

Regulatory Improvement Workplan



Regulatory Improvement Code Amendment Package 6 (RICAP 6)

Proposed Workplan

July 24, 2013



Bureau of Planning and Sustainability

Innovation. Collaboration. Practical Solutions.

City of Portland, Oregon

Charlie Hales, Mayor • Susan Anderson, Director



**The Portland Planning and Sustainability Commission
will hold a public hearing for the workplan on:**

Tuesday, August 13, 2013

12:30 PM*

1900 SW Fourth Avenue, Second Floor, Room 2500A

*Please call 503-823-7700 one week before the hearing for the scheduled time of this agenda item

The City of Portland is committed to providing equal access to
information and hearings.

If you need special accommodation, please call
503-823-7700. (TTY 503-823-6868).

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I. Background

Portland’s current Zoning Code was originally adopted in 1990. Changing needs, new laws and court rulings, new technology and innovations, and shifting perceptions necessitate that the City’s regulations be updated and improved on an ongoing basis. This document contains the proposed workplan to address several requests received by the Bureau of Planning and Sustainability in the sixth Regulatory Improvement Code Amendment Package (RICAP 6).

The Regulatory Improvement program was initiated in 2002 as a way to “update and improve City building and land use regulations that hinder desirable development”. One component of the program - RICAP - was designed to provide an ongoing and rapid vehicle for technical and minor policy amendments to the City’s regulations. From 2005 to 2010 City Council adopted five packages of amendments (RICAP 1 through 5), which resulted in many amendments to city regulations. Most of the changes were to Zoning Code regulations. Due to budgetary constraints, the program was suspended in 2010. As part of the fiscal year 2013-2014 budget process, City Council funded a RICAP project.

II. Workplan Selection Process

Requests for both process and regulatory improvements are submitted by members of the public and staff through an online database - called the Regulatory Improvement Request (RIR) database. Staff with the Bureaus of Planning and Sustainability (BPS) and Development Services (BDS) categorize the requests according to complexity and the resources needed to address the issue. Issues that will result in more significant policy changes, or will require significant resources, are directed to other legislative projects. The remainder of issues are considered for inclusion into a RICAP. Figure 1 provides an illustration of this sorting process.

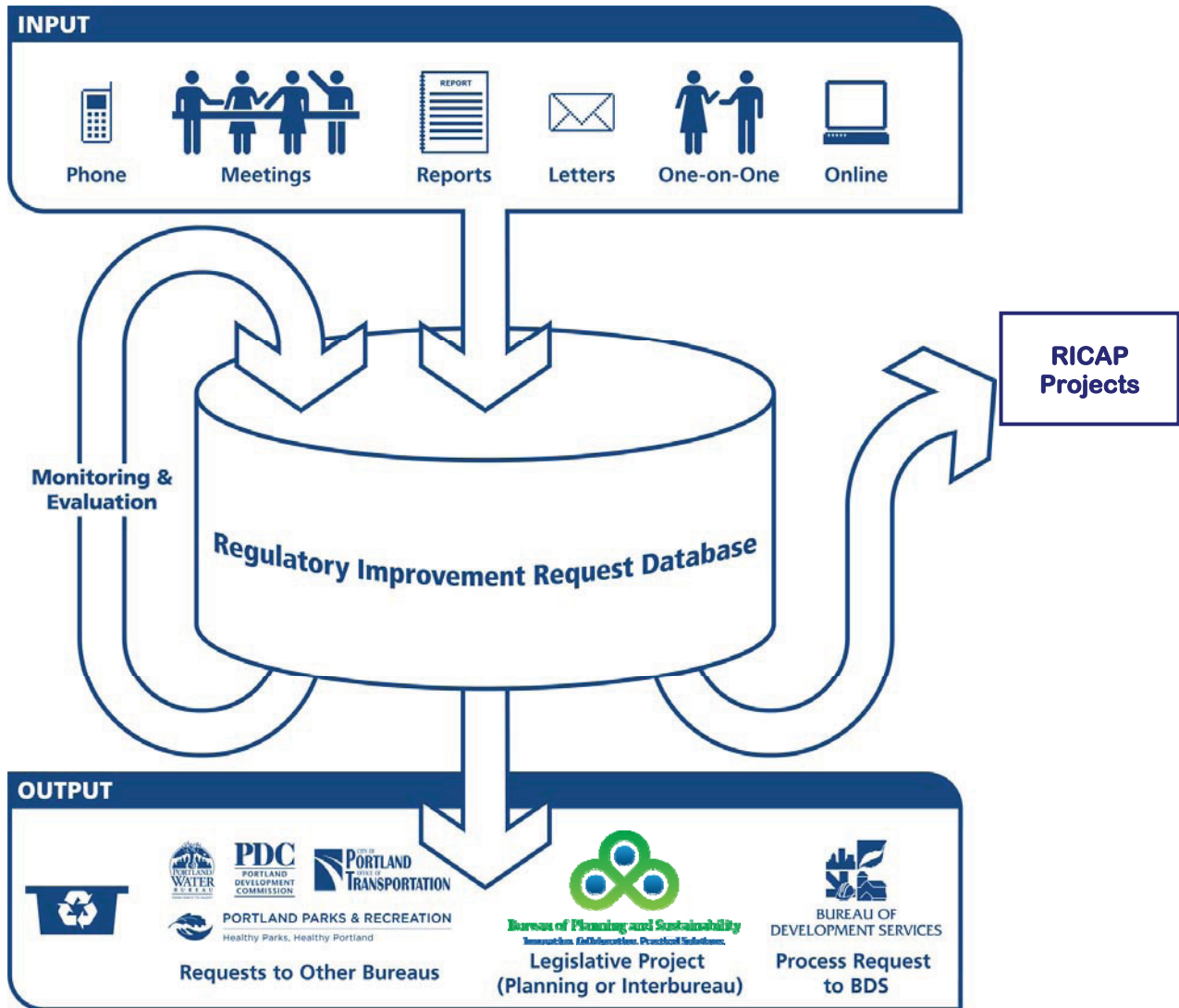
Items that involve a higher level of complexity, are ranked using the following evaluation criteria:

