



Clear & Objective Code Update

January 26, 2026 – City Council Work Session



Agenda



- Project purpose & background
- Project Timeline
- Overview of code audit and recommendations
- Policy direction, discussion & questions
- Planning Commission Update



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Project Purpose



Audit and Update Tualatin Development Code (TDC) to create an adoptable code that meets Oregon Revised Statutes (ORS) 197A.400 / SB 1564

Funded by State Planning Grant through Oregon Dept. of Land Conservation and Development (DLCD)



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ORS 197A.400



- ORS 197A.400 mandates that local governments regulate housing development using clear and objective standards, conditions, and procedures.
- The statute is intended to reduce discretionary barriers, uncertainty, delay, and costs that discourage housing development.
- Clear and objective standards are intended to:
 - Reduce barriers including delays, cost and appeals
 - Supporting housing needs
 - Improve accessibility/equity to development



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Clear & Objective Standards



What makes a standard “clear and objective”?

- Use terms, definitions, and measurements that provide for **consistent interpretation** of the regulation.
- There is no need to use their discretion in interpreting the standard.

Optional Discretionary Review

- State law allows local governments to offer a discretionary review path that can be used by applicants as an **optional alternative approach** to the clear and objective standards.

Previous TDC updates

- Tualatin has previously updated the TDC to create clear and objective regulations for housing.
- Oregon case law has further clarified the statutory requirements and additional updates are needed.



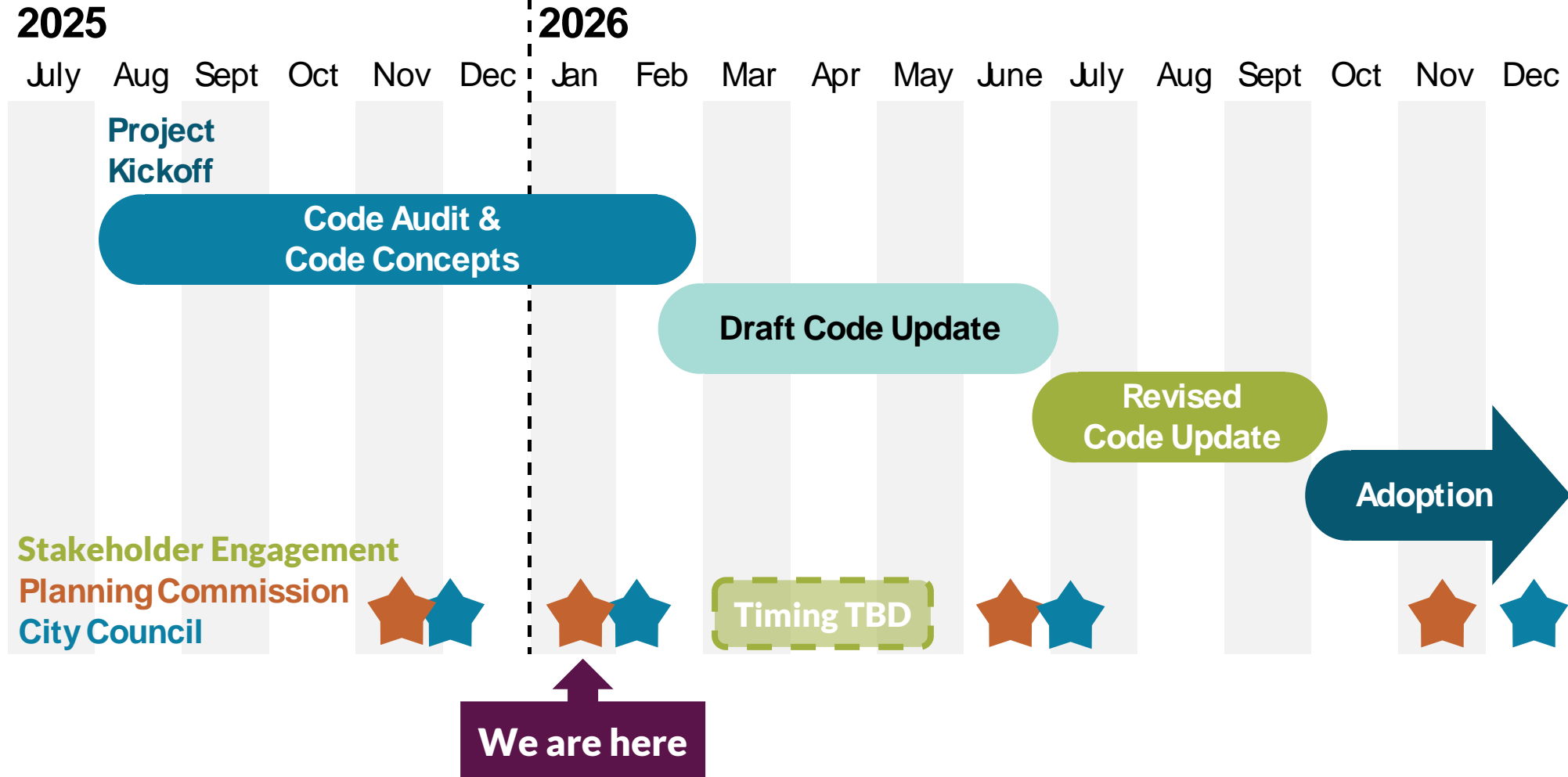
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Example



