



# Odor Code Update Project

City Council Hearing  
October 30, 2024

**JP McNeil**  
City Planner

**Sandra Wood**  
Principal Planner



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**PLANNING &  
SUSTAINABILITY**

# Agenda

## **Presentation**

- Staff proposal
- Background
- Summary of Proposed Code Changes
- Outreach & Timeline

## **Public Testimony**

## **Council Discussion**

**Pass to second reading – November 20, 2024**



# Recommendation

The Planning Commission recommends that City Council:

- **Adopt this report**
- **Amend Title 33, Planning and Zoning, as shown in the Recommended Draft.**  
The amendments remove the odor regulations from the Zoning Code and delete requirements to document compliance with Chapter 33.262 Off-Site Impacts at the time of building permit review.

Staff recommends that City Council :

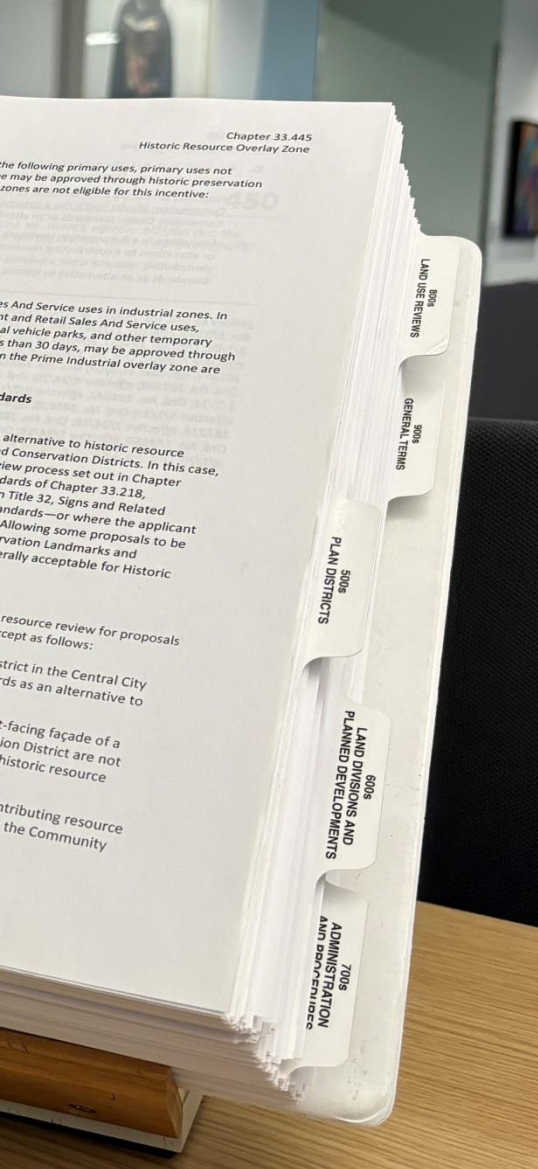
- **Amend Title 29, Property Maintenance, as shown in the Recommended Draft.**  
The amendments add the odor regulations to Title 29 to be complied with once a building is occupied.



# Background and Context



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# Zoning Code Chapter 33.262 Off-Site Impacts

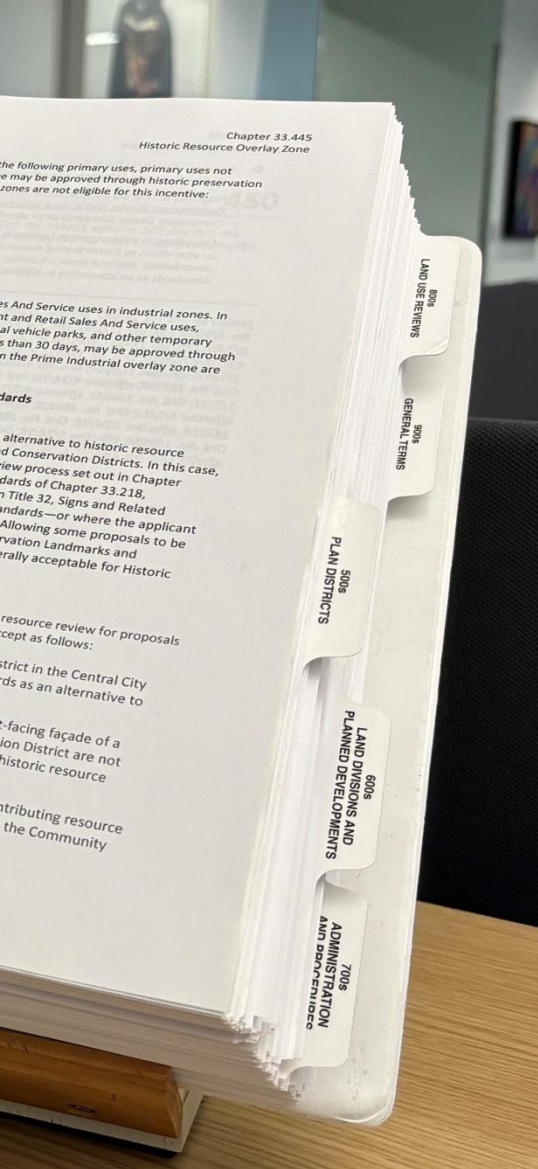
What the chapter regulates:

