

Sandy Clear and Objective Code Audit

City Council Public Hearing
23-046 DCA

February 20, 2024



Project Purpose

- Ensure that the City of Sandy's Development Code is consistent with Oregon state laws and legislation, primarily Oregon State statute (ORS 197A.400, formerly ORS 197.307)
- ORS 197A.400 requires that local governments adopt and apply **only clear and objective standards, conditions and procedures** for the development of housing (with limited exceptions)
- Regulations also must not discourage needed housing through **unreasonable cost or delay**.

ORS 197A.400

Except as provided in subsection (3) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

What are clear and objective regulations?

- Use terms, definitions, and measurements that provide for consistent interpretation of the standard
- No need or ability for reviewer to use discretion in applying the standard (no “gray area” for interpretation)
- Two people applying the same standard would get the same result
- Offer a simplified review process that saves time and money and increases the certainty of approval

Optional Discretionary Review

- Statute allows an optional discretionary review path or parallel track

Clear and objective path

specifies the criteria in ways that require no interpretation

Discretionary path

the applicant must make the case for why the proposed development meets the intent or guideline

- Discretionary path can offer more flexibility for the applicant, as well as more discretion for the reviewer
- Sandy's code provides discretionary paths via Adjustments, Variances, and Design Deviations

Changes to comply with new State laws:

- **House Bill 2583 (2021)** – Eliminates occupancy limits for a dwelling based on familial or non-familial relationships
- **House Bill 4064 (2022)** – Prohibits cities from subjecting manufactured homes to standards that do not apply to site-built homes
- **Affordable Housing Laws** – require cities to allow affordable housing:
 - On a wide range of sites, with density and height bonuses, provided specific criteria are met (Senate Bill 8, 2021)
 - On properties owned by religious nonprofit organizations (House Bill 2008, 2021)
 - On commercial properties (House Bill 3395, 2023)

Other Proposed Amendments

- **Dark Sky Ordinance updates, SMC Chapter 15.30** – Revised to be clear and objective, and to address LED lighting and laser light displays
- **Exception to tree removal permits for parks maintenance** – Proposed by City staff; similar to existing exceptions for infrastructure maintenance
- **Transportation System Plan (TSP) implementation** – Recommendations from TSP incorporated to ensure they are clear and objective
- **Food and beverage cart updates** – Amendments from separate project incorporated into same code package

City Council reviewed draft Code amendments and provided input and direction at two work sessions:

- **June 2023:** Reviewed initial draft amendments and provided direction on key issues and decision points.
- **November 2023:** Reviewed additional changes made pursuant to 2023 legislation and provided direction on policy questions.

Updates to the City Council Hearing Draft are mostly minor or necessary for further implementation of legislation.

- Updated ORS references that were renumbered at end of 2023.
- Definitions Section:
 - Removed or updated outdated diagrams.
 - Clarified definitions of “facing (building elevation),” “grove (tree),” “height of buildings,” and “primary entrance.”
- Commercial Zone Design Standards:
 - Clarified requirement for certain roof forms over primary building entrances. Added shed roof as an option, in addition to gabled roof.
 - Clarified exterior siding material requirements.
- Other minor clarifications and updates for consistency.

Chapter 17.88 Affordable Housing – updated for consistency with House Bill 3151 (2023)

- HB 3151 expanded the eligibility criteria for affordable housing projects allowed by ORS 197A.445 (i.e., Senate Bill 8 from 2021).
 - Expanded the **property ownership criteria** to include:
 - “A nonprofit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing;
 - A housing authority, as defined in ORS 456.005; and
 - A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803.”
 - Also expanded **housing types to** include manufactured dwelling parks “that serve only households with incomes of 120 percent or less of the area median income.”
- These provisions have been incorporated into Sec. 17.88.100.

One written comment regarding Chapter 17.88 Affordable Housing.

Previous draft of the SB 8 provisions limited eligibility to either:

- Properties **owned by a public body or a religious nonprofit** organization; or
- Properties zoned for commercial use, for religious assembly, or as public lands
- Commenter requested that the ownership criteria be expanded to include non-profit agencies and for-profit companies

Response: Eligibility criteria are outlined in state statute. HB 3151 amended the ORS to include projects owned by non-profit affordable housing providers. This addresses some of the commenter's concern.