feet of bench area</td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td>General office</td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 294 sq. ft. of net building area</td>
</tr>
<tr>
<td>Medical/Dental office</td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 204 sq. ft. of net building area</td>
<td></td>
</tr>
<tr>
<td>Quick Vehicle Servicing</td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 196 sq. ft. of net building area</td>
<td></td>
</tr>
<tr>
<td>Vehicle Repair</td>
<td>1 per 750 sq. ft. of net building area [1]</td>
<td>1 per 500 sq. ft. of net building area</td>
<td></td>
</tr>
<tr>
<td>Commercial Parking</td>
<td>None</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Self-Service Storage</td>
<td>1 per resident manager’s facility, plus 3 per leasing office, plus 1 per 100 leasable storage spaces in multi-story buildings.</td>
<td>2 per resident manager’s facility, plus 5 per leasing office, plus 1 per 67 leasable storage spaces in multi-story buildings.</td>
<td></td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>20 per acre of site</td>
<td>30 per acre of site</td>
<td></td>
</tr>
<tr>
<td>Major Event Entertainment</td>
<td>1 per 8 seats</td>
<td>1 per 5 seats</td>
<td></td>
</tr>
</tbody>
</table>
### Table 266-2
Parking Spaces by Use [2]
(Refer to Table 266-1 to determine which standard applies.)

<table>
<thead>
<tr>
<th>Use Categories</th>
<th>Specific Uses</th>
<th>Standard A</th>
<th>Standard B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Industrial Categories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing And Production</td>
<td></td>
<td>1 per 750 sq. ft. of net building area [1]</td>
<td>1 per 500 sq. ft. of net building area</td>
</tr>
<tr>
<td>Warehouse And Freight Movement</td>
<td></td>
<td>1 per 750 sq. ft. of net building area for the first 3,000 sq. ft. of net building area and then 1 per 3,500 sq. ft. of net building area thereafter</td>
<td>1 per 500 sq. ft. of net building area for the first 3,000 sq. ft. of net building area and then 1 per 2,500 sq. ft. of net building area thereafter</td>
</tr>
<tr>
<td>Wholesale Sales,</td>
<td></td>
<td>1 per 750 sq. ft. of net building area [1]</td>
<td>1 per 500 sq. ft. of net building area</td>
</tr>
<tr>
<td>Industrial Service,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Railroad Yards</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Institutional Categories</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Utilities</td>
<td></td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Community Service</td>
<td></td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 196 sq. ft. of net building area</td>
</tr>
<tr>
<td>Parks And Open Areas</td>
<td></td>
<td>Per CU review for active areas</td>
<td>Per CU review for active areas</td>
</tr>
<tr>
<td>Schools</td>
<td>Grade, elementary, middle, junior high</td>
<td>1 per classroom</td>
<td>1.5 per classroom</td>
</tr>
<tr>
<td></td>
<td>High school</td>
<td>7 per classroom</td>
<td>10.5 per classroom</td>
</tr>
<tr>
<td>Medical Centers</td>
<td></td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 204 sq. ft. of net building area</td>
</tr>
<tr>
<td>Colleges</td>
<td></td>
<td>1 per 600 sq. ft. of net building area exclusive of dormitories, plus 1 per 4 dorm rooms</td>
<td>1 per 400 sq. ft. of net building area exclusive of dormitories, plus 1 per 2.6 dorm rooms</td>
</tr>
<tr>
<td>Religious Institutions</td>
<td></td>
<td>1 per 100 sq. ft. of main assembly area</td>
<td>1 per 67 sq. ft. of main assembly area</td>
</tr>
<tr>
<td>Daycare</td>
<td></td>
<td>1 per 500 sq. ft. of net building area</td>
<td>1 per 330 sq. ft. of net building area</td>
</tr>
<tr>
<td>Other Categories</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>---------------------</td>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>None</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Radio Frequency Transmission Facilities</td>
<td>Personal wireless service and other non-broadcast facilities</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Radio or television broadcast facilities</td>
<td>2 per site</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Rail Lines &amp; Utility Corridors</td>
<td>None</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

Notes:
[1] For uses in an EG or I zone, if the site size is 5,000 sq. ft. or less, no more than 4 spaces are required. Where the site size is between 5,001 and 10,000 sq. ft., no more than 7 spaces are required.
[2] Uses subject to a Conditional Use or Impact Mitigation Plan review may establish parking minimum and maximum requirements through the review.
33.510 Central City Plan District

33.510.200 Floor Area Ratios

A. Purpose. The maximum floor area ratio (FAR) standards are intended to accomplish several purposes of the Central City Plan. These include coordinating private development with public investments in transportation systems and other infrastructure, limiting and stepping down building bulk to the Willamette River, residential neighborhoods, and historic districts. While consistent with these purposes, the floor area ratios are intended to be the largest in the Portland region.