- Odor
- Glare
- Noise
- Vibration

Where the regulations apply:

- To nonresidential uses in all zones that create impacts in residential, campus, and open space zones.





# Zoning Code Chapter 33.262 Off-Site Impacts

## 33.262.070 Odor

**Odor standard.** Continuous, frequent, or repetitive odors may not be produced. The odor threshold is the point at which an odor may be detected.

**Exception.** An odor detected for less than 15 minutes per day is exempt.



# Code Compliance

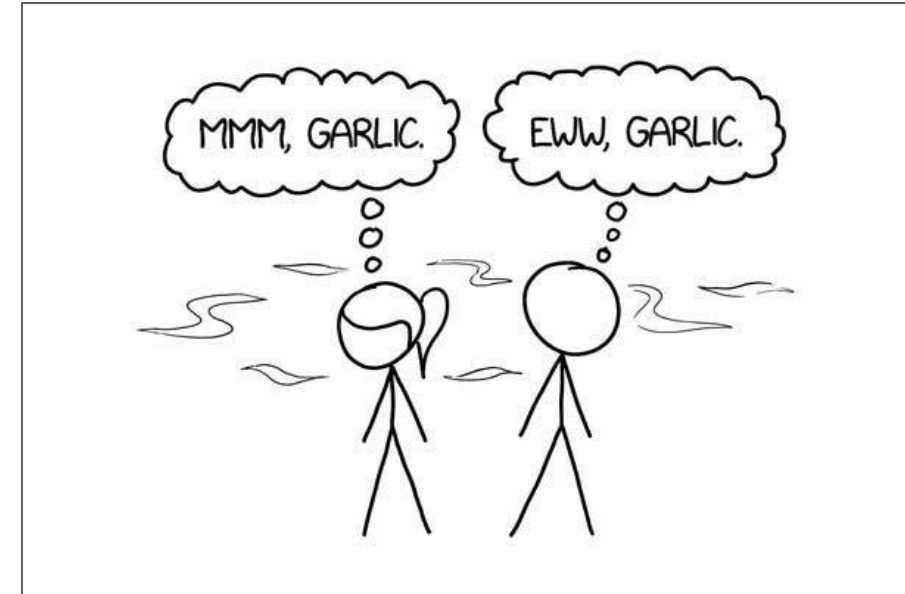
- Complaint driven enforcement
- PP&D Property Compliance inspection
- Enforcement action:
  - Notice of violation and compliance period
  - Code enforcement fees