- a. The variety of stakeholders an issue affects (Few people or many? One group of stakeholders or several?);
- b. The geographic applicability of an issue (Is it a citywide regulation or one that affects one particular area?);
- c. The degree of impact (in terms of severity or frequency) that an issue may have; and
- d. A “regulatory improvement” component, which is an estimate of the degree that the regulation can be improved due to its current complexity or rigidity.

Each of the four criteria are ranked between (-3) and (+3), so that the summation of the four items may range between (-12) and (+12). An item that ranks as a zero would fall in the average range for these criteria.

To develop the RICAP workplan, staff considers the complexity, rank, and resources needed to address the issue. Generally, items that are the most important to address and that fit within the scope of a RICAP, rise to the top of the ranking process. Not all top ranking items may get selected, based on staff resource limitations, other constraints such as the relationship of the item to other city projects, or the need to consider the item as part of a more holistic planning process.

Figure 1: Regulatory Improvement Process Diagram



III. Staff Recommendation

The Planning and Sustainability Commission will hold a hearing on the proposed workplan for RICAP 6 on August 13, 2013, where the public is invited to comment on the Bureau’s proposal. The issues selected by the Planning and Sustainability Commission for the workplan will be addressed by staff in the coming year.

The proposed workplan consists of 42 issues related to Zoning Code regulations. These are listed in the table in Section IV. The issues are selected from the requested technical corrections and minor policy items catalogued in an online database. Most of the issues relate to regulations that are applied citywide. Several items have been bundled together to address similar subjects.

The table below summarizes the bundles and most of the items proposed for selection in the RICAP 6 workplan. The full list of issues taken from the database that are proposed for the workplan are shown in Section IV. The Bureau of Planning and Sustainability recommends that the Planning and Sustainability Commission (PSC) approve the items for the RICAP 6 Workplan.

Approval of the workplan by the PSC will allow staff to evaluate these issues in greater detail. Where applicable, BPS staff will draft a set of specific code amendments for further public review through the legislative process in early 2014.

Minor Policy / Technical Correction Bundles	
<p>In addition to their individual ranking, staff considered whether an item is related to other items in the database. This resulted in the creation of several "bundles", which are groups of related items that focus on similar issues or sections of code. The bundles may mix items that scored high in the ranking process along with related but lower-scoring items. Bundling can help to realize economies of scale in the research and development of code amendments, in addition to involving the same stakeholder communities.</p>	
<p>1. Small Business Incubator Bundle</p> <ul style="list-style-type: none"> • B&Bs/Short term rentals 	<p>The creation of various internet reservation sites has resulted in a large increase of short-term rentals. The current bed and breakfast regulations require conditional use reviews for any short-term rentals in residential zones. The code may need to make a distinction between full service bed and breakfast facilities and smaller scale short-term rentals.</p> <ol style="list-style-type: none"> a. Consider greater flexibility for regulations on bed and breakfasts and short-term rentals. Potentially integrate with home occupations. (RIR 661417) b. Work with Revenue Bureau to develop strategy for collecting room tax. (RIR 661417) c. Consider allowing greater flexibility in age of structures used for B&Bs. (RIR 116188) d. Clarify whether B&Bs operators must live in the B&B or can live in an accessory structure on site. (RIR 441327)