B. Floor area ratio standard.

1. Generally. The maximum floor area ratios for all sites in the Central City plan district are shown on Map 510-2 at the end of this chapter. Floor area ratios greater than shown on Map 510-2 are prohibited unless allowed by Subsections C. through G., below, or by 33.510.210.

2. Goose Hollow. The minimum floor area ratio in the Goose Hollow subdistrict is 1 to 1.

3. Specified sites in the West End Subarea. In the area shown on Map 510-14, the following regulations apply:
   a. Maximum. The maximum floor area ratio is 6 to 1. If at least 33 percent of floor area is in residential use, the maximum floor area ratio is 9 to 1.
   b. Minimum. The minimum floor area ratio is 2 to 1.

4. South Waterfront Subdistrict. In the South Waterfront Subdistrict, floor area used for automated parking is not counted towards maximum FAR for the site. The automated parking facility must rely on a mechanical system instead of a vehicle operator to transport vehicles to a storage space within the facility.

C. Limit on increased floor area.

1. Generally. Except as provided under C.2. through C.5, below, increases in FAR, whether by transfers of floor area or bonus floor area options, of more than 3 to 1 are prohibited;

2. In the portion of the West End subarea that is not shown on Map 510-14, the following applies. There is no maximum to the amount of bonus floor area that may be earned. However, the total floor area on a site, including bonus floor area and transferred floor area, may not be more than 12 to 1. Adjustments are prohibited.

3. South Park Blocks frontages. Transfers of floor area to RX-zoned sites on the Park Block frontages shown on Map 510-13 are prohibited. This prohibition applies to all RX-zoned sites on the Park Block frontages, including those within the West End subarea.
4. South Waterfront subdistrict. In the South Waterfront Subdistrict the following applies:
   a. Generally. Except as allowed under Subparagraphs 4.b. and c., below, no more than 2:1 FAR may be earned on a site through the use of bonuses. There is no maximum to the amount of floor area that may be transferred to a site. However, the total floor area on a site, including bonus floor area and transferred floor area, may not be more than 9 to 1, except as allowed under C.4.c, below. Adjustments to the regulations of this paragraph are prohibited.
   b. An FAR of more than 2 to 1 may be earned on a site through the use of bonuses if at least 1 to 1 FAR is earned on the site through the use of the open space bonus option, open space fund bonus option, or South Waterfront Willamette River Greenway bonus option. However, the total floor area on the site, including bonus floor area and transferred floor area, may not be more than 9 to 1.
   c. The total floor area on a site, including bonus floor area and transferred floor area, may be more than 9 to 1 if all of the following are met:
      (1) The floor area above the 9 to 1 ratio must be transferred from the South Waterfront Greenway Area; and
      (2) The portion of the South Waterfront Greenway Area that floor area is being transferred from must have been dedicated to the City since September 1, 2002.

5. North Pearl Subarea. In the North Pearl Subarea bonus options target area, shown on Map 510-4, the following applies:
   a. An FAR increase of more than 3 to 1 may be earned on a site through the following provisions. However, the total floor area on a site may not be more than 9 to 1, except as allowed under 5.b below. Adjustments to the regulations of this paragraph are prohibited:
      (1) Floor area bonuses;
      (2) Transfers from the site of an historic resource meeting Subsection H. below.
   b. The total floor area on a site, including bonus floor area and transferred floor area, may be more than 9 to 1 if the floor area above the 9 to 1 ratio is transferred from the site of an historic resource as specified in Subsection H. below.

D. Transfer of floor area within a project. In the CX and EX zones, floor area, including bonus floor area, may be transferred between abutting lots within a site or sites being developed jointly. This also applies to lots within a site which would be abutting but for a right-of-way. Floor area transfers are subject to the following restrictions:
1. If the site is within the Downtown subdistrict as shown on Map 510-1, floor area may be transferred between abutting lots within a site or sites being developed jointly provided the lots are within the same block. Floor area transfers across rights-of-way are prohibited in the Downtown subdistrict.

2. Buildings on each site may not exceed the height limit established for that site by the regulations of this chapter;

3. If bonus floor area is included in the transfer, those facilities to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit for the other lot; and

4. The property owner(s) must execute a covenant with the City which is attached to and recorded with the deed of both the lot transferring and the lot receiving the floor area reflecting the respective increase and decrease of potential floor area. The covenant must meet the requirements of 33.700.060.

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

1. Purpose. Transfer of floor area ratio potential from sites occupied by single room occupancy housing (SROs) is allowed in order to encourage the development of new SROs and reduce market pressure for removal of existing SROs.