Discretionary Language	Clear & Objective Language
<p><i>“A private main entry area must be provided as a private extension of each dwelling unit;”</i></p> <p>What makes a main entry area “private” or what a “private extension” looks like is subjective.</p>	<p><i>For ground-floor dwelling units, a main entry area must be recessed at least 5 feet.</i></p> <p>Specific, measurable, enforceable.</p>

Project Tasks & Timeline



Clear & Objective Code Audit



- Code Audit identifies sections of the TDC where amendments are needed to create a clear and objective path for housing development.
- Also provides initial recommendations (“code concepts”) for addressing the identified issues.



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Frequent Issues & Examples



Conditional Use Requirements

Conditional use approval is required for certain housing types (e.g., multi-family housing and retirement housing) in certain zoning districts.

- **Issue:** Conditional use review criteria are discretionary. If a housing type is allowed in a zone, it needs to have a C&O approval path.
- **Potential Solutions:**
 - Establish C&O standards for the housing type (could be allowed on a more limited basis)
 - Alternatively, could prohibit the housing type.

Frequent Issues & Examples



Architectural Review

Some development standards for housing (such as minimum setbacks for townhouses) are “determined through the Architectural Review process” rather than providing a numeric standard.

- **Issue:** This requires discretion on the part of City staff to determine the applicable setbacks.
- **Potential Solutions:**
 - Establish a stricter setback as the C&O standard (e.g., minimum 20 ft).
 - Allow deviation (smaller setback) through an optional discretionary review.

Frequent Issues & Examples



Discretionary or Undefined Language

Some building design standards use terms such as “decorative” or “architectural,” or are not well defined (e.g., requiring a “recessed entry”).

- **Issue:** “Decorative” is open to interpretation. Would an entry recessed by 2 inches meet the “recessed entry” standard?
- **Potential Solutions:**
 - Add a minimum dimension for a recessed entry.
 - Remove the words “decorative” and “architectural” or rephrase these items so it’s clearer how the standard is met.

Frequent Issues & Examples



Access Management Standards

Some of the access provisions allow discretion by the City Manager. For example: “the City Manager may restrict the existing driveways to right-in and right-out...”

- **Issue:** This creates uncertainty as to what type of access will be required. However, some access requirements are more applicable to commercial and industrial uses (e.g., joint access requirements for adjacent properties).
- **Potential Solutions:**
 - Exempt housing development from discretionary standards geared toward non-residential uses. Continue to allow discretion for non-residential.
 - Where standards are applicable to housing development, specify the exact conditions under which the access standard or restriction would be required. For the above example, restrict access to right-in and right-out when accessing an arterial street and not meeting driveway spacing standards.