<p>2. Small Business Incubator Bundle</p> <ul style="list-style-type: none"> • Other Small Business Items 	<p>a. Revocable Permits: Consider incorporating these into non-conforming situations. (RIR 572611)</p> <p>b. Provide better guidance for Accessory Home Occupations and their storage and parking impacts. (RIR 132754)</p>
<p>3. Temporary Uses Bundle</p>	<p>a. Update temporary use chapter to consider issues not spelled out in the code such as temporary homeless shelters, on-location filming, longer term fairs such as circuses or church retreats, temporary parking for construction activities, etc. (RIR 666034, 6660924, 108172, 33094)</p> <p>b. Update chapter to better address natural disasters or safety emergencies. (RIR 666034, 229012)</p> <p>c. Review allowed activities and duration within the OS zone. (RIR 229012, 33094)</p>
<p>Minor Policy Issues These items may result in minor policy changes as part of the code solution.</p>	
	<p>a. Radio Frequency Facilities (Mandatory Review): Clarify terms to respond to the Federal Communications Commission (FCC) rules and recent Oregon Land Use Board of Appeals (LUBA) decisions. This involves RF emissions, definition of facility, distinguish between alterations/upgrades, and clarify "significant visual impact". (pulled from RIR 666027) <i>Note: The RIR database includes several items related to the need to update the city's provisions addressing radio frequency (RF) facilities, e.g. cell towers. Undertaking a complete update to this chapter is beyond the scope of RICAP.</i></p> <p>b. Mechanical equipment: Clarify mechanical equipment screening requirements for equipment on side of building. (RIR 79707, 572617)</p> <p>c. Convenience Stores: Clarify neighbor agreement requirement for ownership changes. (RIR 572612)</p> <p>d. Recreational Fields: Clarify review intent for placement of bleachers. (RIR 671976)</p> <p>e. Plan Districts: Revise code so that application rules for design review in plan districts and other overlay zones are in a consistent place. (RIR 482132)</p> <p>f. Conditional Uses: Clarify type of review for a conditional use that changes to another conditional use in the same use category. (RIR 660658)</p> <p>g. Consider more flexibility in fence standards to meet standard fence sections (such as a 4-foot height). (RIRs 572604, 360069, 32371)</p>

Technical Corrections

Technical corrections do not alter current adopted policy and do not require significant resources to analyze, evaluate, or determine a solution. Typically, technical corrections would automatically be included in the RICAP workplan. However, due to the 3-year hiatus of the RICAP program the number of technical requests was double what is normally added to a RICAP workplan. Consequently, BPS and BDS staff recommend that 23 of these items for RICAP 6, that were found to be more critical and time sensitive. Some of the technical items fit into the bundles discussed above.

	<ul style="list-style-type: none"> a. Clarify Standards for Attached Houses on Corners and on transitional sites. (RIR 572608) b. Clarify maximum garage wall length for duplexes. (RIR 660643) c. Community Design Standards: Clarify some cross references to the use of the standards. (RIR 635341) d. Interior parking lot landscaping figures: Clarify figures to match code. RIR 603195) e. Columbia South Shore PD: Clarify PD limits for retail sales allowances and truck parking locations. (RIR 391542, 410764) f. Clarify Johnson Creek PD density transfer, and acceptable zones. (RIR 660660) g. Land division criteria in hazardous areas. (RIR 481973) h. Administrative process clarifications including applications, comment periods, noticing and appeals. (RIR 660698, 273286, 657383) i. Update membership numbers in Design and Historic Landmarks Commissions. (RIR 446809) j. Clarify meaning of guest house reference in household living category. (RIR 441351) k. Clarification standards / exemptions for Mult Co Drainage Dist and resource enhancement projects. (RIR 169023) l. Clarify fence setbacks in multi-dwelling zones. (RIR 441490)
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The appendix to this report (under separate cover) includes the full list of regulatory improvement requests made by City staff, community members, and others that was considered for RICAP 6. Items not selected will remain on the eligible list for consideration in future projects.

IV. RICAP 6 Proposed Workplan

This section includes the items from the Regulatory Improvement Requests (RIR) database that are in the proposed workplan for RICAP 6. The list is sorted by Zoning Code section.

The list contains several columns:

- **Line #** - is provided for reference
- **RIR #** - the identification number for the item in the Regulatory Improvement Requests (RIR) database.
- **Item Label** - describes the topic and also indicates items that are part of a bundle
- **Problem Statement** - a description of the problem as it was entered in the database.
- **Requested Action** - the requestor's concept for addressing the problem

NOTE: The text in the "problem statement" and "requested action" columns is verbatim from the database as entered by staff or members of the public. *These columns do not represent an endorsement of the problem as specifically stated nor a recommended solution by the Bureau of Planning and Sustainability.* As further research is done on these items, the proposed resolution of each issue may differ from the requested action.

- **Code Section** - cross reference to the section of city code that contains the regulation to be addressed
- **Complexity** - RICAP eligible items are either "minor policy", "clarification", "technical correction", or "consistency change"
- **Rank** - for minor policy items, a rank from (-12) to (+12) is assigned based on ranking criteria described earlier in this report.
- **Resource** - the number of dollar signs indicates a magnitude of order (\$) to (\$\$\$\$) for resources required to effectively evaluate, conduct needed outreach and develop solutions to address the regulatory improvement request.

