

**Tigard Population and Housing Review
Development Code Amendments
Staff Recommendation
DCA 2013-00002**

Project Summary

To ensure the city is in compliance with state regulations which require, “clear and objective standards, conditions and procedures regulating the development of needed housing” changes to the Site Development Review (SDR) approval criteria are being proposed. These approval criteria apply to a wide range of development types within the City (e.g., commercial, industrial, etc.), including housing. While most of the SDR approval criteria appear to be clear and objective, some do appear to allow for more discretion. This code update clarifies that housing is exempt from meeting these more discretionary criteria.

Background

Tigard has been awarded a Periodic Review grant by the Department of Land Conservation and Development (DLCD) to complete a Goal 10 Population and Housing Review. Every five to seven years, cities and counties are required to evaluate their comprehensive plans and land use regulations through a process called "Periodic Review" (ORS 197.628-644 and OAR 660, Division 25). This process ensures Tigard's Comprehensive Plan and land use regulations are consistent with Oregon law and continue to provide for the growth management and development needs of the community. The project looked at population projections and demographic trends along with the amount and location of available land. The end result is a list of potential strategies to meet the city's future demand for housing that implement the city's aspirations and state requirements.

Development Code Amendments - How to Read This Section

This section is organized by Development Code chapter number. Odd-numbered pages show the existing language with proposed amendments. Text that is proposed to be added to the code is shown with double underlines. Text that is proposed to be deleted is shown with ~~strikethrough~~.

Even-numbered pages contain commentary on the amendments, which establish, in part, the legislative intent in adopting these amendments.

Chapter 18.360 SITE DEVELOPMENT REVIEW

Clear and Objective Standards for Needed Housing

ORS 197.307 states that:

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of this section. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

The development standards in 18.510.050 that apply within the residential zoning districts appear to be clear and objective. However, all new residential development except for single-family detached units and duplexes is also subject to Site Development Review (SDR). SDR applications are processed as a Type II procedure using the approval criteria contained in TCDC 18.360.090. The SDR approval criteria address the relationship between the built and physical environment, building façade features, private and shared space, and transit access and amenities. In addition to needed housing, these approval criteria apply to a wide range of development types within the City (e.g., commercial, industrial, etc.) that are not subject to the requirement for clear and objective standards.

This purpose of this code update is to implement the recommendation in the Tigard Housing Strategies Report to:

Recommendation CA8: Review the Site Development Review approval criteria contained in TCDC 18.360.090; for those criteria that are not clear and objective, confirm that the issue is sufficiently addressed by other code standards; and, exempt needed housing (or residential development generally) from those criteria that are not clear and objective.

18.360.010 through 18.360.080

No changes are proposed to the following sections:

- 18.360.010 Purpose
- 18.360.020 Applicability of Provisions
- 18.360.030 Approval Process
- 18.360.040 Bonding and Assurances
- 18.360.050 Major Modification(s) to Approved Plans or Existing Development
- 18.360.060 Minor Modification(s) to Approved Plans or Existing Development
- 18.360.070 Submission Requirements
- 18.360.080 Exceptions to Standards

**Chapter 18.360
SITE DEVELOPMENT REVIEW**

Sections:

- 18.360.010 Purpose**
- 18.360.020 Applicability of Provisions**
- 18.360.030 Approval Process**
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- 18.360.060 Minor Modification(s) to Approved Plans or Existing Development**
- 18.360.070 Submission Requirements**
- 18.360.080 Exceptions to Standards**
- 18.360.090 Approval Criteria**

18.360.010 through 18.360.080

[No change.]

18.360.090 Approval Criteria

While most of the SDR approval criteria appear to be clear and objective, some do appear to allow for more discretion. For residential uses, in some cases the existing standards (e.g., setbacks, landscaping and other standards in TDC 18.510, as well as standards for streets and utilities in TDC 18.810) may be sufficient to address the issue without the additional level of discretion provided by the approval criteria.

Because all new residential development except for single-family detached units and duplexes are also subject to the Site Development Review (SDR) requirements, the following amendments to section 18.360.090 are being proposed to ensure the city is in compliance with ORS 197.307.

