

KEY CONSIDERATIONS / ANALYSIS:

The project team is seeking feedback on the proposed revisions to the draft code amendments and direction on one additional policy question regarding parking requirements (see the blue box on the last page of the staff report). The other proposed amendments are needed to implement and comply with state law.

FOLLOW-UP FROM JUNE WORK SESSION

At the work session on June 20, the project team asked the Council and the Commission to weigh in on several key decision points regarding the initial draft SDC amendments. Following is a brief summary of those decision points, direction from the Council and the Commission, and subsequent updates to the draft code.

1. Standalone Multi-Family Housing in the C-1 and C-3 Zoning Districts

Under state law, the City can no longer require Conditional Use review for multi-family housing in the Central Business District (C-1) and Village Commercial (C-3) zoning districts. **The project team recommended removing the option for standalone multi-family in these zones** and requiring all residential development to be part of a mixed-use development.

The Council and the Commission supported this recommendation. No further changes to the draft code are proposed.

2. Mixed-Use Residential in the C-1 and C-3 Zoning Districts

Residential dwellings are permitted outright in the C-1 and C-3 zoning districts if they are part of a mixed-use development – with residences allowed “attached to a commercial business” in the C-1 zoning district and allowed “above, beside or behind” a commercial use in the C-3 zoning district. The design standards that apply in these zoning districts must be updated to be clear and objective when applied to residential development. However, standards applicable to non-residential development can remain discretionary. To simplify the applicability of discretionary vs. clear and objective standards, **the project team recommended further limiting residential development in the C-1 and C-3 zoning districts, so it is only permitted above a commercial business.**

The Council and the Commission supported this recommendation. No further changes to the draft code are proposed.

3. Zero Lot Line Dwellings in the SFR Zoning District

Under state law, the City can no longer require Conditional Use review for “single detached or attached zero lot line dwellings” in the Single-Family Residential (SFR) zoning district. **The project team recommended removing the option for zero lot line dwellings in the SFR zoning district.**

The Council and the Commission supported this recommendation. No further changes to the draft code are proposed.

4. Transit Street Building Orientation

Within the building orientation standards in Chapter 17.82 *Special Setbacks on Transit Streets*, the code needs to define what it means to be “oriented toward” a transit street in a clear and objective manner. **The project team recommended requiring building entrances to face the street (up to a 45 degree angle) and establishing a maximum setback between the building entrance and the transit street.**

The Council and the Commission supported these recommendations, including 25 feet as the maximum setback.

Proposed Code Update:

The draft has been revised to add “25 feet” where the placeholder once was (Sec. 17.82.20(A)(2)).

5. HB 2583 occupancy limits and definitions of “family” and “dwelling unit”

Oregon House Bill 2583 (2021) prohibits jurisdictions from establishing or enforcing occupancy limits for dwelling units that are based on the familial or nonfamilial relationships among any occupants. This blurs the distinction between “congregate housing” (a type of group living arrangement) and “dwelling unit.” **The project team recommended redefining “dwelling unit” to use the number of bedrooms as a proxy for the number of persons/occupants, and to limit dwelling units to 8 bedrooms.**

The Council and the Commission supported this recommendation. However, at the work session, Councilor Hokanson pointed out that the definitions of “family” and “dwelling unit” in the June 7th draft were circular in the way they reference each other.

Proposed Code Updates:

The draft addresses this issue by changing “not more than one family” to “one or more persons.”

