



**TO:** Gresham Development Code Stakeholders

**FROM:** Kate Rogers and Cathy Corliss, MIG

**RE:** Gresham Community Development Code (GCDC) Update – Project Overview

**DATE:** August 13, 2024

## Introduction

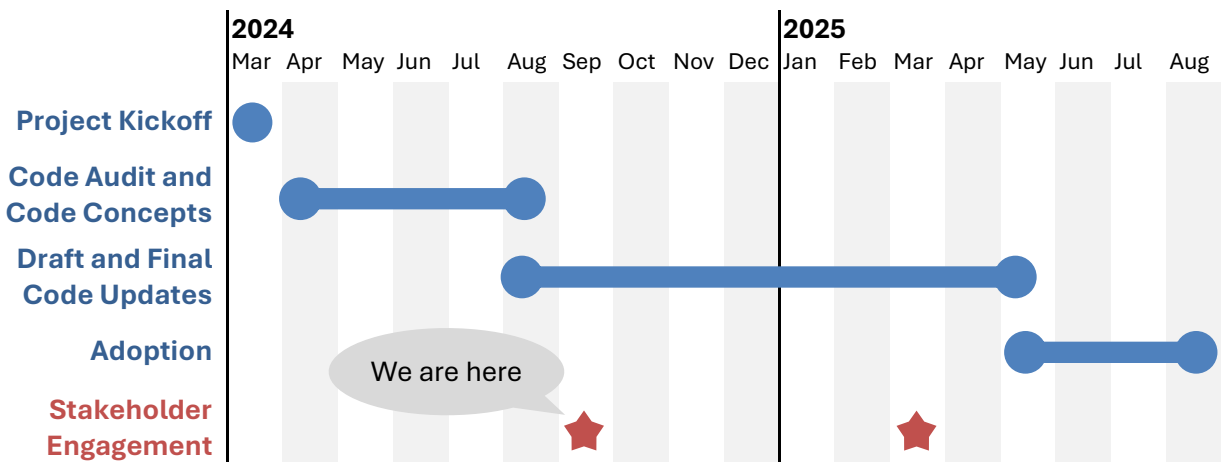
The purpose of the Gresham Development Code Update Project is to ensure that the Gresham Community Development Code (GCDC) complies with and implements certain Oregon state laws and legislation and facilitates housing production, affordability, and choice. The project focuses on updates to Gresham's residential development regulations, with the goals of:

- Ensuring compliance with applicable state statutes and Administrative Rules, including:
  - Oregon State Statute (ORS) 197A.400, which requires that local governments adopt and apply only **clear and objective standards, conditions, and procedures** to the development of housing (with some exceptions for historic districts). See the Project Scope section, below, for more details.
  - **Other housing-related legislation**, which is summarized in the Project Scope section.
- Facilitating faster, easier and more equitable development review processes for housing by:
  - Removing outdated code and potential code barriers to housing
  - Considering opportunities to improve consistency across design districts
  - Improving policy equity, consistency, and simplicity

The Gresham Development Code Update is funded in part by a grant from the Oregon Department of Land Conservation and Development (DLCD) as part of its Housing Planning Assistance Program.

## Project Timeline

This project kicked off in March of 2024 and is expected to be completed in August 2025.



## Project Scope

### Clear and Objective Standards for Housing

One of the main objectives of this project is to ensure that the GCDC is up to date with Oregon state laws and legislation, including the requirement in ORS 197A.400(1) for clear and objective regulations for housing.

What makes a standard “clear and objective”?

Clear and objective standards use terms, definitions, and measurements that provide for consistent interpretation of the regulation. In other words, any two people applying the same standard to a development would get the same result, and there is no need or ability for the reviewer to use their discretion in applying the standard (i.e., there is no “gray area” for interpretation).

In addition to code standards, **review criteria** in the GCDC that apply to housing applications need to be clear and objective as well.

### Optional Discretionary Review

It may not be practical to write clear and objective standards and criteria that can address all relevant circumstances or project goals in every development situation. The State law recognizes this and 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.