1. [No change.]
2. Relationship to the natural and physical environment

This criterion may be too discretionary to be used for needed housing. There are other areas of the city's Development Code which provide more quantitative development standards addressing similar issues. For example, 18.510.050 which applies within residential zoning districts, is more clear and objective requiring minimum lot sizes, setbacks, landscaping, etc.

To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, text has been added to clarify that only nonresidential development must meet Criterion #2.

3. [No change.]

18.360.090 Approval Criteria

- A. Approval criteria. The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:
1. Compliance with all of the applicable requirements of this title including Chapter 18.810, Street and Utility Standards;
 2. Relationship to the natural and physical environment – Non-residential development:
 - a. Buildings shall be:
 - (1) Located to preserve existing trees, topography and natural drainage where possible based upon existing site conditions;
 - (2) Located in areas not subject to ground slumping or sliding;
 - (3) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and
 - (4) Oriented with consideration for sun and wind.
 - b. Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered based on surface water drainage patterns, identified per Section 18.810.100.A.3. and the City of Tigard “Significant Habitat Areas Map.” Methods and techniques for consideration may include, but are not limited to the following:
 - (1) Water quality facilities (for infiltration, retention, detention and/or treatment);
 - (2) Pervious pavement;
 - (3) Soil amendment;
 - (4) Roof runoff controls;
 - (5) Fencing to guide animals toward safe passageways;
 - (6) Re-directed outdoor lighting to reduce spill-off into habitat areas;
 - (7) Preservation of existing vegetative and canopy cover.
 3. Exterior elevations:
 - a. Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:
 - (1) Recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet;
 - (2) Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet, a maximum length of an overhang shall be 25 feet; and

18.360.090 Approval Criteria, ctd.

4. Buffering, screening and compatibility between adjoining uses

As noted previously, this criterion is may be too discretionary to be used for needed housing. Criterion #4 requires buffering between different types of land uses, for example, between single-family and multiple-family residential, and residential and commercial uses. However, what constitutes an “adequate” buffer is determined from considering a list of relatively subjective factors.

To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, text has been added to clarify that only nonresidential development must meet Criterion #4.

5. Privacy and noise—Multifamily or group living uses

This criterion is may be too discretionary to be used for needed housing. To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, and because the criterion relates only to residential uses (multifamily or group living uses), Criterion #5 is proposed for deletion.

(3) Offsets or breaks in roof elevations of three or more feet in height.

4. Buffering, screening and compatibility between adjoining uses – Non-residential development:

a. Non-residential development shall provide buffering ~~Buffering shall be provided between different types of land uses, for example, between single family and multiple-family residential, commercial and industrial uses, and residential and commercial uses, and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:~~

- (1) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;
- (2) The size of the buffer required to achieve the purpose in terms of width and height;
- (3) The direction(s) from which buffering is needed;
- (4) The required density of the buffering; and
- (5) Whether the viewer is stationary or mobile.

b. On site screening from view from adjoining properties of such things as service areas, storage areas, parking lots, and mechanical devices on roof tops, i.e., air cooling and heating systems, shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

- (1) What needs to be screened;
- (2) The direction from which it is needed;
- (3) How dense the screen needs to be;
- (4) Whether the viewer is stationary or mobile; and
- (5) Whether the screening needs to be year around.

5. Privacy and noise—Multifamily or group living uses: [deleted by Ord. 13-XX]

- ~~a. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units as provided in Subsection A.6.a below;~~
- ~~b. The buildings shall be oriented in a manner which protects private spaces on adjoining properties from view and noise;~~
- ~~c. On site uses which create noise, light, or glare shall be buffered from adjoining residential uses; and~~
- ~~d. Buffers shall be placed on the site as necessary to mitigate noise, light or glare from off-site sources.~~

Commentary

6. [No change.]
7. [No change.]
8. Consideration of the dedication of sufficient open land area

This criterion establishes a requirement for developments located adjacent to the 100 year floodplain. As written the criterion is somewhat subjective and potentially ineffectual as it simply requires “consideration” of a greenway dedication suitable for a pedestrian/bicycle pathway.