# Regulatory Challenges

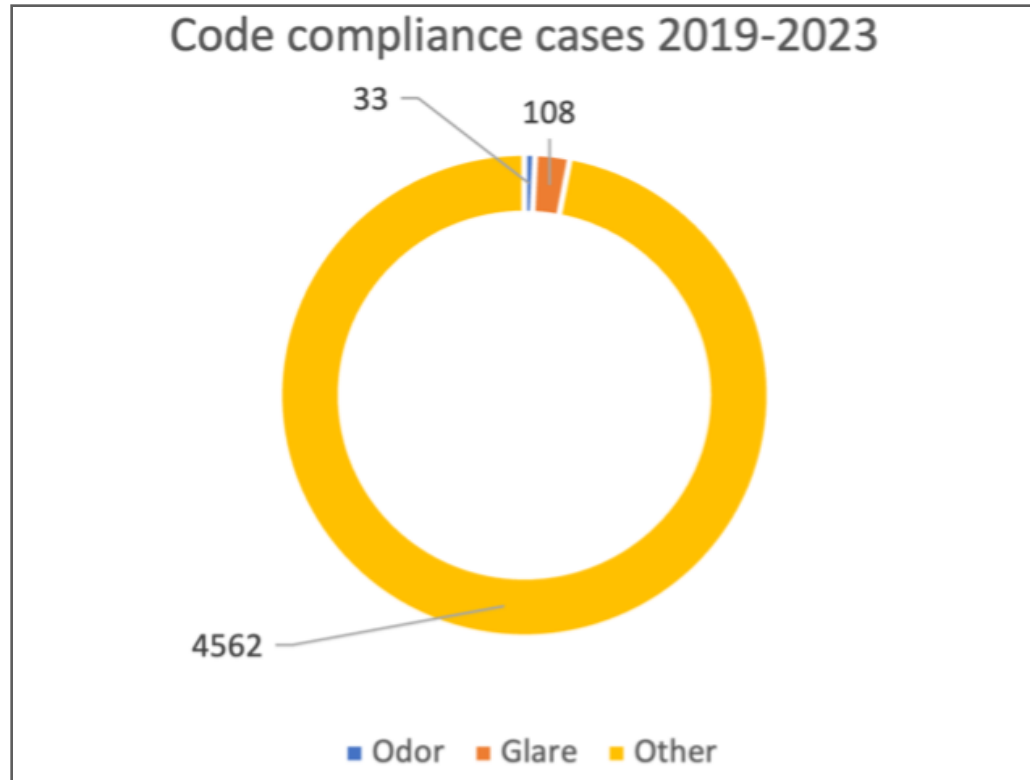
- Odors are subjective by nature
- No standard instrument to measure odors
- Odor v. emissions





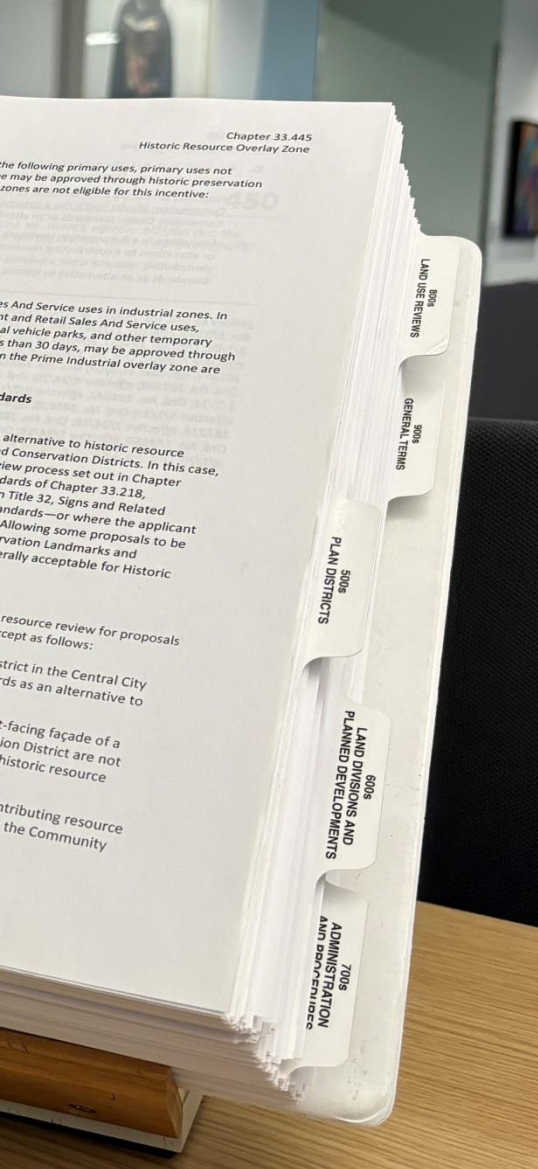
# Zoning Code Compliance Cases

Data 2019-23



- 33 odor cases
  - 8 restaurant/food cart odors
  - 2 restaurant garbage/compost
  - 23 others: Auto-related, marijuana, nail salon, motel dryer vent, et al