2. Allowable floor area transfers.

   a. The owners of qualifying sites may sell the rights to their unused floor area potential. The rights to the floor area may be used anywhere in the Central City plan district.

   b. Floor area increases transferred to a site are limited to that allowed by Subsection C. above.

   c. The SRO property owner must execute a covenant with the City which reflects the decrease of potential floor area. The covenant must require future continuation and maintenance of the SRO housing in conformance with the standards of this subsection. The covenant must meet the requirements of 33.700.060.

3. Qualifying SRO projects and restrictions.

   a. Vacant, existing, and new SRO housing developments located in a CX or EX zone qualify for the floor area transfer. Vacant, existing, and new SRO housing developments located in the RX zone qualify for the floor area transfer if the sending and receiving sites are located in the RX zone, or if the sending site is within the RX zone and the receiving site is in the CX or EX zone. At least 60 percent of the floor area of the SRO structure must be used for housing.

   b. For existing SRO housing, the building must be in full compliance with the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State of Oregon) at the time of transfer of the development rights. If not, the structure must be brought into compliance before an occupancy permit is issued for a development using the transferred floor area.
c. For proposed new SRO housing, the excess floor area rights may be transferred prior to construction if done as part of a development proposal to which the floor area is being transferred. The SRO units must receive an occupancy permit in advance of issuing an occupancy permit for any other part of the development.

d. The SRO structure may not be demolished or converted to other uses unless the number of SRO units lost will be replaced either on the site or at another location in the Central City plan district. SRO units being provided at another site must receive an occupancy permit in advance of issuing an occupancy permit for a new use on the former SRO site or issuing a demolition permit for the site. In addition, the decreased floor area potential on the SRO site continues.

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

1. **Purpose.** Transfer of floor area ratio potential from sites occupied by residential development is allowed in order to reduce market pressure for removal of existing housing.

2. **Allowable floor area transfers.**
   
a. The owners of qualifying sites may transfer the rights to their unused floor area potential. The rights to the floor area may be used anywhere in the Central City plan district.

b. Floor area transferred to a site is limited to that allowed by 33.510.200.C.

c. The sending residential property owner must execute a covenant with the City that reflects the decrease of potential floor area. The covenant must require future continuation and maintenance of the housing in conformance with the standards of this subsection. The covenant must meet the requirements of 33.700.060.

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

1. Buildings on each site may not exceed the height limit established for that site by the regulations of this chapter;

2. If bonus floor area is included in the transfer, those facilities to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit for buildings taking advantage of the bonus floor area; and

3. The property owners must execute a covenant with the City that is attached to and recorded with the deed of both the sending and receiving sites reflecting the respective increase and decrease of potential floor area. The covenant must meet the requirements of 33.700.060.
Commentary

33.510.200.I Neighborhood Facilities
This amendment reflects direction identified in the Central City 2035 Plan.
H. Transfer of floor area from Historic Resources in specified areas.

1. Where these regulations apply. These regulations apply to sites located in the Pearl Development Transfer Opportunity Area on Map 510-20.

2. Sites eligible to transfer floor area. Sites eligible to transfer floor area must be located within the area shown on Map 510-20 and must contain:
   a. A landmark;
   b. A contributing resource in an Historic District; or
   c. A Rank I, II, or III resource listed in the City’s Historic Resource Inventory.

3. Sites eligible to receive floor area. A site within the area shown on Map 510-20 is eligible to receive floor area from the historic resources listed above in H.2.

4. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City that is attached to and recorded with the deed. The covenants may not be revoked or rescinded. The covenants must include the following:
   a. Both sites. The covenant for each site must reflect the respective increase and decrease of potential floor area. The covenant must meet the requirements of Section 33.700.060, Covenants with the City.
   b. Sending site. The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.

5. Exception for Landmarks. Landmarks located in the Pearl Development Transfer Opportunity Area on Map 510-20 may elect to transfer floor area to a receiving site outside of the area on Map 510-20 if they meet the standards of 33.130.205.C or 33.140.205.C.

6. Adjustments. Adjustments and modifications to these regulations are prohibited.

I. Neighborhood facilities within the North Pearl Subarea.

1. Purpose. This regulation encourages creation of facilities to serve those who live in the Central City and work in the North Pearl Subarea. These facilities are necessary elements of a neighborhood.