Section IV – RICAP 6 Proposed Workplan Items

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
1	572608	Attached Houses on Corner Lots	It is not clear whether an applicant can request an adjustment to the minimum lot size in order to divide a corner lot for attached houses.	Specify whether the minimum lot size for proposing attached houses on a corner lot is a qualifying situation or is adjustable.	33.110.240	Clarification	N/A	\$
2	666020	Transitional Sites	Transitional sites allow for attached houses, but it is not clear if the setbacks should be the base zone setbacks or double setbacks for attached houses.	33.110.240.H.4 change to "regulations for attached houses in R2.5 zones apply."	33.110.240	Clarification	N/A	\$
3	572617	Wall-mounted Mechanical Equipment	It is not clear if there are setback and screening requirements for wall-mounted mechanical equipment. For single-dwelling development, this may include radon filters which may or may not have noise associated with them. In commercial development, it may include many different types of equipment.	Specify if standards apply to wall-mounted mechanical equipment.	33.110.250	Clarification	N/A	\$
4	660643	Base Zone Design Standards - Garage Wall	Clarify that the total length of garage wall facing the street cannot exceed 50 percent of the total length of facade for a duplex. The allowance for 50 percent of "each unit" does not apply for a side-by-side duplex.	Add a sentence to state that the 50 percent limit applies to the total length of garage wall and total length of street-facing wall for a duplex.	33.110.253	Clarification	N/A	\$
5	572604	Fences	Stock fence materials most readily available are four feet high.	Increase the height of fences in street setbacks from 3 1/2 feet to 4 feet. This should be changed in all base zones.	33.110.255	Minor Policy	4.8	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
6	360069	Fences	The Zoning Code limits the maximum height of fences in front setbacks to 3.5 feet. The industry standard for many fence types is 4 feet. Also, the State requires a 4-foot-tall fence for day care sites. BDS has processed multiple Adjustments for 4 foot tall fences in front setbacks. While the 4 feet would reflect industry standards for some types of fences, fences over 3.5 feet in height in the front setback may reduce the visibility of properties from passing vehicles.	Consider whether it would be appropriate to increase the maximum allowed height of fences in front setbacks from 3.5 feet to 4 feet.	33.110.255	Minor Policy	4.8	\$
7	32371	Fences	Fences: Code enforcement is difficult on fence height regulations particularly in newly annexed areas of Multnomah County where formerly fences could be up to 4' in the front yard. Bureau of Buildings is currently using discretion when determining if a fence height is a public safety issue.	Reconsider fence height regulations, potentially allowing fences up to 4' in height in the front setback.	33.110.255	Minor Policy	4.8	\$
8	464943	Maximum Height in RH zones	Table 120-3 identifies maximum building height in the RH zone as "25'/65'/75'/100'". The text in 33.120.215.B.2 could be made clearer how the 25' and 65' apply in this zone.	Suggest revising the language to read, "In the RH zone, where the FAR is 2 to 1, the maximum height is 65 feet, with a 25 foot height limit applying to the portion of the structure within 10 feet of a front property line."	33.120.215	Clarification	N/A	\$
9	441490	Fences	In Multi-Dwelling zones, the height of a fence measured from a front lot line is limited to 3 1/2" in a required street building setback. The R3 and R2 have only a "front" building setback, not a "street" building setback so it is not clear what the allowed height of the fence is within the front building setback of the R3 and R2 zones. If the standard was intended to apply to a street or front building setback, it should be made clear that it is the	Clarify that the fence height applies to the minimum street or building setback.	33.120.285	Clarification	N/A	\$