To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, text has been added to clarify that only nonresidential development must meet Criterion #8.

6. Private outdoor area—Multifamily use:
 - a. Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least 48 square feet in size with a minimum width dimension of four feet; and
 - (1) Balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit; and
 - (2) Required open space may include roofed or enclosed structures such as a recreation center or covered picnic area.
 - b. Wherever possible, private outdoor open spaces should be oriented toward the sun; and
 - c. Private outdoor spaces shall be screened or designed to provide privacy for the users of the space.
7. Shared outdoor recreation areas—Multifamily use:
 - a. In addition to the requirements of Subsections A.5 and 6 above, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:
 - (1) Studio up to and including two-bedroom units, 200 square feet per unit; and
 - (2) Three or more bedroom units, 300 square feet per unit.
 - b. The required recreation space may be provided as follows:
 - (1) It may be all outdoor space; or
 - (2) It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room; or
 - (3) It may be all public or common space; or
 - (4) It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and
 - (5) Where balconies are added to units, the balconies shall not be less than 48 square feet.
 - c. Shared outdoor recreation space shall be readily observable to promote crime prevention and safety;
8. Where landfill and/or development for a non-residential use is allowed within and adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/ bicycle plan.

9. Demarcation of public, semi-public and private spaces for crime prevention

While criterion#9 and #10 addressing crime prevention provide good guidance for residential and non-residential developments, they are potentially too discretionary for needed housing.

To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, text has been added to clarify that only nonresidential development must meet Criterion #9.

10. Crime prevention and safety

While criterion#9 and #10 addressing crime prevention provide good guidance for residential and non-residential developments, they are potentially too discretionary for needed housing.

To ensure the city is in compliance with ORS requirements for clear and objective standards related to needed housing, text has been added to clarify that only nonresidential development must meet Criterion #10.

11. [No change.]

9. Demarcation of public, semi-public and private spaces for crime prevention – Non-residential development:

- a. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and
- b. These areas may be defined by, but not limited to:
 - (1) A deck, patio, low wall, hedge, or draping vine;
 - (2) A trellis or arbor;
 - (3) A change in elevation or grade;
 - (4) A change in the texture of the path material;
 - (5) Sign; or
 - (6) Landscaping.

10. Crime prevention and safety– Non-residential development:

- a. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;
- b. Interior ~~laundry and~~ service areas shall be located in a way that they can be observed by others;
- c. Mailboxes shall be located in lighted areas having vehicular or pedestrian traffic;
- d. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and
- e. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.

11. Public transit:

- a. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to or within 500 feet of existing or proposed transit route;
- b. The requirements for transit facilities shall be based on:
 - (1) The location of other transit facilities in the area; and
 - (2) The size and type of the proposal.

Commentary

12. [No change.]

13. [No change.]

14. [No change.]

15. [No change.]

- c. The following facilities may be required after City and Tri-Met review:
 - (1) Bus stop shelters;
 - (2) Turnouts for buses; and
 - (3) Connecting paths to the shelters.
- 12. Landscaping:
 - a. All landscaping shall be designed in accordance with the requirements set forth in Chapter 18.745 and 18.790;
 - b. In addition to the open space and recreation area requirements of Subsections A.5 and 6 above, a minimum of 20% of the gross area including parking, loading and service areas shall be landscaped; and
 - c. A minimum of 15% of the gross site area shall be landscaped.
- 13. Drainage: All drainage plans shall be designed in accordance with the criteria in the adopted 1981 master drainage plan;
- 14. Provision for the disabled: All facilities for the disabled shall be designed in accordance with the requirements set forth in ORS Chapter 447; and
- 16. All of the provisions and regulations of the underlying zone shall apply unless modified by other sections or this title, e.g., Planned Developments, Chapter 18.350; or a variance or adjustment granted under Chapter 18.370. (Ord. 06-20, Ord. 02-33) ■