2. Standards. In the North Pearl Subarea, floor area used for specified neighborhood facilities is not counted towards maximum FAR for the site. The specified neighborhood facilities are public schools, public community centers, daycare facilities for children, and public libraries. To qualify for this provision, the following requirements must be met:
   a. Schools. Floor area to be used for public schools does not count towards maximum FAR for the site if the school will be operated by or for a public school district.
Commentary

33.520.210.B.1 Floor Area and Height Bonus Options General Regulations
This code is being deleted to apply Inclusionary Housing requirements to capture the addition of 20 or more units to an existing residential structure, and a conversion of a warehouse to a residential or mixed use building as long as the residential portion of the building is 20 or more units.
b. Daycare. Floor area to be used for daycare facilities for children does not count towards maximum FAR for the site. Applicants may choose to either earn bonus FAR under 33.510.210.C.2, or to have the daycare not counted towards maximum FAR for the site under this subsection. Both provisions may not be used on a site.

c. Libraries. Floor area to be used for public libraries does not count towards maximum FAR for the site if the library will be operated by the Multnomah County Library or does not charge membership fees.

d. Public community centers. Floor area to be used for community centers does not count towards maximum FAR for the site. Public community centers are not for exclusive use by residents of a site and their guests.

e. All facilities. All neighborhood facilities must meet the following:
   (1) The floor area of the facility must be reserved for the exclusive use of the neighborhood facility for at least 10 years from the date a certificate of occupancy is issued for the qualifying floor area. No uses other than those listed in this subsection are allowed.
   (2) The applicant must document that there is a binding agreement with an operator for each facility. This documentation must be submitted with the application for design review; and
   (3) The property owner must execute a covenant with the City which is attached to an recorded with the deed of the site. The covenant must ensure that the owner will reserve the floor area as specified in I.2.e(1). The covenant must comply with the requirements of Section 33.700.060.

33.510.210 Floor Area and Height Bonus Options

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

B. General regulations.

1. The bonus options are only allowed in situations where stated. Only new developments are eligible for the bonuses unless specifically stated otherwise. Exceptions to the requirements and the amount of bonus floor area or height earned are prohibited.

2. Projects may use more than one bonus option unless specifically stated otherwise. Bonuses may be done in conjunction with allowed transfers of floor area.

3. The maximum floor area increase that may be earned through the bonus options must be within the limits for overall floor area increases stated in 33.510.200.C.

4. Buildings using bonus floor area must not exceed the maximum height limits shown on Map 510-3 unless eligible for bonus height.
33.510.210.B.5 The residential bonus option is being deleted, so this hierarchy will no longer be relevant. In its place a hierarchy the prioritizes the inclusionary housing FAR bonuses over the other FAR bonus and transfer options is added.
5. In residential bonus target areas, as shown on Map 510-4, the residential bonus option must be used before any other bonus. A bonus floor area ratio of at least 1.5 to 1 from the residential bonus option must be earned before the project qualifies for other bonus options.

5. Except as required by Paragraph B.6., for projects that trigger the requirements of 33.245, Inclusionary Housing, bonus floor area of at least 3 to 1 must be earned from the mandatory inclusionary housing bonus options before qualifying for other bonus or transfer options. For projects that do not trigger 33.245, Inclusionary Housing, floor area of at least 3 to 1 must be earned from the voluntary inclusionary housing bonus option or be transferred through a historic resource transfer before qualifying for other bonus or transfer options.

6. If any portion of the site is in the Greenway bonus target area, as shown on Map 510-4, the South Waterfront Willamette River Greenway bonus option must be used before any other bonus. Bonus floor area of at least 7,500 square feet from the South Waterfront Willamette River Greenway bonus option must be earned before the project qualifies for other bonus options.

C. Bonus floor area options. Additional development potential in the form of floor area is earned for a project when the project includes any of the specified features listed below. The bonus floor area amounts are additions to the maximum floor area ratios shown on Map 510-2.

1. Mandatory inclusionary housing. For projects in the CX, EX and RX zones that trigger the requirements of 33.245, Inclusionary Housing, an additional FAR of 3 to 1 is earned. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the regulations of 33.245 have been met.

2. Voluntary inclusionary housing. Projects that voluntarily provide affordable housing earn bonus FAR as follows:
   a. An additional FAR of 3 to 1 is earned for projects that voluntarily provide affordable housing at one of the following rates. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau certifying that the development meets one of the standards stated above and any administrative requirements. The letter is required to be submitted before a building permit can be issued for the development, but is not required in order to apply for a land use review. The property owner must execute a covenant with the City that complies with the requirements of Section 33.700.060. The covenant must be provided prior to issuance of a building permit, and must ensure that the affordable dwelling units will remain affordable to households meeting the income restriction, and will meet the administrative requirements of the Portland Housing Bureau:
33.510.210.F.2 Voluntary inclusionary housing bonus
The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).
(1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:

- 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
- 20 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 80 percent of the area median family income.