Section IV – RICAP 6 Proposed Workplan Items

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
10	79707	Mechanical Equipment Screening	<p>minimum (not maximum) street or building setback.</p> <p>The screening requirements do not deal with mechanical equipment on the side of buildings and are not included in the nonconforming upgrade list of items. At least 2 recent changes to buildings in multifamily zones included massive mechanical equipment - on the side of a religious building and on the roof of a nonconforming commercial building - do not include screening. These are large, unsightly and noisy and are very visible from the adjoining sidewalks. 33.110.245 C.5; 33.120.250.C; 33.130.235.C; 33.140.235.C; 33.258.D</p>	<p>Require screening for mechanical equipment, regardless of location. Add mechanical screening to nonconforming use upgrades.</p>	33.130.235	Minor Policy	1.0	\$\$
11	132754	Accessory Home Occupations / Small Business Bundle	<p>Right now enforcement of 33.203.050.D is limited to private property. Home Occupations, like any use activity, are difficult to verify and enforce. Development, like the number of vehicles, is much easier to verify and enforce. For example, an ice cream vendor operates out of their house. The ice cream vendor parks 4 ice cream vans with signage on the street. We know that employees come to the site and drive those vans, except it is very difficult to prove. If 33.203.050.D applied in the ROW then the violation would be much easier to verify and enforce. The activity in the ROW is accessory to the land use violation on private property, we need the ability to connect these two realms. We have applied 33.203.050.D to the ROW in the past, but we don't believe this</p>	<p>Amend Code so that home occ regs relating to number of vehicles, 33.203.050.D, applies to the ROW as well as private property. Amend 33.10.030.B to add another exception so that 33.203.050.D of Title 33 applies in the public ROW. Or as an alternative, state that any vehicle associated with the Home Occupation must be parked on site.</p>	33.203.	Minor Policy	-0.5	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
12	661417	Short-term and vacation rentals / Small Business Bundle	<p>action will be upheld by the HO and the case will be thrown out.</p> <p>Many cities, including Portland have experience a large increase in the number of houses, and rooms in houses, that are rented out on a short-term basis informally through internet sites such VRBO and AirBnB. The residences are generally located within residential zones. The city's current Bed & Breakfast regulations require a conditional use process and many limiting conditions, so most of these rentals are illegal from a regulatory standpoint. These operations also do not pay any type of business tax, which means the city is missing out on a revenue source that other lodging options conform with.</p>	<p>Consider revisions to the Bed & Breakfast and/or Home Occupation codes that may allow more flexibility for renting out rooms on a short term basis, while ensuring that neighborhood impacts are still minimized, and lodging taxes are collected.</p>	33.212.	Minor Policy	4.8	\$\$
13	441327	Bed and Breakfast / Small Business Bundle	<p>Regulations of 33.212.020 and .040 require that the individual or family that operates a bed and breakfast must reside in the house. BDS is seeing proposals where detached ADUs are used as part of the B&B, and in some cases, the individual/family that operates the B&B wants to reside in the ADU. Internal discussions in BDS concluded there is little to no difference whether the B&B operator resides in the house or the ADU.</p>	<p>Amend Section 33.212.020 and .040 to require the operator of a B&B to reside on-site. This allows the flexibility for the operator to live in the house or an ADU on the site.</p>	33.212.020	Minor Policy	1.0	\$