Key Findings & Discussion Items

Two-Track System of Approval Criteria

For certain application types, the TDC includes a “two-track system” of parallel C&O and discretionary criteria:

- Architectural Review of single-family and middle housing types
- Partition and subdivision review

CURRENT RESIDENTIAL APPLICATION TYPES

Application Type		C&O Track	Discretionary Track
Land Divisions	Partitions	36.115. Housing C&O Tentative Partition Plan Approval Criteria	36.110. Tentative Partition Plan Criteria
	Subdivisions	36.125. Housing C&O Tentative Subdivision Plan Approval Criteria	36.120. Tentative Subdivision Plan Criteria
Architectural Review	Single Family, Duplex, Triplex, Quadplex, and Townhouse	Standards in 73A.030-.050	Guidelines in 73A.060
	Cottage Cluster	Standards in 73A.070	Guidelines in 73A.080
	Multi-Family	Standards in 73A.100 (mix of C&O and discretionary)	

Two-Track System of Approval Criteria



- A different approach could be considered that would streamline the options for applicants. City could offer a **single set of C&O criteria and standards** for each application type.
- To retain flexibility, there would need to be a **new option** to vary from the standards via discretionary review.
 - Some cities allow “Adjustments” or “Modifications” to standards through an administrative (Type II / staff-level) review.
 - When requesting an Adjustment (or similar) to a standard, applicants would need to demonstrate how their proposal equally or better meets the purpose of the standard.

Two-Track System of Approval Criteria



Policy Question 1: Should the TDC be revised from a “two-track system” for certain application types to a single set of development standards, with new options for flexibility?



Pros: Avoids an “all or nothing” approach. Allows applicants to limit the amount of uncertainty in their application. They could rely on the C&O standards for most provisions, and limit uncertainty to just those areas where flexibility is desired.



Cons: City would need to create a new procedure type (Adjustment or Modification), approval criteria, and new purpose statements to implement this approach. May not be feasible within the scope of this project.

Two-Track System of Approval Criteria



Policy Question 2: If retaining the two-track approach, should a new two-track system of standards and guidelines be crafted for *multi-family housing*?

- Unlike single-family and middle housing, multi-family housing only has one set of design standards (TDC 73A.100). Many of the standards are C&O, but some are unclear or discretionary.
- Project team either needs to ensure all standards are C&O or establish parallel tracks of C&O standards and discretionary guidelines.
- Without the option of an Adjustment or Modification, discretionary guidelines would enable a more flexible pathway for multi-family housing where desired by applicants.

Multi-Family and Retirement Housing in Residential Zones

- In the Low Density Residential (RL) zone, Multi-Family Structures require Conditional Use approval.
- Retirement Housing Facilities in several of the residential zones also require Conditional Use.
(Retirement housing facilities are effectively age-restricted multi-family housing, and exclude assisted living and similar “congregate care” facilities.)
- Conditional Use criteria are discretionary. This cannot be the only approval path for these housing types.

Policy Question 3: Should the TDC be revised to allow certain multi-family and retirement housing developments *by right* or should they be *prohibited* in lower-density residential zones?



Multi-Family and Retirement Housing in Residential Zones

OPTION A: Allow *smaller-scale or lower-intensity* forms of multi-family and retirement housing by right in lower-density residential zones, and require conditional use approval for larger or higher-intensity developments.



OPTION A1: Allow by right if it remains at a *moderate density* that is equivalent to densities in other zones. For example, mirror the RML zone – allow multi-family housing up to 10 units per acre, and retirement housing up to 15 units per acre. Higher densities could be allowed via conditional use approval.

OPTION A2: Allow by right **up to a certain size or number of units** (e.g., 20 total units on a site). Allow larger developments via conditional use approval.

OPTION A3: Use a combination of options A1 and A2 by applying **both a density limit and a size limit** to housing that is allowed by right.

Multi-Family and Retirement Housing in Residential Zones

OPTION B: Prohibit multi-family housing in the RL zone. Since middle housing is permitted in this zone, the City may decide not to allow this additional housing type.

Planning Commission Update



- Staff presented the Clear & Objective Code Audit and related policy questions to the Planning Commission on January 21, 2026.
- The Planning Commission provided feedback that staff will summarize.

Conclusion



Any other questions or discussion?

Next Steps

- Draft code amendments
- City Council work session to review draft
- Revised code amendments





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