

# Regulatory Improvement Workplan

## Regulatory Improvement Code Amendment Package 10 (RICAP 10)



## Workplan

July 2023

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## Table of Contents

I. Background .....	2
II. RICAP 10 Workplan Selection Process.....	3
III. RICAP 10 Workplan Items.....	5
Appendix: RICAP-Eligible Items from Regulatory Improvement Request Database .....	Under separate cover

## I. Background

Portland's current Zoning Code was adopted in 1990. Over time, changing needs, new laws and court rulings, new technology and innovations, and shifting perceptions necessitate that the City's regulations be updated and improved. This document contains the workplan to address code update requests received by the Bureau of Planning and Sustainability.

The Regulatory Improvement program began in 2002 to "update and improve City building and land use regulations that hinder desirable development". One component of the program, the Regulatory Improvement Code Amendment Packages (RICAP) was designed to provide an ongoing vehicle for technical and minor policy amendments to the City's regulations. From 2003 to 2010, the City Council adopted eight packages of amendments (Policy Packages 1-3 and RICAP 1 through 5), which resulted in many amendments to city regulations. Most of the changes were to Zoning Code regulations. Following a suspension of the program from 2010 to 2013 due to budget limitations, the program was reinstated with RICAP 6 through 8. Another suspension of the program occurred from 2016 to 2022, again due to budget constraints.

In 2022, there was a renewed focus on providing opportunities for continuous improvement of the City's zoning regulations through discussions of the Permitting Improvement Task Force. The goals of the Task Force span across bureaus, regulations, and processes, but this work resulted in identifying the value of the RICAP program. The City Council approved the budget to reinstate the program starting in fiscal year 2022-2023. Resolution No. 37593 further directed the Bureau of Planning and Sustainability to address zoning issues related to affordable housing with this regulatory improvement package. The first package under this reinstatement is labeled RICAP 10.

### Workplan Selection Background

Generally, requests for both process and regulatory improvements are submitted by members of the public and City 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. Items related to issues that could result in more significant policy changes, or would require significant resources, are directed to other legislative projects. The remaining issues are considered for inclusion into a future RICAP.

Items that involve a higher level of complexity are ranked using the following 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 sum of the four criteria range between (-12) and (+12). An item that ranks as a zero would fall in the middle range for these criteria.

To develop the RICAP workplan, staff considers the complexity, rank, and resources needed to address the issue. Generally, the most important items to address that fit within the scope of a RICAP, rise to the top of the ranking process. Not all top-ranked items are selected. Selection is also based on resources, the relationship of the item to other pending city projects, and the need to consider the item as part of a more holistic planning process.

## **II. RICAP 10 Workplan Selection and Project Process**

### **The RICAP 10 Workplan**

The last few years have been a challenging time for Portland residents and the development/business community. City leaders have directed staff to find ways to encourage the economic development of downtown, to simplify processes for developing housing, and to improve the regulatory environment. The City Council established a Permit Improvement Task Force, whose recommendations consider both the regulatory environment and the development review process times. The recent voter-approved measure to change the form of city government has created additional incentives to develop greater efficiencies and coordination in city regulations and processes.

With this context in mind, for RICAP 10 a group of BPS and BDS staff selected from the more than 300 eligible technical and minor policy workplan items using a lens that focused on the following themes:

- Increase housing production
- Improve economic development opportunities
- Regulatory reduction

While smaller technical items were generally automatically added to the workplan for past RICAPs, the suspension of the program over several years resulted in an excessive number of these items. For RICAP 10, technical items were added only if they fit within some of the subject bundles or if they were of higher priority. State legislation approved over the past few years also necessitated a review of some of the City's regulations to ensure that they comply with these mandates. Lastly, issues have arisen during the implementation of recently adopted zoning code projects, including Central City 2035, the Design Overlay Zone Amendments (DOZA), and the Historic Resource Code Project (HRCP), which has generated requests to clarify and clean up zoning code language to clarify the new regulations.

The resulting RICAP 10 work plan contains over 60 items and relate to regulations that are applied citywide. The items are categorized by complexity:

- 1) *Minor policy* that may affect existing policy, for example by expanding or restricting allowed uses, changing the review type or procedure for land use applications, or revising development standards. Approximately half of the items in the RICAP 10 are minor policy amendments.
- 2) *Technical corrections, clarifications, or consistency* where a particular requirement is unclear, or the regulations are in conflict with other sections of the code.