Section IV – RICAP 6 Proposed Workplan Items

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
14	116188	Bed and Breakfast Facilities / Small Business Bundle	I moved into a brand new home last February in NE Portland. I have friends occasionally stay in my guest suite with private bath on the main floor. Two of these individuals live in Seattle and travel to Portland regularly on business and have proposed paying me to stay in the room on a regular, recurring basis as opposed to staying in a hotel. (Less expensive and they prefer the home environment.) If I accept money for such a circumstance, am I required to get a permit for a "Bed and Breakfast"? Looking into this I have learned that I could get a conditional use permit, however the hangup is that my home is new construction and there is a rule that states that to be a Bed and Breakfast the home must be 5 years old. I don't understand why the home needs to be five years old (that would hardly constitute as "historic"). My home, although new, fits in with the character of the neighborhood. In fact, my home is considered one of the nicest homes on the block.	I propose that the rule stating that a home must be 5 years old be waivable (adjustable). I did not build my new home with the intention of operating a bed and breakfast, however I would like the opportunity to allow for the situation described in my problem statement. I do not see how this would in any way be a detriment to my neighborhood.	33.212.040	Minor Policy	-3.0	\$\$
15	635341	Community Design Standards cross-reference	Residential projects in C and EX zones can use design standards for multidwelling zones, but the references in the multidwelling zones do not apply to C and EX zones.	Consider having projects in C or EX zones meet the standards for RX or RH projects. See 33.218.110.C and D -- it would not apply to any C or EX project and the height limits would be higher.	33.218.140	Clarification	N/A	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
16	572612	Convenience Stores	The regulations should clarify when the requirements must be met - for new convenience stores and for new operators of existing convenience stores. There is inconsistent use of the terms "applicant" and "operator" through the chapter. Clarify who is responsible to attend the neighborhood meeting. Provide for better neighborhood notice for convenience stores. Notification of property owners is only required when the neighborhood association responds to the request for a meeting and decides to hold a meeting.	Clarify that the chapter applies to new convenience stores and new operators, require the operator to attend the neighborhood meeting and require notification of surrounding property owners even if the neighborhood association does not request a meeting. Make the neighborhood contact requirements more consistent with other neighborhood contact requirements - certificates of mailing, etc.	33.219.025	Clarification	3.6	\$\$
17	603195	Interior Parking Lot Landscaping configuration	Option 2 for interior parking lot landscaping patterns states that landscaping abutting a parking area that is not parallel to required perimeter landscaping can count as interior, but Figure-266-6 shows the landscaping between the parking area and a building.	Modify Figure 266-6 to show that the abutting landscaped area may be between the parking area and a building or may be to the interior of the site (not near a building).	33.266.130	Clarification	N/A	\$
18	Unlisted (similar to RIR 666027)	Radio Frequency (RF) Transmission Facilities	Recent LUBA determinations have illustrated that parts of the RF code related to power emissions can be confusing and subject to misinterpretation. In addition, the FCC has inserted new requirements related to the timing of facility reviews and how modifications and colocations should be regulated. These new requirements are not fully considered in the existing zoning code.	Update language to address RF emissions and clarify other terminology as cited in a recent Land Use Board of Appeals (LUBA) case, and address recent interpretations of FCC law.	33.274.	Minor Policy Change	6.5	\$\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
19	671976	Recreational Fields for Organized Sports (note: clarification of recent code change)	The recent amendments for Recreational Fields for Organized Sports allowed 210 lineal feet of seating to be installed without having to go through a conditional use review. This was intended to allow small bleachers to be located next to play fields. However, because of the 1,500 square foot limitation on exterior improvement area, it is not always possible to install the 210 lineal feet without triggering a CU review.	The intent was to allow the 210 lineal feet of seating without restrictions. Section 33.279.030.A.4 should be amended to exempt from the 1,500 sq. ft. threshold the 210 lineal feet of seating allowed by 33.279.030.A.7.	33.279.030	Clarification	2.0	\$
20	666034	Temporary Uses / Temporary Use Bundle	The City is either ignoring transitional uses that are not allowed by the Zoning Code or using City Council Ordinances to waive zoning regulations. Consider changes to the temporary activities chapter to better handle these situations. Examples: vending cart pods, vacation rentals, shooting movies or TV shows, warming centers, Cirque du Soleil, homeless camps, storing a house to avoid demolition, the next big thing.	Consider changes to the temporary activities chapter to make the code better able to handle temporary and transitional uses.	33.296.	Minor Policy	8.8	\$\$
21	33094	Temporary activities in the IR and R zones / Temporary Use Bundle	The Temporary Activities chapter limits large events in the IR and R zones to nine days. The Apostolic Faith Church holds a two-week annual convention and needs to provide temporary RV parking on the site for 2-3 weeks to accommodate church members who travel to their camp site (SE 52nd and Duke). The existing nine days is not adequate.	Amend Section 33.296.030.A.4. a. to allow fairs, carnivals and other major public gatherings in the RF through RH zones at a site with an existing institutional use to occur twice a calendar year with each event not exceeding nine consecutive days or one event that does not exceed 18 continuous day.	33.296.030	Minor Policy	-0.3	\$
22	229012	Temporary Activities / Temporary Use Bundle	Temporary activities and structures needed to address natural disasters or other health and safety emergencies are allowed for the duration of the emergency in all zones. However, with the exception of the OS zones, the time between	Consider exempting temporary activities and structures needed to address natural disasters or other health and safety emergencies from the requirement limiting the frequency and timing between	33.296.030	Minor Policy	2.8	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
23	108172	Temporary Activities / Temporary Use Bundle	<p>these temporary activities must be four times as long as the duration of the last temporary activity. This limitation is not practical when applied to temporary activities and structures needed to address unforeseen natural disasters or other health and safety emergencies.</p> <p>The temporary activities chapter needs to be revisited to clarify what activities are allowed and their duration. Particularly in the OS zones, there is little guidance about how to determine whether something is temporary or not. Recent examples that have come up include Saturday Market locating in an OS zone, film-production ("on-location") in residential zones, and temporary parking for construction workers.</p>	<p>these temporary activities.</p> <p>Revisit the temporary activity regulations so that they are more responsive in regulating the host of "temporary activities that are proposed.</p>	33.296.030	Minor Policy	4.4	\$\$
24	660924	Production Filming as Temporary Use / Temporary Use Bundle	<p>Portland has seen an increased number of movie productions and TV series that use on-location sites as part of their filming. These activities are coordinated with PDC and other bureaus such as PBOT, Parks and Police when necessary. There have been issues raised by the neighborhood about these activities. The activity, which usually occurs over 2-3 days is not listed as a temporary activity in 33.296.</p>	<p>Consider a regulation under the Temporary Activities Chapter to address on-location filming that occurs over a period of a few days.</p>	33.296.030	Minor Policy	5.0	\$\$