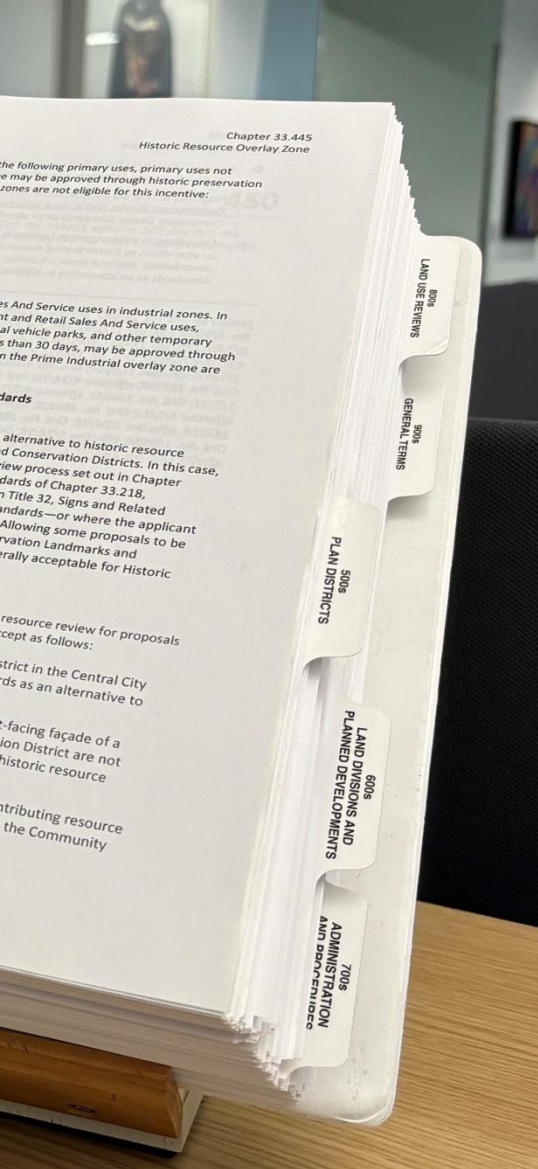




# Regulatory Framework

- Local: Zoning Code Chapter 33.262 Off-Site Impacts regulates nonresidential uses that cause odor impacts to residential properties
- State: Department of Environmental Quality odor nuisance regulates DEQ permitted operations, mostly industrial and some more impactful commercial uses (coffee roasters, large bakeries, vehicle paint shops)
- Other local:
  - BPS Sustainable Engagement and Waste – Compost and garbage
  - BES O&M – Sewer and wastewater treatment plant odors
  - Multnomah County Environmental Health – Restaurants





# Equity Analysis

- BPS Equity Toolkit exercise in June 2024
- Conducted with BPS and PP&D staff from BPS and PP&D Equity Teams
- Enforcement of regulations for such a highly subjective standard through a complaint-based system can lead to inequitable impacts





# Odor Code Update Project Proposed Changes



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# Project goal & approach

The Odor Code Update Project will update Portland's off-site odor regulations with amendments to Title 33, Planning and Zoning, and Title 29, Property Maintenance. The amendments recognize that odor standards are inherently subjective and challenging to enforce but are still necessary for some uses that have the potential to produce noxious odors.

## Changes to Title 33

- **Move the odor standard** from Title 33 (Planning and Zoning) to Title 29 (Property Maintenance).
- **Eliminate requirements for documentation in advance** of compliance with Off-Site Impacts rules.

## Changes to Title 29

- **Exempt Retail Sales and Service** uses from the odor regulations.
- **Set new parameters** for enforcement of the odor rules.

# Move odor regulations from Title 33 to Title 29

- Odor regulations are not a good fit for Zoning Code; better fit for Title 29
- Unable to review at time of building permit
- Evaluating odor complaints is inherently discretionary