The RICAP 10 items have been gathered into bundles with many falling under the themes listed above. These groupings include:

- **Housing production related (these also impact economic development)**
  - Ground floor and ground floor façade (9 items)
  - Design Overlay Zone Amendments (DOZA) project clean-up (5 items)
  - Historic Resource Code Project (HRCP) project clean-up (7 items)
- **Economic development**
  - Central City technical items clean-up (15 items)
  - Home occupations (4 items)
  - Temporary activities (4 items)
- **Regulatory reduction**
  - State/Local bill compliance (5 items)
  - Land Use Review Process (3 items)
  - Miscellaneous regulatory clean-up (10 items)

It should be noted that during the time that initial work on RICAP 10 began and the work plan was published, City leadership expressed a desire for a fast-tracked project focused on easing regulations that directly address the housing crisis in Portland and could lead to greater housing production. As a result, several RICAP 10 items moved to the Regulatory Relief Project that is expected to be adopted by City Council by early 2024.

### **RICAP 10 Tentative Timeline**

<b>July 2023</b>	RICAP 10 workplan released
<b>Summer 2023</b>	Project staff drafting RICAP 10 zoning code amendment package
<b>Fall 2023</b>	RICAP 10 Discussion Draft released for public review / comment
<b>Winter / Spring 2023-24</b>	Planning Commission public hearing
<b>Spring / Summer 2024</b>	City Council public hearing and adoption
<b>October 2024</b>	Effective

### III. RICAP 10 Workplan Items

The table on the following pages summarizes the items proposed for inclusion in the RICAP 10 workplan. The items contained in each section are sorted into three bundles, and then by zoning code section within each category. The appendix to this report (under separate cover) includes the list of regulatory improvement requests (RIR) made, with items selected for RICAP 10 highlighted. Some bundled items did not originate in the database and will therefore not appear on that list. Items not selected will remain on the eligible list for consideration in future regulatory improvement projects.

The table contains the following columns:

- **Item #** - This is the RICAP item number assigned by the project team for reference.
- **RIR #** - This is the identification number for the item from the Regulatory Improvement Requests (RIR) database, when applicable. Some items did not come from the database.
- **Issue** - Provides a general description of the regulatory problem.
- **Potential Action** – Represents an initial concept for addressing the issue. As further research is done on these issues, the proposed resolution of each issue may differ from the potential action in this list.
- **Type of Code Amendment & Code Section** – Cites the type of RICAP request and the city code section (and sometimes map or table) with the regulation to be addressed.

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
<b>Housing Production Related Items (note items may also benefit Economic Development)</b>				
<b>Ground floor and ground floor facade bundle</b>				
1	1089406	<p><b><u>Street-facing facade window requirement</u></b> When a dormer faces a side lot line it still has a small, triangular shaped street-facing facade. The 15% window requirement forces a very small window on the side of a dormer, which is not what the standard is aimed at, or requires an adjustment.</p>	To provide flexibility, do not require windows on the side wall of a dormer that primarily faces the side lot line.	Minor Policy 33.110.235 33.120.232
2	1974736	<p><b><u>Raised ground floor setback exception</u></b> In the multi-dwelling zones, the front setback can be reduced to zero when a ground floor residential unit is raised 2 feet above the sidewalk. It is unclear how to determine which is the ground floor unit.</p>	Clarify how to identify the ground floor residential unit in order to apply the multi-dwelling zone setback exception.	Clarification 33.120.220.B.3.b 33.130.230.B.4.c
3	1685885 2214393	<p><b><u>Ground floor height limit exception</u></b> Height limits in commercial zones allow an additional 5 feet of height when at least 75 percent of the ground floor has at least 15 feet between the floor and the bottom of the structure above. It is unclear how this exception applies when a site is sloped - does the 75 percent need to be met for the full floor when only a portion of it is at sidewalk level or for mixed use projects, would it only apply to the commercial portion of the building and not residential units?</p>	Clarify when the commercial zone height limit exception for tall ground floors can be used on a sloping site.	Clarification 33.130.210.C.8
4	1469382	<p><b><u>Windows</u></b> In the CM zones, the standard that requires 15% of the area of the street-facing facade be window area does not exempt accessory structures, even though accessory structures are exempt from the maximum setback and typically are placed away from the street.</p>	Exempt accessory structures from the street-facing facade window requirement.	Minor Policy 33.130.230.A



RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
5	1606138	<p><b><u>Ground floor windows in stairwells</u></b>                      Windows used to meet the ground floor window standard in the commercial/mixed use, EX and CI2 zones generally must be windows that allow views into working areas, lobbies, residential units or residential building common areas; glazing in pedestrian entrances; or display windows that are at least 24 inches deep set into a wall. It is unclear whether a street facing glass stairwell qualifies.</p>	Clarify whether glass stairwells are a qualifying window feature for meeting ground floor window standards.	Clarification 33.130.230.B
6	2245520	<p><b><u>Ground floor window requirements on sites with multiple frontages</u></b>                      The commercial/mixed use zones ground floor window standard can be confusing especially in terms of how exemptions are applied when structured parking is involved, and the site has more than one street frontage and all streets are of equal classification.</p>	Clarify how window requirements apply on corners sites where both streets are of equal classification and a parking structure is proposed on one frontage.	Clarification 33.130.230.B
7	2349722	<p><b><u>IR zone ground floor standards</u></b>                      When the institutional zones chapter (33.150) was created and the IR zone was moved into the chapter, some conflicting standards were created. This includes the maximum setback standard where the text only refers to the CI2 zone but Table 150-2 indicates that IR does have a maximum setback, and the ground floor window standard, which previously didn't apply to IR when it was a multi-dwelling zone, but Table 150-2 indicates the ground floor window standards apply to IR.</p>	Clarify how ground floor window and maximum setbacks apply in the IR zone now that the IR zone is part of the campus institutional zones chapter.	Consistency Change 33.150.215 33.150.250

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
8		<p><b><u>Self-service storage ground floor active use</u></b>            The self-service storage use regulations require at least 50 percent of the ground level floor area to be active uses when within 100 feet of a transit street. The standard does not say it applies only to sites with frontage on a transit street, which has resulted in the standard being applied to sites without frontage on the transit street but that have buildings within 100 feet of the transit street.</p>	Clarify whether the self-storage ground floor active use standard applies only to sites with frontage on a transit street.	Clarification 33.284.020
9	352504	<p><b><u>Gateway pedestrian standards</u></b>            The Gateway plan district pedestrian standards require either landscaping or hardscaping between the building or exterior improvement and the street, but no minimum depth of this landscaping or hardscaping is required. And, in some cases, the zoning allows a zero or very shallow front setback. It is unclear how a site with no or a very shallow setback can realistically accommodate L1 landscaping or hardscaped amenities.</p>	Clarify how much area needs to be landscaping or hardscaping along enhanced pedestrian streets in Gateway and whether the requirement applies if no setback is required.	Minor Policy 33.526.260
<b>DOZA (Design Overlay Zone Amendments) clean-up bundle</b>				
10	2387333	<p><b><u>Design standards</u></b>            One of the 33.420 design standards dictate a 5/8" thickness for planks that are 6" wide or less. This width is not widely available, and most firms have a 5/16" product. There are some 5/8" products with a wider reveal of 9 inches. There are also issues with the unavailability of cedar shingles at the width indicated.</p>	Revise the design standards to be more flexible when certain size or type of required product is not available.	Minor Policy 33.420.050 Table 420-3
11		<p><b><u>DOZA: Design Standard QR11</u></b>            Standard QR11 is an optional standard to encourage window openings on the south and west walls of a dwelling unit to have awnings or eaves to protect from summer heat. The intent was to require awnings on both the south and west sides to gain points, but the standard is not clear</p>	Clarify that the standard must be met on both the south and west-facing walls to gain the points.	33.420.050 Table 420-1

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
12		<p><b><u>DOZA: Correct map 420-1</u></b>                      Map 420-1 has several confusing elements. First, the Russell Street conservation district is missing. Second, the legend says it is listing subdistricts but it clearly includes historic and conservation districts as well.</p>	<p>Clarify Map 420-1 to add Russell Street design districts (conservation district) which is currently not indicated, and distinguish between Central City subdistricts and design districts. Right now, there is no indication of design districts in the legend, just subdistricts.</p>	<p>Technical Correction                      33.420 Map 420-1</p>
13	2388994	<p><b><u>DOZA: Design review thresholds related to signs</u></b>                      With regard to exemptions from the Design overlay zone chapter, signs have an exemption separate from alterations to the facade of a building. However, Table 825-1 does not separately refer to signs but appears to lump the addition of a sign into the row identifying the “facade area affected.” This is confusing to applicants.</p>	<p>Clarify how signs fit within the review type thresholds of Table 825-1.</p>	<p>Clarification                      33.825 Table 825-1</p>
14	2388974	<p><b><u>DOZA: Design review thresholds for the Central City</u></b>                      In Table 825-1, there is a ‘catch-all’ row for all other exterior development not listed in the first set of rows. In those cases, the review is a Type II. There is not a corresponding row for this option in the cells related to the Central City plan district.</p>	<p>Add a design review threshold for “all other development not listed above” for the Central City.</p>	<p>Clarification                      33.825 Table 825-1</p>