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

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

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

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

33.510.210.C.1 Residential floor area bonus

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

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

As residential development in the Central City is now a common if not the predominate use being developed, there no longer exists a need to incent housing for the sake of housing alone. Thus, this bonus is proposed to be eliminated and new bonuses addressing the growing and significant need for affordable housing is proposed to take its place.
b. Bonus FAR is allowed in exchange for payment into the Affordable Housing Fund. Up to 3 to 1 FAR can be earned by paying into the fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB). The Portland Housing Bureau collects and administers the Affordable Housing Fund, determines the fee per square foot, and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from the Portland Housing Bureau documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

1. Residential bonus option.

a. In specified areas, proposals that include Residential uses receive bonus floor area. New development and alterations to existing development are eligible for this bonus.

(1) In the CX and EX zones outside of the South Waterfront Subdistrict and the North Pearl Subarea, for each square foot of floor area developed and committed as housing, a bonus of 1 square foot of additional floor area is earned, up to an additional floor area ratio of 3 to 1. Sites in the required residential opportunity areas are eligible for this bonus.

(2) In the CX and EX zones in the North Pearl Subarea, for each square foot of floor area developed and committed as housing, a bonus of 1 square foot of additional floor area is earned, up to an additional floor area ratio of 2 to 1.

b. The additional floor area may be used entirely for housing or partially for nonresidential uses. Projects that include housing built under building permits issued prior to July 1, 1998 may commit up to 2/3 of the bonus floor area to nonresidential uses. Projects built under building permits issued after July 1, 1998 may commit up to 1/2 of their bonus floor area to nonresidential uses.

c. Residential portions of mixed-use projects using this bonus must be completed and receive an occupancy permit in advance or at the same time as an occupancy permit for any nonresidential portion of the project. The property owner must execute a covenant with the City ensuring continuation and maintenance of the housing by the property owner. The covenant must comply with the requirements of 33.700.060:

[Renumber 2. through 14. to be 3. through 15.]
15. Affordable Housing Replacement Fund bonus option. Contributors to the Affordable Housing Replacement Fund (AHRF) receive floor area bonuses. For each $22.10 contributed to the AHRF, one square foot of bonus floor area is earned, up to a maximum of two square feet per square foot of site area. To qualify for this bonus, the following requirements must be met:

a. The applicant must submit with the development application a letter from the Portland Development Commission (PDC) documenting the amount that has been contributed to the AHRF;

b. The bonus floor area may be used only in the Central City plan district.

c. The Affordable Housing Replacement Fund is to be collected and administered by the Portland Development Commission (PDC). The funds collected may be used only within the Central City plan district, either for acquisition, rehabilitation, remodeling or construction of housing affordable to those households earning no more than 60 percent of area median income.

[16. through 19. No Change]

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

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

1. The height bonus allowed is based on the following:
   a. The floor area bonus options of Subsection 33.510.210.C., above;
   b. The transfer of floor area from sites occupied by SROs, as allowed by Subsection 33.510.200.E; and
   c. The transfer of floor area from sites of Historic Landmarks, as allowed by the regulations of the base zones.

2. In areas qualifying for a height bonus, on sites up to 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule:
   a. For achieving a bonus floor area ratio of at least 1 to 1, but less than 2 to 1, a height bonus of 15 feet is earned.
   b. For achieving a bonus floor area ratio of at least 2 to 1, but less than 3 to 1, a height bonus of 30 feet is earned.
Commentary

33.510.210.E.3.a Bonus height option for housing
This subparagraph is being amended to remove a reference to C.1, which is the residential floor area bonus option. That bonus option is being deleted and replaced with the inclusionary housing bonus options.
c. For achieving a bonus floor area ratio of 3 to 1, a height bonus of 45 feet is earned.

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

E. Bonus height option for housing.

1. Generally. In the bonus height areas, building heights may be allowed to be greater than shown on Map 510-3 if the bonus height is for housing. Although this subsection allows the review body to approve bonus height, the review body may also require reconfiguration of the building, including reducing its height, and may approve all, some or none of the bonus height requested, based on application of the criteria in E.4, below.

2. Standard. The maximum height bonus that may be allowed is 75 feet.

3. Relationship to Subsection D.
   a. On sites shown on Map 510-3 as eligible for general and housing height bonuses, both the bonus height options of this subsection and Subsection D., above may be used. However, if both options are used, the combined bonus height may not exceed 75 feet. Bonus height in excess of the maximum allowed through Subsection D., above, must be used exclusively for housing, and may not be used to qualify for the residential floor area bonus option in Subsection C.1., above;
   b. On sites shown on Map 510-3 as eligible for housing height bonuses, only the housing height bonus of this subsection may be used.