***Family:** Any number of individuals, related or unrelated, living together in a dwelling unit.*

***Dwelling unit:** An independent living unit containing eight or fewer bedrooms within a dwelling structure designed and intended for residential occupancy by not more than one family one or more persons and having independent living facilities including permanent provisions for cooking, eating, sanitation and sleeping.*

In addition, the project team proposes renaming “congregate housing” as “congregate living” to clarify that it is not a residential use, but rather a commercial use or community service use that involves paid or volunteer staff. Below is the definition, as worded in the revised draft:

***Congregate housing living:** A structure containing nine or more bedrooms and with paid or volunteer staff providing meal preparation and other supportive services to occupants.*

6. Type I Adjustments

Type I Adjustments are available when an applicant wants to vary a standard by up to 10 percent; Type II Adjustments allow variations of up to 20 percent. Both types of Adjustments have discretionary criteria. Under state law, local governments are required to provide public notice and the opportunity to appeal for such decisions.

As suggested by the City Attorney, **the project team recommended removing the Type I Adjustment process entirely** to eliminate the current inconsistency with state law.

The Council and the Commission supported this recommendation. No further changes to the draft code are proposed.

7. Affordable Housing Under Senate Bill 8

Senate Bill 8 (SB 8, 2021 legislative session) requires local governments to allow affordable housing meeting a specific definition and criteria on a wide range of sites. SB 8 (encoded as ORS 197.308) provides height and density bonuses in areas zoned for residential uses; however, it does not specify any densities for those zoning districts that do not otherwise allow housing. **The project team recommended adding a new SDC chapter – Chapter 17.88 Affordable Housing – to address these requirements. The team also recommended specifying that the height and density standards in the Medium Density Residential (R-2) zoning district will apply in non-residential zones (maximum height of 35 feet; maximum density of 14 units per acre).**

The Council and the Commission supported this recommendation. No further substantive changes to Chapter 17.88 Affordable Housing are proposed.

Proposed Code Updates:

The project team incorporated the affordable housing provisions of House Bill 3395 (2023) in the same code section, which prompted the team to provide minor clarifications to the SB 8 provisions. See below for further discussion about HB 3395.

8. Tree Removal for Parks Maintenance

City staff recommended adding a new exception from the City’s tree removal permit requirements for tree removal from City-owned parks and natural areas for trail installation/maintenance, safety improvements, and general park maintenance. The Council and the Commission supported this recommendation.

Council also suggested at the June work session that exceptions also be allowed in City-owned parks or trails if tree removal is needed for “view maintenance.”

Proposed Code Update:

This exception for view maintenance has been incorporated into the draft code in Sec. 17.102.20(B).

2023 LEGISLATIVE CHANGES

Since the June 7th draft was prepared, the Oregon State Legislature passed several bills that affect local housing regulations—most notably House Bill 3395. The project team worked with the City Attorney’s office to determine which components of the legislation would necessitate updates to the SDC. Key requirements of the legislation are summarized below, along with the subsequent SDC amendments proposed by the project team.

House Bill 3395

HB 3395 is an omnibus housing bill that includes sections addressing various housing regulations. Sections reflected in the revised SDC amendments include the following.

SECTION 2 – Residential Use of Commercial Lands

This section requires local governments to approve certain affordable housing projects on land zoned for commercial (but not industrial) use within urban growth boundaries. This includes:

- Residential structures in which each unit is affordable to a household earning 60% of the area median income (AMI) or less.
- Mixed-use structures with ground floor commercial uses and residential units that are affordable to “moderate income” households earning 80% to 120% of the AMI.

The affordable housing must be subject to the clear and objective development standards in the “residential zone that is most comparable in density to the allowed commercial uses in the subject zone.” These provisions do not apply to certain constrained land, vacant land, or land that was added to the Urban Growth Boundary (UGB) within the last 15 years.

These provisions overlap somewhat with the provisions of ORS 197.308 (added to the statutes via Senate Bill 8 (2023)), which had already been included in the draft code package in the new Chapter 17.88 Affordable Housing. The main differences are that HB 3395 applies only to commercial land on which industrial uses are not allowed (whereas SB 8 has broader applicability); HB 3395 has different affordability requirements for mixed-use residential development; and SB 8 includes density and height bonuses, whereas HB 3395 does not.