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
<b>HRCP (Historic Resource Code Project) clean-up bundle</b>				
15	2409814	<p><b><u>HRCP: CM2 height bonus</u></b>            The commercial/mixed use zone bonus height standard contains an internal conflict. The standard says that the bonus can only be earned in the Design overlay zone, but footnote 1 under Table 130-3 says that bonus height is allowed on sites within historic districts, conservation districts, or the Design overlay zone. The footnote was updated with HRCP to allow the height bonus in historic and conservation districts in addition to the design overlay zone. 33.130.212.B.5.b repeats the footnote, but was accidentally missed during the HRCP update, and is not necessary.</p>	Delete 33.130.212.B.5.b because it conflicts with 130-3 footnote 1.	Technical Correction 33.130.212.B.5.b
16	2388355	<p><b><u>HRCP: Historic code exemption—ADA</u></b>            The Historic Resource overlay zone exemption for alterations to address ADA requirements refers to “existing” materials, however, the Historic Resource overlay zone does not regulate “existing” materials, only “historic materials.” The wording can cause an alteration that affects a non-historic material to go through historic resource review.</p>	Clarify that the HRCP exemption for alterations to meet ADA requirements is allowed when “historic” rather than “existing” materials are not destroyed.	Technical Correction 33.445.100/110 33.445.200/210
17	2388404	<p><b><u>HRCP: Historic code exemption—parking lot landscaping</u></b>            Parking lot landscaping that meets the standards of Title 33 does not need historic resource review</p>	Delete the words “and the landscaping does not include a wall or fence” from the parking lot landscaping HRCP code exemption.	Clarification 33.445.100/110 33.445.200/210
18	2388359	<p><b><u>HRCP: Historic code exemption—rooftop equipment</u></b>            The wording of Historic Resource overlay zone rooftop mechanical equipment exemption does not repeat the words “and associated ductwork” throughout the exemption, which makes it unclear if “associated ductwork” is always exempt.</p>	Clarify that associated ductwork is included in all of the sub-subparagraphs of the rooftop mechanical equipment exemption.	Technical Correction 33.445.100/110 33.445.200/210

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Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
19	2388428	<p><b><u>Historic code exemption—hose and conduit</u></b>                      The Historic Resources overlay zone exemptions for ground-mounted equipment and hoses/conduit specify that the exemptions apply to equipment, hose or conduit that is no more than 5’ above grade. This results in historic resource reviews for the remainder of the equipment, hose or conduit going up a building.</p>	Revise the HRCP exemption for hoses and conduits so that hoses and conduits located higher up on the rear facade are also exempt.	Minor Policy 33.445.100.D.2.m,o 33.445.110.D.2.m,o 33.445.200.D.2.m,o 33.445.210.D.2.m,o
20	2388529	<p><b><u>Historic code exemption—window replacement</u></b>                      The historic and conservation district window exemptions (D.2.v.(1)) currently do not allow window replacement for buildings built after 1940 and this is inconsistent with the allowances for window replacement in single dwelling zones.</p>	Expand the window replacement exemption for historic and conservation districts to noncontributing buildings 5 or more years old and allow the replacement windows to be fiberglass.	Minor Policy 33.445.200.D.2.v.(1) 33.445.210.D.2.v.(1)
21	2388327	<p><b><u>HRCP: Modifications as part of a review</u></b>                      The code language related to modifications and adjustments related to a design review is different than the wording for historic resource review. The language should not be different. For example, the language in the historic review chapter is missing code related to modifying use-related standards, which implies that an adjustment can be requested for a use-related standard, and that is inconsistent with modifications and adjustments in other parts of the zoning code</p>	Ensure that the “modifications considered during review” language is consistent between the design review and historic review chapters. The language in the historic review chapter is missing code related to modifying use-related standards	Consistency Change 33.846.070

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
<b>Economic Development Related Items</b>				
<b>Central City items</b>				
22		<p><b><u>Exterior display in the EX zone</u></b>            The Central City plan (CC2035) removed the exterior display standards in the plan district while also updating the exterior display regulations in the EX base zone to allow some display. However, the corresponding setback/ landscaping table was not updated, and states that display is not allowed in EX.</p>	Correct Table 140-4 to indicate that exterior display is allowed with the appropriate setbacks and landscaping in the EX zone.	Tech. Correction 33.140.245.B.1.c Table 140-4
23		<p><b><u>Floor area bonus and transfer options</u></b>            For floor area transferred prior to July 9, 2018, historic resource review is not noted at the end of the first sentence. The intent is for this provision to cover both design review and historic resource review.</p>	Add “historic resource review” to the sentence. <i>Note this should be reviewed in conjunction with the “sunset date” request – Item 53.</i>	Consistency Change 33.510.205.B.2.b
24		<p><b><u>Floor area transfer from a historic resource</u></b>            This subsection section offers an exception to allow sites zoned RM3, RM4, RX, CX or EX in the Central City to transfer FAR to sites outside the Central City. However, the seismic upgrades required by the transfer option from historic resources should still be required.</p>	Ensure that FAR transfers from historic resources inside the Central City to sites outside the Central City also require seismic upgrades.	Clarification 33.510.205.D.1.e.(1)
25		<p><b><u>Exceptions to base height</u></b>            Generally, projections are allowed above the base height limits except in view corridors. However, the code is not clear that the intent of the limitation is to only impose the height restriction within the view corridor on a site.</p>	Clarify that projections above the height limits are only prohibited within the view corridor itself as opposed to on the whole site (unless the whole site is within the view corridor).	Clarification 33.510.210.B.2