For example, the City of Gresham offers a “two-track” system of design standards and guidelines within its design districts: Downtown, Civic Neighborhood, Corridor Districts, and Rockwood.

- The **clear and objective track** includes measurable *design standards* to meet the desired urban form in the district.
- The **discretionary track** is intended for creative proposals that might not comply with all or some of the design standards. The *design guidelines* encourage applicants to propose exciting, innovative designs, while still ensuring the City’s design objectives are met.

A successful two-track system offers predictability and certainty to both applicants and reviewers, while also offering flexibility to accommodate creative ideas or unique circumstances.

*Most of the GCDC’s housing regulations are already clear and objective, but some sections need updating to ensure a fully clear and objective review path for housing development.*

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#### ORS 197A.400(1):

*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, on land within an urban growth boundary ... 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.*

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#### Example: Standard Needing Revision

Here is an example from the Rockwood Design District (GCDC 7.0503) that will need updating:

*Building entry doors shall be of high-quality materials such as commercial-grade solid wood, decorative glass, or other materials as approved by the Manager or Design Commission.*

The highlighted text should be defined more specifically to be clear and objective. The last part of the sentence gives discretion to the Manager or Design Commission to approve other materials that are not listed. This option can remain in the code, but it must be made clear that it is only available as part of the discretionary path.

## Other Recent State Laws

Below is a summary of the other recent housing-related legislation for which more significant updates to the GCDC will be needed for consistency. Minor, technical updates will also be needed for a few other state laws.

<b>LEGISLATION</b>	<b>CODE UPDATES NEEDED</b>
<p><b>HB 4064 (2022) – Manufactured and Prefabricated Dwellings</b></p> <p>Updated certain definitions and regulations related to manufactured housing, manufactured dwelling parks, and prefabricated structures, which are factory-built homes constructed to building code standards. Cities cannot apply standards to manufactured or prefabricated homes sited on individual lots that don’t apply to site-built homes (with a few exceptions).</p>	<p><i>Remove certain standards for the design of manufactured homes that were formerly authorized by state law, and update manufactured dwelling parks standards to allow prefabricated homes.</i></p>
<p><b>HB 3395 (2023) – Single Room Occupancy (SRO)</b></p> <p>Requires local governments to allow SROs in residential zoning districts. 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.</p>	<p><i>The GCDC currently allows SROs as a form of multifamily housing; a separate definition should be added. The City must also allow SROs with up to six units in all zones that allow single detached dwellings.</i></p>
<p><b>SB 8 (2021), HB 3151 (2023) – Affordable Housing with Density/Height Bonus</b></p> <p>SB 8 requires the approval of affordable housing meeting certain property ownership criteria in any zone, and provides height and density bonuses in areas zoned for residential uses. The criteria were expanded by HB 3151 to include ownership by a nonprofit housing provider, housing authority, and manufactured dwelling park nonprofit cooperative.</p>	<p><i>Gresham incorporated the original provisions of SB 8 as GCDC 10.1700. Updates are needed to expand the ownership criteria and to include manufactured dwelling parks, per HB 3151.</i></p>
<p><b>HB 2008 (2021) – Affordable Housing Owned by a Religious Nonprofit</b></p> <p>Requires local governments to allow the development of affordable housing on property that is owned by a religious nonprofit organization and not zoned for housing, provided the property is contiguous to a zone that does allow housing and is not zoned for industrial uses.</p>	<p><i>The provisions of HB 2008 apply even if the City does not update its Code. However, Gresham staff recommends adding this to the GCDC to simplify use by applicants and staff.</i></p>
<p><b>HB 2984 (2023) – Commercial Conversion to Residential Use</b></p> <p>Requires local governments to allow the conversion of commercial buildings to residential use, in all zones except industrial. The bill also limits parking requirements and system development charges (SDCs).</p>	<p><i>The provisions of HB 2984 apply even if the City does not update its Code. However, Gresham staff recommends adding this to the GCDC to simplify use by applicants and staff.</i></p>

## Other Code Improvements

In addition to meeting state requirements, this project is intended to improve the development review process for housing applications more generally. This will be done by removing outdated code; removing certain code barriers to housing; and improving policy equity, consistency, and simplicity. In addition, the project will address opportunities to improve consistency across design districts – retaining purposeful differences only.