Section IV – RICAP 6 Proposed Workplan Items

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
25	169023	Environmental Zone Exemptions	There is an MOU between the City and Multnomah County Drainage District (MCDD). It was supposed to be "retired" when the Environmental Code Improvement Project was completed to MCDD's satisfaction. Staff worked with MCDD to craft the exemption language to capture the work MCDD needs to do within the slough channel. Recently, MCDD staff have discovered that the language in the zoning code does not provide the exemption they need. However, only a minor tweak is necessary to correct the exemption language.	33.430.080.C.6.c. allows an exemption for reconfiguring the cross section of a drainage channel below the ordinary high water mark. MCDD reconfigures the drainage channel both above and below the OHW mark, so the reference to OHW should be eliminated.	33.430.080	Clarification	N/A	\$
26	245811	Environmental Overlays	When large woody debris must be anchored to the bank, or when several logs are assembled together to form a "log jam", as part of a bank restoration project, which is the desired method, it is considered both "construction activity" and a "structure." Environmental zone standards for resource enhancement projects 33.430.170 A and E, preclude construction activity in water bodies and structures, respectively, without environmental review.	The resource enhancement standards should be revised to allow installation and anchoring of large woody debris projects in Portland's water bodies. Amend the resource enhancement project standards in Section 33.430.170. A and E to also allow as structures the anchoring and assembly of large woody debris.	33.430.170	Clarification	N/A	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
27	300690	Community Design Standards	In Design overlay zones, the maximum limits on the use of Community Design Standards don't apply to development where any of the floor area is in residential use. For historic resources, residential development that is a Conservation Landmark or in a Conservation District may use the Community Design Standards, but the limits on when they may be used apply. Based on a memo from the City Attorney, it is BDS' understanding that the limits were not intended to apply to residential development designated as a Conservation Landmark or in a Conservation District	Clarify whether the limits on the use of the Community Design Standards were intended to apply to residential development that is a Conservation Landmark or in a Conservation District. Confirm whether the limits on the use of the Standards were intended to apply to historic landmarks and in historic districts, and not to conservation landmarks and in conservation districts.	33.445.700	Clarification	N/A	\$
28	433636	Main Street Corridor Overlay	The retail floor area regulations along Division Street in the m overlay do not make it clear that these are limitations on the amount of retail in zones where retail is an allowed use. The regulation has been read by the public as a special allowance for retail regardless of zone.	Clarify that the regulation for retail is limited to zones where retail is an allowed use.	33.460.310	Clarification	N/A	\$
29	482132	Plan Districts and Overlay Zones with Design Overlay Zone	Some plan districts (see Marquam Hill, Hollywood as examples), and overlay zones (see "m" overlay) have the requirement for design review as a standard within the plan district or overlay chapter. However, the requirement for design review is expressed through a "d" overlay zone. This can be confusing because thresholds and exemptions for design review are located both in the plan district or overlay zone, and in the design overlay zone chapters. It appears to be redundant information.	For plan districts or other overlay zones that also have the "d" overlay, re-examine the need for design review information to be contained in the plan district or overlay zone in addition to in the "d" Design overlay zone. Be consistent with where design review requirements are expressed (within the PD or Overlay, or just 33.420) among all plan districts and overlays that also have the "d" overlay zone.	33.500.	Consistency Change	5.0	\$\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
30	410764	Retail Sales and Service in EG2 Zone in Columbia Southshore Plan District	<p>33.515.120 allows Retail use in the EG2 up to 25,000 sq ft by right. (IG2 zones can have by right 4 retail uses up to 3,000 sq ft, or a single retail use up to 12,000 sq ft). 33.515.130.D then states retail uses in excess of that identified in 33.515.120 are allowed through a CU, but asking for retail uses in excess of 20,000 sq ft is prohibited. If 515.120 already allows retail up to 25,000 in the EG2 zone, it doesn't make sense that 515.130 would say a CU is allowed to increase that amount specifically in the EG2 zone, but in no case allowing more than 20,000 sq ft. The 20,000 sq ft limit in 515.130 was intended to apply only to retail in the IG2 zones, with no limit on the amount of retail allowed through a CU for retail in the EG2 zone. This would be more consistent with the retail limit concept in the base zone (which allows a CU for unlimited retail in the EG2 zone, with a 20,000 sq ft cap on retail in the IG2 zone). Also, the original language in the CSSPD allowed unlimited retail in the EG2 zone if approved through a CU. During RICAP 4, the Proposed Draft originally had the "prohibited above 20,000 sq ft" language under 33.515.120.C which was specific to the IG2 zone. However, since this limit was the threshold between the CU and being prohibited, it was subsequently moved down to 33.515.130.D in the CU section for the Recommended Draft. However it was overlooked that this section was applied to both EG2 and IG2 zones. The intent was that the maximum only apply to the IG2 zones. EG2</p>	<p>The simplest fix could be to just put "in the IG2 zones, the total area of all . . ." Possibly a more clear approach would be to create a paragraph for EG2 and one for IG2.</p>	33.515.130	Tech. Correction	N/A	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
31	391542	Columbia South Shore Plan District	zones do not have a maximum limit through a CU, other than having to meet approval criteria. It is not clear whether heavy trucks may be parked/stored within the 150' setback from NE Airport Way (Columbia South Shore Plan District). It seems the intent of the standard is to preclude work activities, and the storage of equipment and materials within this setback, but there is no mention of how heavy trucks are regulated.	Clarify whether the parking/storage of heavy trucks is allowed within the minimum required 150' Airport Way setback area in the Columbia South Shore Plan District.	33.515.205	Clarification	N/A	\$
32	660660	Johnson Creek Density Transfer	Language in density transfer section can be read to say these are the only provisions for density transfers in the plan district. Clarify whether density transfers in multidwelling base zone provisions are also available.	Clarify that these provisions allow for transfers in single dwelling zones and are in addition to multidwelling base zone transfer allowances.	33.537.110	Clarification	N/A	\$
33	481973	Land Division Approval Criteria in Potential Landslide Hazard Areas	33.632.100 states, in part, "Locate the lots, buildings, services and utilities on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street from the site, is reasonably limited."The first clause states that the lots, buildings, services and utilities must be located on the safest part of the site, but the more specific, later clause says that must be done in a way that risk is reasonably limited. It's possible to not be located on the safest part of the site but still meet the approval criteria in that the risk as described is reasonably limited.	Clarify the intent and resolve the ambiguous, potentially conflicting language.	33.632.100	Clarification	N/A	\$