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
26		<p><b><u>Height projections in view corridors</u></b>                      Sites in historic districts cannot exceed the base height in most cases. Some of these sites are also in view corridors. These sites cannot exceed base heights or utilize any of the exceptions for mechanical equipment. This is to avoid any obstruction into a view corridor. There are situations where the height of the view corridor is well above the base height and providing mechanical equipment on the roof tops of future buildings, above the base height, would not interfere with the view. During CC2035 at PSC, a comment was raised about allowing the exceptions for mechanical equipment in historic districts. The language was changed to allow exceptions but did not account for properties in view corridors. In cases where there is no view corridor, the language works fine. In cases where there is a view corridor, any projection is prohibited.</p>	<p>Allow minor projections in historic districts where a view corridor exists, but the minor projection does not interfere with the view corridor. The exception section will need to be modified and the view corridor map in the Scenic Resources Inventory will need to be cited because this is the map that shows the heights of the views.</p>	<p>Consistency Change                      33.510.210.B.2</p>
27		<p><b><u>Bonus height</u></b>                      The sentence – “Adjustments are prohibited” should be added to the bonus height earned through an FAR bonus or transfer paragraph to be consistent with the other paragraphs.</p>	<p>Add the words “adjustments are prohibited” at the end of the paragraph.</p>	<p>Consistency Change                      33.510.210.D.3</p>
28		<p><b><u>Bonus height</u></b>                      Bonus height earned through an FAR bonus or transfer contains a prioritization requirement tied to the prioritizations contained in the FAR bonus section. Reference to the riverfront open space bonus was inadvertently left off the prioritization list in the bonus height section.</p>	<p>Add “The riverfront opens space bonus option of Subparagraph 33.510.205.C.2.c to the prioritization list in the bonus height section.</p>	<p>Technical Correction                      33.510.210.D.3.b</p>
29		<p><b><u>Riverplace height bonus</u></b>                      There is a typo in the first sentence. The wrong height was noted. The height should read 75 feet in both places in the sentence. This is the way the provision reads for South Waterfront and this area is at the north end of the district.</p>	<p>Change the second height limit in the sentence from 100 feet to 75 feet.</p>	<p>Technical Correction                      33.510.210.D.3.e.(2)</p>

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
30		<p><b><u>Windows above the ground floor</u></b> It appears that, in the commercial/mixed use zones, the Central City windows above the ground floor requirement may be less comprehensive than the base zone standard. That base zone provision applies everywhere for windows above the ground floor whereas 33.510.221 only applies along certain streetcar alignments.</p>	Consider making it clear that the Central City windows above the ground floor requirement applies in all commercial/mixed use zones AND along the specified streetcar alignments identified on map 510-13.	Clarification 33.510.221
31		<p><b><u>Preservation parking—Parking built after 7/9/18</u></b> The last sentence of “when preservation parking is allowed” says that under certain circumstances, preservation parking is regulated the same as growth parking. The sentence should be removed. Preservation and Growth parking use the same ratio table and operate the same, but that is where the similarities end. Growth parking, by definition, is when new floor area is being added. If a preservation building does not add new floor area and is under thresholds to add more parking to the building, they should be able to. Also, staff inadvertently eliminated the parking review for preservation parking by saying it is regulated as growth parking</p>	Delete the statement that, when certain conditions are met, preservation parking is regulated the same as growth parking.	Clarification 33.510.261.G.1
32		<p><b><u>Operation reports—Parking built pre 7/9/18</u></b> The requirement to provide operational reports was removed from the requirements for parking built prior to July 9, 2018. PBOT had intended for all parking to meet reporting requirements if requested by the Director.</p>	Add the operation reporting requirements that exists for parking built after July 9, 2018, to the parking built before July 2018 section.	Consistency Change 33.510.262
33		<p><b><u>Parking and loading access</u></b> The words “loading area” were inadvertently left out of the first sentence of two subparagraph in the parking and loading access regulations. The words need to be added to be consistent with the other paragraphs in the subsection. If “loading area” is not added, it could be interpreted that loading areas are allowed at certain locations.</p>	Add the words “loading area” to the parking and loading access standards.	Consistency Change 33.510.263.B.1.h 33.510.263.B.2.b