4. Approval Criteria. The approval of the bonus height is made as part of the design review of the project. The bonus height may be approved if the review body finds that the applicant has shown that all of the following criteria have been met:
   a. The increased height will not violate an established view corridor;
   b. If the site is within 500 feet of an R zone, the proposed building will not cast shadows that have significant negative impacts on dwelling units in R zoned lands;
c. If the site is shown on Map 510-3 as eligible for the Open Space (OS) performance standard, the project must meet the performance standards of Subsection 33.510.205.E;

d. If the site is on a block adjacent to the Yamhill or Skidmore Fountain/Old Town Historic Districts, the project must meet the performance standards of Subsection 33.510.205.D;

e. The increased height will result in a project that better meets the applicable design guidelines; and

f. Approval of the increased height is consistent with the purposes stated in Subsection 33.510.205.A.

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

For example, the height bonus for a ten story, totally residential building where 3 floors have 10-foot ceilings (3x2=6), two floors have 12-foot ceilings (2x4=8), two floors have 14-foot ceilings (2x4=8) and three floors have 8-foot ceilings (3x0=0), the height bonus allowed would be 22 feet.

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

Map 510-4
This map 510-4 is being deleted. A new version of the map is shown on page 89.
Commentary
Bonus Options Target Areas

Map 510-4

Map 2 of 2

Map Revised March 1, 2015

Legend
- Residential bonus target area
- Retail use bonus target area
- Theaters on Broadway bonus target area
- Greenway bonus target area extends 150' back from top of bank
- Proposed right-of-way
- Proposed accessway

Central City Plan District boundary

Scale in Feet
Bureau of Planning and Sustainability
Portland, Oregon
Commentary

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

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

33.526.220 Floor Area Ratio

A. **Purpose.** These regulations encourage intense development throughout the plan district with a higher level of intensity occurring around light rail stations. This increased development reinforces Gateway’s role as a regional center. In addition, the standards ensure a minimum level of development on some sites.

B. **Maximum floor area ratio.** The maximum floor area ratios (FAR) allowed are shown on Map 526-3 at the end of this chapter.
   1. On sites with a maximum FAR of 6:1 or less where at least 80 percent of the proposed floor area on the site will be in Residential uses, an additional 2:1 FAR is allowed.
   2. FARs greater than shown on Map 526-3 or allowed by Paragraph B.1 are prohibited unless allowed by Section 33.526.230.

C. **Minimum floor area ratio.** The minimum floor area ratio (FAR) for new development is shown on Map 526-3.

D. **Limit on increased floor area.** Increases in FAR, whether by transfers of floor area or bonus floor area options, of more than 3 to 1 are prohibited.

33.526.230 Floor Area and Height Bonus Options

A. **Purpose.** Floor area and height bonus options are offered as incentives to encourage facilities and amenities that are desired around the light rail stations and on sites with a Gateway Master Plan.

B. **General regulations.**
   1. Eligible sites. The mandatory inclusionary housing and voluntary inclusionary housing bonus options may be used in the R3, R2, R1, RH, commercial and EX zones in the Gateway plan district. The other bonus options may be used only in areas shown on Map 526-5, and on sites with a Gateway Master Plan. The residential bonus option may be used only in those areas on sites in a C or E zone.
   2. New floor area. Only new floor area is eligible for the bonuses unless specifically stated otherwise. Exceptions to the requirements and the amount of bonus floor area or height earned are prohibited.
   3. Number of bonus options. Proposals may use more than one bonus option unless specifically stated otherwise. Bonuses may be done in conjunction with allowed transfers of floor area.
   4. Maximum floor area increase. The maximum floor area increase that may be earned through the bonus options must be within the limits for overall floor area increases stated in 33.526.220.D.
5. Maximum height increase. Buildings using bonus floor area must not exceed the maximum height limits shown on Map 526-2 unless eligible for bonus height.

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

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

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

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

33.526.230.C.2 Voluntary inclusionary housing bonus
The number of affordable units required will be calculated based on the total number of dwelling units in the new building or alteration, or by the total number of bedrooms in the new building or alteration. Allowing the required number of affordable units to be calculated based on the number of bedrooms encourages the creation of larger affordable dwelling units. For example, a new building with 60 two-bedroom dwelling units (120 bedrooms) could provide 6 two-bedroom units at 60% MFI, or 4 three-bedroom units at 60 MFI (example uses 10% of bedrooms at 60% MFI).
(1) On-site affordable dwelling units. When the affordable dwelling units will be located on-site, affordable dwelling units must be provided at one of the following rates:
   • 10 percent of the total number of new dwelling units or bedrooms on the site must be affordable to those earning no more than 60 percent of the area median family income; or
   • 20 percent of the total number of new dwelling units or bedrooms on site must be affordable to those earning no more than 80 percent of the area median family income.