Section IV – RICAP 6 Proposed Workplan Items

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
34	666012	Regulations in Effect at Application	Clean up preamble in 33.700.080 and change wording for complete application so it is clear the application does not need to be determined to be fully approvable to be considered complete.	Change preamble to: "This section applies when zoning map changes or zoning code amendments become effective after the date an application has been submitted, but prior to a decision being made on the application." Change "that" to "whether" in 33.700.080.A.2 last sentence.	33.700.080	Clarification	N/A	\$
35	572611	Status of Revocable Permits	Revocable permit rights are very problematic, particularly where they granted additional dwelling units or rights for commercial uses in commercial buildings in residential zones.	Transfer some or all revocable permit rights to nonconforming situation rights to allow for some flexibility and a review process for changes.	33.700.120	Minor Policy	3.5	\$\$
36	572610	Status of Revocable Permits / Small Business Bundle	The language for the status of revocable permits without expiration dates uses the term "ownership" instead of "owner". Because ownership refers to a site rather than an entity, it has created confusion about the status of the permit rights when the owner of a site changes but the site itself does not change.	Clarify the language to use the term "owner" if that is what is meant.	33.700.120	Clarification	N/A	\$
37	446809	Historic Landmarks Commission and Design Commission membership	Both Historic Landmarks Commission and Design Commission have 7 commission members, though the code refers to 8.	Change references to Historic Landmarks Commission and Design Commission to specify that there are 7 members for each commission	33.710.050	Tech. Correction	N/A	\$
38	660698	Land Use Review Comment Periods	Procedure descriptions for Type I, IX, II and IIX state the length of time from notice to decision, but do not specify the length of the comment period.	State the length of comment period.	33.730.015	Clarification	N/A	\$
39	273286	Type IIX Appeals	Type IIX appeals require the hearings officer to make a decision with 14 days of the record closing (33.730.025 I. 6 a.). All other decision/recommendations made by the Hearings Office must be made	Change the time allowed for the Hearings Officer to make a decision on a Type IIX appeal from 14 days to 17 days. This would make the decision period for a Type IIX the same as it is	33.730.025	Consistency Change	N/A	\$

Line #	RIR #	Item Label / bundle	Problem Statement	Requested Action	Code Section	Complexity	Rank	Re-source
40	657383	Notice of Type III Decision	with 17 days of the record closing (See 33.730.020 i. 6 a. & 33.730.030 E. 3 a.) The Hearings Office has been unable to determine why there is a difference in the length of the decision making period. Up until 1995, the zoning code had a standard set of items that were required to be a part of a Notice of Decision (pending appeal). A code project separated out the information by Land Use Types, but there was no information provided for the Notice of a Type III decision (pending appeal). There is also inconsistency in who receives notices in an earlier section.	Amend the section in 33.730, Quasi Judicial Procedures to include the checklist of what should be included in the Type III notice of decision. Also, ensure in the procedure sections that notice of proposals and decisions are sent to both owners and applicants	33.730.070	Tech. Correction	N/A	\$
41	660658	Conditional Uses	The code says a CU is required for a change of use in the same use category for sites with existing conditional uses. This is often misread to mean it is only triggered for a change between the broad categories (residential to institutional). It is not necessarily clear that a CU can be triggered for the same use -- one church to another church -- when none of the other triggers are hit (change to number of people, change to floor area, change to parking).	Change wording to make clear what is meant by "use within the same category" and clarify when a CU is triggered for the change.	33.815.040	Minor Policy Change	5.1	\$\$
42	441351	Household Living Use Category / Small Business Bundle	In the description of the Household Living use category (33.920.110), guest houses that contain kitchen facilities are prohibited as being accessory to Household Living. However the Bed and Breakfast regulations recognize that an ADU can be part of a bed and breakfast operation (33.212.050.D). The ADU regulations also recognizes that an ADU can be on the site of a bed and breakfast (33.205.030.C.3). The prohibition on guest houses in the Household Living use category seems to conflict with what is included in 33.205 and 33.212.	Clarify how the phrase "guest houses that contain kitchen facilities are prohibited as accessory to Household Living" relates to the allowance for ADUs being used as part of a bed and breakfast.	33.920.110	Clarification	N/A	\$