Note: City staff will be doing concurrent work to clean up the code in a parallel effort with the consultant team. For example, staff will be integrating changes requested by the Environmental Services team into Section 7.0212 for solid waste, clarifying provisions in Section 7.0210 Transit and Pedestrian Design Standards, and cleaning up other outdated or confusing language.

## Code Audit: Key Findings and Recommendations

The project team has completed a comprehensive review or “code audit” of the GCDC looking for the issues described in the Project Scope above. Below is a brief summary of key findings and recommendations from the code audit – in addition to the legislative requirements discussed above. The table summarizes high-level issues, but other minor issues and code clean-up will be addressed throughout the GCDC. The next major step of the project will be to begin drafting code amendments to address these issues.

Note: Design Districts are addressed together at the end of this table.

CODE SECTION	FINDINGS AND RECOMMENDATIONS
<b>Article 3 – Definitions</b>	Update definitions to enable clear and objective interpretation. Add definitions related to new housing legislation, including prefabricated dwelling and single-room occupancy.
<b>Article 4 – Land Use Districts and Plan Districts</b>	
4.0100 Residential Land Use Districts	Update standards related to new housing legislation.
4.0400 Corridor Districts	Exempt hotel/motel conversions from ground floor commercial requirements (MC and CC zones) to facilitate residential or shelter conversions, per HB 3261. Consider limiting the mixed-use requirements for RTC, SC, CC, and MC districts to a smaller area at key intersections.
4.1300 Gresham Butte Plan District	Address clear and objective issues.
<b>Article 6 – Land Divisions</b>	Update condo regulations per state law. Update Middle Housing Land Division process to reflect current practice, which allows applications prior to building permits.
<b>Article 7 – Design Review</b>	
7.0000 Purpose and Authority	Consider changes that would allow Design Review applications for smaller and less complicated projects to be reviewed by staff (i.e., Type II review) rather than by the Design Commission (Type III review). Currently, if three discretionary guidelines are used for a multifamily or townhouse development in a design district, the application is elevated to Type III.
7.0200 General Design Standards	Address clear and objective issues. Clarify applicability of standards.

7.0400 Residential Design Standards	Address clear and objective issues. Staff is considering updates to certain design standards in a parallel effort.
<b>Article 8 – Special Uses</b>	For “Elderly Housing,” differentiate between residential uses (retirement housing) from commercial uses (e.g., assisted living and other facilities with a commercial kitchen). For “Transitional housing for formerly incarcerated residents,” develop new clear and objective Special Use Review criteria.
<b>Article 9 – Common Requirements</b>	
9.0100 Buffering and Screening Requirements	Remove buffer requirements for flag lots. Address clear and objective issues.
9.0700 Neighborhood Circulation and Future Street Plans	Establish clear and objective approval criteria for future street plans.
9.0800 Parking	Address internal inconsistencies and clear and objective issues.
<b>Article 10 – Supplementary Development Regulations</b>	
10.0100 Accessory Dwellings	Remove standards that are no longer relevant in light of middle housing allowances (e.g., limit on ADU entry facing the street). Consider streamlining some design standards.
11.0100 Development Permit Requirements	Clarify/amend provisions for modifications to Design Review-E applications, so more can be handled at a staff level.
<b>Design Districts</b>	
4.1100 Downtown Plan District	<ul style="list-style-type: none"> <li>• Address clear and objective issues.</li> <li>• Update sections where consistent standards should apply across all districts (e.g., Parking, Loading &amp; Service Areas and Site Lighting).</li> <li>• Group related items under a single design standard, so an applicant won’t need multiple discretionary actions for the same design deviation.</li> <li>• Consider opportunities to exempt smaller-scale residential projects from certain standards.</li> <li>• Consider opportunities to reduce certain requirements that are challenging to meet for many projects.</li> <li>• Remove redundant standards.</li> </ul>
4.1200 Civic Neighborhood Plan District	
7.0100 Corridor Design District	
7.0500 Rockwood Design Guidelines and Standards	