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

(3) Off-site affordable dwelling units in an existing building. When the affordable dwelling units will be provided by dedicating existing dwelling units that are off-site as affordable, affordable dwelling units must be provided at one of the following rates. The number of affordable dwelling units required is calculated based on the total number of new dwelling units proposed to be built on the site that is taking advantage of this FAR bonus option:
   • 15 percent of the total number of new dwelling units must be affordable to those earning no more than 30 percent of the area median family income; or
   • 25 percent of the total number of new dwelling units must be affordable to those earning no more than 60 percent of the area median family income.
b. **Bonus FAR is allowed in exchange for payment into the Affordable Housing Fund.**
   Up to 3 to 1 FAR can be earned by paying into the fund. For each square foot of floor area purchased a fee must be paid to the Portland Housing Bureau (PHB).
   For sites where density is calculated in dwelling units, the amount of floor area purchased is converted to dwelling units at a rate of 1 dwelling unit per 800 square feet. The Portland Housing Bureau collects and administers the Affordable Housing Fund, determines the fee per square foot, and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus, the applicant must provide a letter from PHB documenting the amount that has been contributed. The letter is required to be submitted before a building permit can be issued for development, but is not required in order to apply for a land use review.

23. **Open Space bonus option.** Proposals that provide open space that may be used by the public will receive bonus floor area. For each square foot of open space provided, a bonus of one square foot of additional floor area is earned. To qualify for this bonus, the following requirements must be met:
   
   a. **Size and dimensions.** The open space must include at least 5,000 square feet of contiguous area;
   
   b. **Ownership and use.** One of the following must be met:
      
      (1) The open space must be dedicated to the City, subject to paragraph 2.d.; or
      
      (2) A public access easement must be provided that allows for public access to and use of all the open space;
   
   c. **Maintenance.** The property owner must execute a covenant with the City that ensures the installation, preservation, maintenance, and replacement, if necessary, of the open space features, and that meets the requirements of 33.700.060, Covenants with the City; and
   
   d. **Parks approval.** The applicant must submit with the application for land use review a letter from Portland Parks and Recreation stating that the open space features meet the requirements of the bureau, and that the space is acceptable to the bureau.

34. **Eco-roof bonus option.** Eco-roofs are encouraged in the Gateway Regional Center because they reduce stormwater run-off, counter the increased heat of urban areas, and provide habitat for birds. An eco-roof is a rooftop stormwater facility that has been certified by the Bureau of Environmental Services (BES).
   
   a. **Bonus.** Proposals that include eco-roofs receive bonus floor area as follows:
      
      (1) Where the total area of the eco-roof is at least 10 percent but less than 30 percent of the building’s footprint, each square foot of eco-roof earns one square foot of additional floor area.
(2) Where the total area of the eco-roof is at least 30 percent but less than 60 percent of the building’s footprint, each square foot of eco-roof earns two square feet of additional floor area.

(3) Where the total area of the eco-roof is at least 60 percent of the building’s footprint, each square foot of eco-roof earns three square feet of additional floor area.

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

c. The property owner must execute a covenant with the City ensuring installation, preservation, maintenance, and replacement, if necessary, of the eco-roof. The covenant must comply with the requirements of 33.700.060, Covenants with the City.

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

1. The height bonus allowed is based on the floor area bonus options of Subsection 33.526.230.C., above;

2. In areas qualifying for a height bonus, on sites up to 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule:
   a. For achieving a bonus floor area ratio of at least 1 to 1, but less than 2 to 1, a height bonus of 15 feet is earned.
   b. For achieving a bonus floor area ratio of at least 2 to 1, but less than 3 to 1, a height bonus of 30 feet is earned.
   c. For achieving a bonus floor area ratio of 3 to 1, a height bonus of 45 feet is earned.

3. In areas qualifying for a height bonus, on sites larger than 40,000 square feet in area, the amount of bonus height awarded is based on the following schedule. The height bonus is applied only to the building where the bonus floor area is achieved or transferred, not to the entire site:
   a. For achieving bonus floor area of at least 20,000 square feet, but less than 80,000 square feet, a height bonus of 15 feet is earned.
   b. For achieving bonus floor area of at least 40,000 square feet, but less than 120,000 square feet, a height bonus of 30 feet is earned.
   c. For achieving bonus floor area of 80,000 square feet or more, a height bonus of 45 feet is earned.
E. Bonus height option for housing.

1. Generally. In the areas eligible for bonus height shown on Map 526-5 Areas, building heights may be allowed to be greater than shown on Map 526-2 if the bonus height is for housing.

2. Standard. The maximum height bonus that may be allowed is 75 feet. Projects may use both the bonus height options of this subsection and Subsection D., above. However, if both options are used, the combined bonus height may not exceed 75 feet. Bonus height in excess of the maximum allowed through Subsection D., above, must be exclusively for housing, and may not be used to qualify for the residential floor area bonus option in Subsection C.1., above.