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34		<b>Maximum parking ratios</b> The parking ratio table does not address group living. Because the table is silent on it, there is no maximum ratio. This was an oversight, and the intent is to apply a ratio to all uses.	Amend footnote [1] in Table 510-1 to include Group Living.	Clarification Table 510-1
35		<b>Base height map</b> The stippling requiring shadow analysis is shown on O’Bryant Park. This should not be shown on the park. The purpose for the stippling is to require properties adjacent to parks to conduct shadow analysis.	Amend map 510-3 to delete the stippling on O’Bryant Park.	Technical Correction Map 510-3
36		<b>Base and bonus height maps</b> Height of the Cosmopolitan in the Pearl District needs to be corrected. The actual height of the building is 341 feet. Current height maps say 300.	Amend maps 510-3 and 510-4 to show actual height of the Cosmopolitan building.	Technical Correction Maps 510-3 and 510-4
<b>Home occupation bundle</b>				
37	1193541	<b>Type B home occupation and ADU</b> 33.203, Accessory Home Occupations, and 33.205, Accessory Dwelling Units, prohibit Type B home occupations in a residence with an ADU. This increases the burden on small business owners. In addition, in response to the COVID pandemic, the City has waived these limitations since 2020.	Allow Type B home occupations (employees/customers) on a site with an ADU and vice versa	Minor Policy 33.203.030.B.3; 33.205.030.A.
38		<b>Type B home occupation</b> 33.203, Accessory Home Occupations, allow up to 8 customers per day OR 1 employee with a Type B home occupation. This increases the burden on small business owners. In addition, in response to the COVID pandemic, the City has waived this part of the code since 2020.	Allow Type B home occupations to have up to 15 customers per day AND 1 employee. <i>Note: Based on Pandemic Code Waiver Ordinance.</i>	Minor Policy 33.203.030.C.2 33.203.030.C.3

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
39	1008925	<p><b><u>Registered and certified childcare facilities</u></b></p> <p>Currently, registered and certified childcare facilities are allowed via ORS 329A and exempted from the home occ regulations. If a home has a primary resident, the childcare activities are an allowed use without regulation. The state monitors registered preschool programs as defined by ORS 329A.250(9), but there is no exemption language in 33.203 for this similar and less intense use as registered preschool programs may not exceed more than 4 hours per day.</p>	Update references to state regulated childcare facilities and clarify that they are not subject to home occupation regulations. Consider whether additional changes are needed to include preschools in the exemptions, or if they fall under current state definitions of registered or certified childcare. (May need to check with State.)	Minor Policy 33.203.020 33.920.100, 110, 430
40	1167635	<p><b><u>Type B accessory short-term rentals in CM zones</u></b></p> <p>Type B Accessory Short-Term Rentals (ASTR) in commercial zones require a Conditional Use, and are required to use the approval criteria in 33.815.105 (Institutional and Other Uses in R Zones). The criteria are intended to address potential impacts associated with non-residential uses in residential zones. Applying the criteria to ASTRs in a commercial zone doesn't make sense.</p>	Do not require a conditional use review for Type B accessory short-term rentals in commercial/mixed use zones. The conditional use approval criteria are not relevant for commercial/mixed use zones.	Minor Policy 33.207.050.A.2
<b>Temporary activities bundle</b>				
41	1244842	<p><b><u>Construction activities – staging areas zones allowed</u></b></p> <p>Off-site construction staging for development projects is allowed as a temporary activity in the RX, C, E and CI2 zones. Development in these zones often occurs on smaller sites and tends to be high intensity development (i.e. large buildings that occupy most or all of a development site). The RM4 zone was not included but has similar development logistical constraints.</p>	Add RM4 zone to the list of zones that are eligible to have temporary off-site construction staging.	Minor Policy 33.296.030.F.4.a