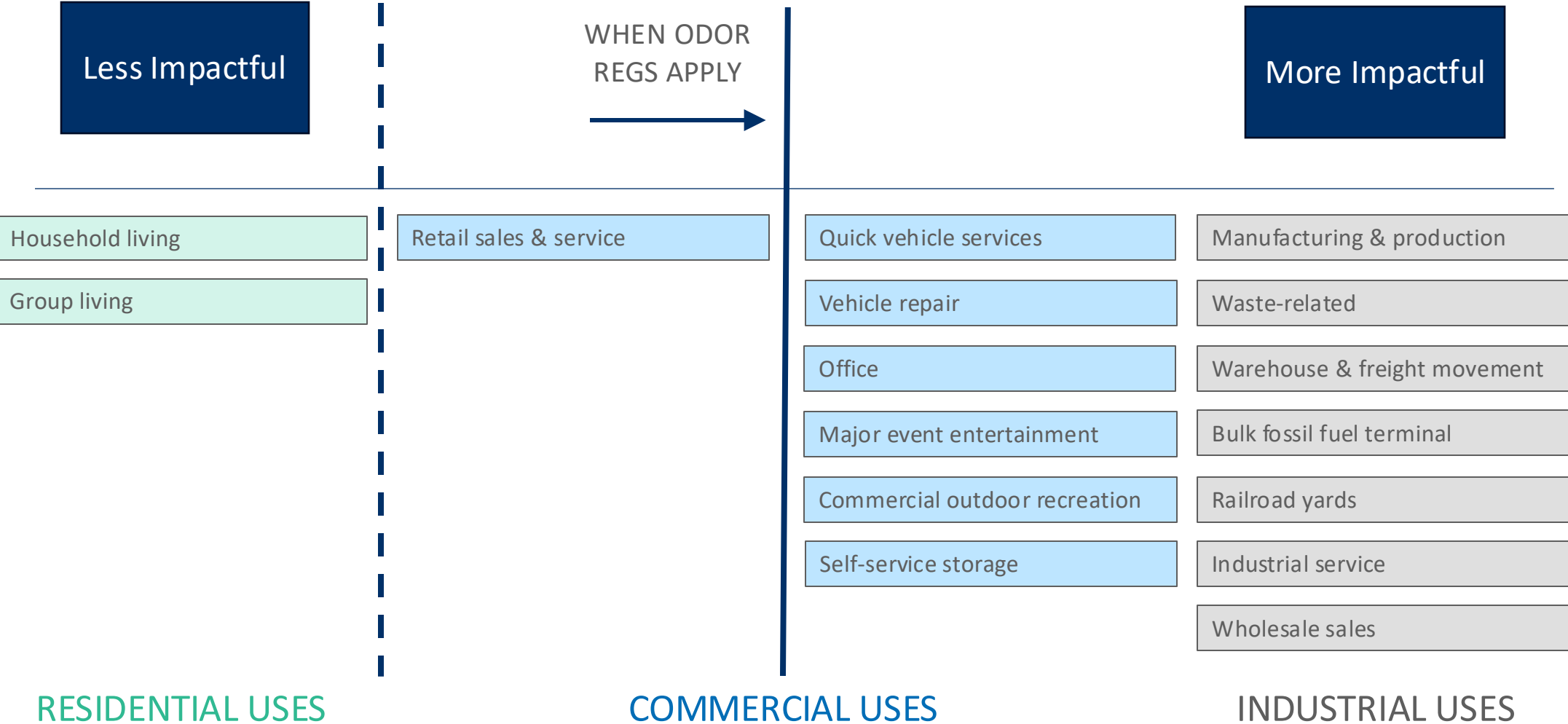


# Exempt Retail Sales and Service Uses

- Recognize some odor is inherent with retail uses, such as restaurants, food carts, and nail salons and that there may be no “perfect solution” to odor impacts in mixed-use neighborhoods
- Maintains odor regulations for other commercial uses such as gas stations and other vehicle-related uses
- Maintain odor regulations for larger commercial and industrial uses, including those regulated by DEQ



# Spectrum of impacts & odor rule applicability





# Resolution for future retail complaints



- **No City code compliance involvement** for retail complaints
- **Mediation:** Private services are available to work out solutions between businesses and neighbors when problems do arise
- **Civil lawsuit:** A last case scenario is to take the matter to court, which can be a way to help resolve more intractable civil property disputes

# Add parameters to odor regulations

- Create new tools for code enforcement staff to evaluate complaints:
  - Increase 15-minute daily allowance to 30 minutes
  - Require **five complaints** from five different people within **30 days** from people who live within **150-feet** of the property line of the site producing the offending odor.



# Remove “documentation in advance” requirements

- Eliminate Chapter 33.262.100 requirement for documentation in advance of off-site impacts
- Add language to clarify that off-site impact standards are performance standards that apply to operations
- Removing because implementation is challenging:
  - Documentation is not always possible
  - Operations change over time
  - Requirement has been implemented inconsistently



# Outreach and testimony

- Preliminary discussions with PP&D Code Compliance and Land Use Services staff
- Notice of Proposed Draft and Planning Commission hearing sent to
  - Neighborhood & business associations, organizations and other interested parties
  - Project email notification list
- Planning Commission hearing with 3 in-person testifiers and 3 pieces written testimony
- Notice of City Council hearing sent to Planning Commission testifiers
- Project information provided in BPS E-News, BPS monthly project list, and newsletter
- Outreach to District Coalitions – presented to SEUL



# Odor Code Update Project timeline

**April-June**

**July**

**August 27**

**September 10**



**October 30**

**November 20**

**March 1, 2025**

Project scoping

Proposed Draft released

Planning Commission hearing

Planning Commission work session

City Council hearing

City Council vote

Code amendments effective



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