3. Approval criteria. The approval of the bonus height is made as part of the design review of the project. The bonus height will be approved if the review body finds that the applicant has shown that the following criteria have been met:
   a. If the site is within 500 feet of an R zone, the proposed building will not cast shadows that have significant negative impacts on dwelling units in the R zone; and
   b. The increased height will result in a project that better meets the applicable design guidelines.

33.526.330 Gateway Master Plan

A. Purpose. The Gateway master plan adds development potential and flexibility for projects in specified areas. A carefully considered master plan has the potential to ensure that new development moves sites in the plan district closer to the goals of the Gateway Regional Center, while allowing for flexibility, additional development capacity, and phasing of change. The additional development potential and flexibility are possible because the master plan demonstrates that the policy objectives of the Outer Southeast Community Plan are advanced and can be met in the long term. The Gateway master plan is an option; it is not a requirement.

B. Flexibility achieved. An approved Gateway master plan allows additional flexibility in any of the following situations:

1. Allocates allowed floor area to individual development sites that will not remain in the same ownership;

2. Allows uses to be arranged on the site in the most appropriate manner by allowing uses to be located in zones where they are otherwise not permitted.

3. Defers the building of any required housing;

4. Allows the development of required housing at an alternate location;

5. Defers the building of required open area;

6. Defers the construction of required streets, accessways, and other transportation elements; or

7. Allows applicants to take advantage of bonus options in 33.526.230.
C. **Contents of a Gateway master plan.** In addition to the application requirements of Section 33.730.060, a Gateway master plan must contain the components listed below. The greater the level of detail in the plan, the less need for extensive reviews of subsequent phases. Conversely, the more general the details, the greater the level of review that will be required for subsequent phases. The plan must include:

1. **Floor area.** How allowable floor area will be distributed throughout the site. This can be shown by location of buildings, by subareas of the site, or by amount assigned to each lot. Floor area may be reallocated within the site.

2. **Location of uses.** The location of proposed uses on the site. If a use is allowed on the site, it may be located on a portion of the site where the zoning would otherwise not permit it. Regardless of use, the base zone development standards will apply.

3. **Housing.**
   a. The location, density, and general type of housing to be built. If residential development is required by the base zone, the plan must show how the requirement will be met. If the required housing is not proposed to be built in advance or concurrently with other development, the plan must demonstrate that the proposed location for housing is of suitable size and location for the required amount of housing. The plan must identify a schedule or development phase when the required housing will be built.
   b. If the required housing is proposed for a location outside of the residentially-zoned area, the proposed site must meet the following requirements. The site must be under the applicant’s control. The site must be vacant or used for surface parking, or have improvements with an assessed value less than one-third the value of the land. The site must be within the Gateway plan district and be zoned CX or EX. The proposed housing site must be of suitable size and location to be attractive for the required amount of housing.

4.-9. [No change]

D.-E. [No change]
33.580.100 Floor Area Ratios. In plan districts that have area specific FAR limits, the plan district specific limits supersede the base zone FAR limits, but the remainder to the FAR regulations in the base zone still apply. This allows any FAR bonus or transfer options to be available in plan districts that do not have their own FAR bonus or transfer structures. In this case, a large portion of the South Auditorium plan district is also in the Central City plan district, and this amendment makes it clear that on those sites, it is the FAR bonus and transfer provisions of the Central City plan district that apply rather than the base zone options.
33.580 South Auditorium Plan District

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

City Code Title 30 Changes and Administrative Rule

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

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

Monitoring for code effectiveness

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

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

Reconcile Adopted Zoning Code Changes with Implementation Projects

The Planning and Sustainability Commission recognizes the concerns of the Historic Landmarks Commission (PHLC) and ask that BPS staff work with the PHLC to evaluate and consider the impact of inclusionary housing density bonuses on Historic and Conservation Districts in the Central City 2035 Plan and future planning effort to reconcile the inclusionary housing bonus system with existing zoning designations and plan districts.
BPS staff is further directed to reconcile the density bonus in relation to the Inclusionary Housing Program incentive packages within the various plan districts across Portland that have development regulations, FAR limits, height limits, and, in some cases, existing bonus provisions that supersede base zone regulations. This work will be conducted in conjunction with a zoning code project in 2017 to amend the Mixed Use Zones Code and reconcile issues of height, bulk, and inclusionary housing requirements in plan districts that have not been addressed in the Inclusionary Housing Zoning Code Project. Additionally, BPS staff is directed to integrate Inclusionary Housing regulations into the Central City 2035 Plan legislative process in early 2017 for implementation of the 2035 Comprehensive Plan.