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
42	2208922	<b>Construction activities – staging areas distance</b> Temporary construction staging areas must be located within 500 feet of the construction site. However, in many parts of the city, including the Central City, it can be hard to find a vacant site within 500 feet. This limitation has become problematic.	Allow temporary construction staging to be located more than 500 feet from the construction site.	Minor Policy 33.296.030.F.4.a
43		<b>Construction activities – staging areas duration</b> Temporary construction staging areas are only allowed for up to 3 years. Recent large-scale developments can and have taken more than 3 years to complete.	Allow temporary construction staging areas for more than 3 years.	Minor Policy 33.296.030.F.4.c(2)
44	994087	<b>Construction activities - parking</b> The code is too restrictive on temporary construction parking. There is a need to get the staging in place before construction activity starts, which often requires a temporary office and parking area in place ahead of time.	Allow temporary construction parking to be established prior to the beginning of construction.	Minor Policy 33.296.030.F.3
Regulatory Reduction Related Items				
State/Local compliance bundle				
45		<b>HB 3261</b> House Bill 3261 limits restrictions on conversions of hotel/motel properties into shelters or affordable housing. Applies to conversions on or after 01/01/2021.	Amend the zoning code to comply with HB 3261	Minor Policy 33.140.100 33.285.040
46		<b>HB 3109</b> House Bill 3109 appears to allow registered and certified child care facilities as an outright allowed use in residential zones. These types of child care facilities are currently allowed as part of a household living use in a dwelling unit with a resident. HB 3109 appears to allow the facilities outright without always requiring the provider to live there. <i>(This is the only part of HB 3109 not already covered by the home occupation bundle)</i>	Verify that the use regulations consider registered and certified child care facilities as a residential use of property.	Minor Policy 33.203.020 33.920.100 33.920.110 33.920.430

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
47		<p><b><u>Preschool for All Legislation</u></b>  Voters passed funding to provide expanded preschool opportunities within Multnomah County. Providers have some barriers with finding sites to use for preschools. Also note Item 35 under Home Occupations indicates that some preschools are not an eligible home occupation, and they don't fall under registered or certified childcare.</p>	Research new requirements and consider whether code should be amended to expand opportunities for other daycare uses such as preschools as a home occupation, or if they fall under state definitions of registered and certified daycare.	Minor Policy 33.203.020 33.303.030
48		<p><b><u>ORS 197.309 (Continuing Care Retirement Communities)</u></b>  ORS 197.309 was amended to exempt continuing care retirement facilities from inclusionary zoning requirements.</p>	Exempt continuing care retirement communities that execute and record a covenant with the City that ensures the CCRC will operate all units within its structure as a CCRC from 33.245, Inclusionary Housing. Units that are converted to residential units for sale or rent are not exempt.	Minor Policy 33.245.030
49		<p><b><u>ORS 197.311</u></b>  ORS 197.311 was amended to require land use reviews for certain affordable housing projects to be decided within 100 days.</p>	Clarify that qualifying land use review application decisions must be made in 100 days not 120 days	Minor Policy / Clarification 33.730
<b>Land Use Review bundle</b>				
50		<p><b><u>LUR Extensions</u></b>  There is currently no mechanism for an applicant to request to extend the land use approval beyond current limits. Often there can be extenuating circumstances (financing, economy) that may delay a project getting started.</p>	Add a new land use review process to allow extensions to be extended for two years beyond expiration date.	33.730.130

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
51	2298777	<p><b><u>Posting for a land use review</u></b>                      The definition of site can be burdensome regarding posting requirements. Because a site is an entire ownership, very large sites can be required to post hundreds of signs (e.g., Washington Park) when the review is for a small project on one tax lot.</p>	Clarify how many signs must be posted on large sites going through a Type III and IV land use review.	Minor Policy 33.730.080
52	1893381	<p><b><u>Application requirements</u></b>                      The requirements for a land use review application do not specify that fees need to be included with the application, with the exception of a Final Plat application. As a result, BDS has been forced to take in applications without fees being paid.</p>	Add fees to the land use review application requirements.	Clarification 33.730.060.C 33.730.060.D
<b>Miscellaneous regulatory clean-up bundle</b>				
53	TBD 1393735	<p><b><u>Sunset dates</u></b>                      The zoning code contains multiple regulations with specified sunset dates having already passed. The regulations no longer apply yet the regulation remains in the zoning code.</p>	Remove regulatory sunset dates that have passed their threshold dates.	Technical Correction Multiple code sections
54	2337771	<p><b><u>“Grandfather rights”</u></b>                      The nonconforming situations chapter includes the term 'grandfather rights'. The phrase has racist roots, originating in late nineteenth-century legislation and constitutional amendments passed by a number of Southern U.S. states, which created new requirements for literacy tests, payment of poll taxes and residency and property restrictions to register to vote. States in some cases exempted those whose ancestors (i.e., grandfathers) had the right to vote before the American Civil War or as of a particular date from such requirements. The intent and effect of such rules was to prevent former African-American enslaved persons and their descendants from voting but without denying poor and illiterate whites the right to vote. Although these original grandfather clauses were eventually ruled unconstitutional, the terms <i>grandfather clause</i> and <i>grandfather</i> have been adapted to other uses.</p>	Remove the references to the term “grandfather rights” from the zoning code.	Consistency Change 33.258.035