Proposed Code Updates:

The project team proposes the following updates to the code amendment package:
Incorporate the affordable housing provisions of HB 3395 into Section 17.88.10.

- Allow applicants to choose either the HB 3395 or SB 8 path, since some projects would be eligible under both sets of provisions.
- Specify which zones are eligible: C-1, C-2, and C-3.
- Specify which “comparable” residential zone’s standards will apply in each commercial zone.
- Specify that at a minimum a Type II Design Review is required.

In addition, the project team proposes updating the draft code to clarify some of the provisions for affordable housing allowed under ORS 197.308:

- List the eligible zones, similar to the proposed approach for HB 3395.
- Specify that at a minimum a Type II Design Review is required.

SECTION 15 – Subdividing for Development of Affordable Housing

In cases where a subdivision is being developed with affordable housing, HB 3395 requires local governments to accept award letters from public funding sources as financial assurance to guarantee water and sanitary sewer installation. Before a final subdivision plat is approved, developers must either install public improvements or provide a financial assurance (in the form of a bond or other assurance) and agree that the improvements will be installed at a later date prior to occupancy of new housing in the subdivision. The provisions of HB 3395 allow a public funding award letter as an alternative form of financial guarantee for affordable housing. An example would be when the Oregon Housing and Community Services department (OHCS) issues a letter notifying an affordable housing developer (such as Habitat for Humanity) that it will receive a certain amount of grant funding to build a particular housing development.

Proposed Code Update:

The project team proposes adding public funding award letters as one of the acceptable forms of performance guarantee in Section 17.100.340.

SECTION 17 – Single Room Occupancies (SRO)

HB 3395 requires local governments to allow “single room occupancies” in residential zoning districts. Single room occupancy (SRO) is a form of housing in which the units share bathroom or kitchen facilities with other units on the floor or in the building. SRO housing with just a few units could look similar to a house with individually rented bedrooms. Larger SRO developments (say, with more than six single room units) would be more akin to a dormitory with shared kitchens and potentially shared bathrooms.

HB 3395 defines “single room occupancy” as follows: *A residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.*

The bill requires local governments to allow single room occupancies:

- In single-family zones, with up to six single room units on each lot; and
- In multi-family zones, consistent with maximum density requirements.

Proposed Code Updates:

The project team proposes the following updates to the code amendment package to reflect the SRO provisions of HB 3395:

- Add a definition of “single room occupancy” to Chapter 17.10.
- Add allowances for SROs with up to six units per lot in the SFR and R-1 zoning districts.

- Add allowances for SROs with up to 14 units/acre in the R-2 zoning district and up to 20 units/acre in the R-3 zoning district.
- Specify in the Design Standards chapter that SROs with up to six units are subject to the residential design standards for single family dwellings (Section 17.90.150), while SROs with more than six units are subject to the multi-family design standards (Section 17.90.160).
- Add SRO to the parking standards table in Section 17.98.20.

Policy Question for the Council and Commission:

HB 3395 does not specify what parking standards should apply to SROs. The project team recommends requiring one space per SRO unit, assuming that most units will be occupied by only one person. Do you agree with this recommendation?

Alternatively, a lower or higher parking ratio could be considered. A lower ratio would be consistent with the parking standards for Congregate Living (1 space per each 3 occupants, plus 1 space per 2 employees). A higher ratio would be consistent with multi-family parking standards (1.5 spaces per studio unit or 1-bedroom unit).

House Bill 2984

Among other things, HB 2984 updates the definitions of “affordable housing” and “area median income,” as used in SB 8 and HB 3395.

Proposed Code Update:

The updated definitions have been incorporated into Chapter 17.88 Affordable Housing.

RECOMMENDATION:

Provide feedback on the proposed code revisions and policy question described above.

LIST OF ATTACHMENTS / EXHIBITS:

- Exhibit A. Draft Code Amendments for Clear and Objective Audit
- Exhibit B. Presentation Slides