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
55	31253 1407656 2306242	<b>Special street setbacks</b> 33.288 contains special street setbacks that apply on some state highways in Portland. The requirements set minimum setbacks. Often these minimum setbacks are the same as the maximum setback which allows for no flexibility and results in Adjustment requests or modifications. These setbacks have not been reviewed for a long time.	Review and consider removing special street setbacks from Powell Blvd. and any other streets where the setback is obsolete. For any streets that retain a special street setback, clarify how the special setback (minimum setback) applies when a base zone maximum setback is the same as or less than the special setback. NOTE: Removing the setback from any streets is not a zoning code amendment. It is a zoning map amendment and the criteria of 33.855.060 will apply in addition to the legislative approval criteria.	Minor Policy List T.O.C. 33.10.050 33.288 Zoning Map
56	2387319	<b>River Environmental overlay zone ROW exemption</b> The current ROW exemption from River Environmental overlay zone regulations applies specifically to “public street and sidewalk improvements.” However, because the exemption is restricted to the developed portions of the ROW, the exemption can be broadened to include other improvements without risk to resources.	Allow any type of improvement within a developed public right-of-way to be exempt from the river environmental overlay zone regulations. Currently, only street and sidewalk improvements are exempt.	Minor Policy 33.475.405.N
57	1599128 121069	<b>NW Hills plan district—Balch Creek subdistrict</b> The wet weather earthwork moratorium in the Balch Creek subdistrict applies both within and outside of environmental zones and the exception does not cover landslide mitigation; only the repair of structures damaged from landslides.	Revise the prohibition on activities that expose soil to stormwater during the wet weather season to allow for landslide repair.	Minor Policy 33.563.100

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Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
58	1261084	<p><b><u>Powell Boulevard plan district</u></b>                      This plan district from 1981 prohibits residential uses on some commercially zoned sites which leads to the question of whether this plan district still reflects city policy.</p>	Delete obsolete parts of Chapter 33.567, Powell Boulevard Plan District.	Minor Policy 33.567
59	57254	<p><b><u>Adjustment committee</u></b>                      The adjustment committee is assigned appeals of Type II adjustments when no other land use review is involved and when the adjustment is for proposals outside of the Design and Historic Resource overlay zones. Because the type of adjustment appeals the adjustment committee can hear is so narrow, the committee almost never meets. To reduce staff time and cost of managing a committee that does not meet regularly, reassign the adjustment appeals assigned to the adjustment committee to the hearings officer.</p>	Eliminate the Adjustment Committee. Assign appeals of adjustment reviews to the list of duties of the Hearings Officer.	Minor Policy 33.710.030.G & H 33.710.070 33.720.020.E 33.910.030
60	1619146 1295398 1295392	<p><b><u>Convenience stores</u></b>                      Regulations concerning convenience stores are excessive relative to regulations pertaining to other similar retailers such as grocery stores and marijuana stores. Other retail outlets aren't required to provide agreements or do extensive zoning confirmation documentation. The excessive regulations and fees for convenience stores can represent an equity issue.</p>	Delete chapter 33.219, Convenience Stores.	Minor Policy T.O.C. 33.219 33.805.030 33.910.030
61		<p><b><u>Preserving existing dwelling FAR bonus</u></b>                      There is a loophole that allows an FAR bonus intended as an incentive to preserve an existing house when adding dwelling units to a site to be used on a site where no new dwelling units are being added.</p>	Clarify that an additional unit must be added to the site to qualify for bonus FAR.	33.110.210.D2

RICAP 10 Bundles and Items				
Item #	RIR #	Issue	Potential Action	Policy / Code Sect.
62		<p><b><u>River Industrial Uses – Terminal 2</u></b></p> <p>Under current rules, non-river dependent uses on a site in the River Industrial overlay zone can only be approved through greenway review. The Terminal 2 site owned by the Port of Portland is located in the River Industrial zone and, through a housing emergency waiver, the Port is currently leasing the site to a firm constructing pods for use as shelter for the houseless. This use is not river-dependent and would not be allowed long term under the current code. Changing the rules to allow for public agencies more flexibility for non-river dependent uses in some situations would allow this facility to continue operation.</p>	<p>Add language to allow non-river dependent uses in the River Industrial zone on sites owned by a public agency and on lots within that site that do not have river frontage.</p>	<p>33.440.100.B.2</p>



