



Department of Planning
and Building

ZONING CODE BULLETIN

DATE EFFECTIVE: December 19, 2024

ZONING TOPICS: Applicability of Objective Design Standards

Background

The City of Oakland's Objective Design Standards (ODS) are intended to serve as part of a predictable and streamlined entitlement process for applicable new housing development. These standards provide clear, measurable, and upfront design review criteria, leaving no room for subjective interpretation. This helps applicants design projects that meet the requirements before submitting for Planning entitlement. ODS complement the zoning standards specified in the City's Planning Code (Oakland Municipal Code Title 17), and further the goals, policies, and actions of the Oakland General Plan.

Objective Design Standards for Four- to Eight-Story Multifamily Residential and Mixed-Use Developments were adopted by the Planning Commission on October 2, 2024, and available here: [City of Oakland | Objective Design Standards and Streamlined Project... \(oaklandca.gov\)](https://www.oaklandca.gov/objec-tive-design-standards-and-streamlined-project-review)

Applicability of Objective Design Standards

The City of Oakland will be applying the ODS to 4- to 8-story residential and mixed-use projects undergoing ministerial review through both state and local programs. This includes projects subject to By Right Residential Approval under Oakland Planning Code Section 17.136.023 such as 100% affordable housing projects, the City of Oakland S-13 Affordable Housing Combining Zone by-right review, and the S-14 Housing Sites Combining Zone by-right review. The City will also apply ODS to 4- to 8-story projects where state-mandated ministerial review is required, including but not limited to projects applying under: SB 35/SB 423 (Government Code Section 65913.4); SB 684 (Small lot developments -- Government Code Sections 65852.28 and 66499.41); AB 2162 (Supportive housing -- Government Code Section 65650 et seq.); SB 9 (Duplexes and subdivisions in single family zones -- Government Code Sections 65852.21 and 66411.7); and AB 2011 (Projects in zones that permit office, retail, or parking -- Government Code Section 65912.100 et seq.)

Opting out of By Right Residential Approval under Objective Design Standards and opting for Regular Discretionary Design Review

If a project subject to By Right Residential Approval, as defined in Chapter 17.09 of the Planning Code, fails to meet any required Objective Design Standards (ODS) after a determination by Planning, the applicant may either revise their proposal to comply with the applicable standards or seek a By Right Residential Approval Waiver to waive any rights to the By Right Residential Approval ministerial process and agree to undergo the Regular Design Review process (discretionary process) outlined in Chapter 17.136, Design Review Procedure, of the Planning Code. If the Waiver form is signed and submitted, the proposal will no longer be a subject to the By Right Residential Approval process. Please see the By Right Residential Approval Waiver Form in **Attachment A**. If a project fails to conform to all applicable ODS and does not submit the By Right Residential Approval Waiver, Planning Department will deny planning approvals.

By signing and submitting the By Right Residential Approval Waiver, the applicant is opting for the discretionary Regular Design Review process and agrees that their project will be subject to public noticing, appeals, CEQA determination, and any applicable adopted design guidelines, which may include subjective criteria, along with all other applicable provisions of the Planning Code. Additionally, projects undergoing Regular Design Review will incur additional Planning fees for CEQA determinations and findings, which are not applicable to By-Right Residential Approvals. By signing and submitting the By Right Residential Approval Waiver, applicants also waive any rights to state or local project streamlining requirements or timelines that would otherwise apply.

Complete applications that fail to meet any Objective Design Standards (ODS) will receive a compliance letter identifying standards that are not met. The applicant may then either revise the proposal to comply with all ODS or opt out of By-Right Residential Approval and proceed with Regular Design Review (discretionary process) by submitting the By-Right Residential Approval Waiver. If the Regular Discretionary Design Review option is selected, the applicant shall state in writing, using the By Right Residential Approval Waiver Form, at least one ODS a project does not meet and agree to continue with the discretionary Regular Design Review process outlined in Chapter 17.136 of the Planning Code. Failure to select one of these two options will result in denial of the planning permit. Please note that the option to opt out of By-Right Residential Approvals under ODS is only available after an eligible project has received a compliance letter from Planning indicating that the project does not meet ODS.

If a project opts out of the ministerial By Right Residential Approval process by seeking a By Right Residential Approval Waiver and fails to receive planning approvals through the Regular Design Review process as outlined in the Planning Code, the City must deny the project based on the original non-compliance with the Objective Design Standards. In this case, the applicant has an option to re-apply and revise a proposal to comply with all ODS. Finally, Planning determinations for By Right Residential Approval projects under ODS are not appealable.

REVIEWED AND APPROVED BY:



Robert D. Merkamp
ZONING MANAGER

Attachment A: By Right Residential Approval Waiver Form.



Planning and Building Department
250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612
INFO: (510) 238-3443 <https://www.oaklandca.gov/departments/>

BY RIGHT RESIDENTIAL APPROVAL WAIVER FORM

For using the Regular Design Review process instead of By Right Residential Approvals process under Objective Design Standards.

This Waiver form is required for applicants opting to use the Regular Design Review process, as outlined in Chapter 17.136 of the Planning Code, for the entitlement review of their project instead of the ministerial By Right Residential Approvals Process, as defined in Chapter 17.09.040 of the Planning Code, including the use of applicable Objective Design Standards.

By signing and submitting this By Right Residential Approval Waiver, the applicant is opting for the discretionary Regular Design Review process and agrees that their project will be subject to public noticing, appeals, CEQA determination, regular timelines, and any applicable adopted design guidelines, which may include subjective criteria, along with all other applicable provisions of the Planning Code. By signing this Waiver the applicant also waives rights to any state and local project streamlining requirements and timelines that would otherwise apply. Additionally, projects undergoing Regular Design Review process will incur additional Planning fees for CEQA determinations and findings, which are not applicable to By-Right Residential Approvals. This Waiver to opt out of the By-Right Residential Approvals under ODS is only available after an eligible project has received a compliance letter from Planning indicating that the project does not meet ODS.

Owner's Name/Company: _____

Project Address: _____

Project Number: _____

To be completed only if Applicant is not the Property Owner:

I authorize the applicant indicated below to submit the application on my behalf. _____

Signature of Property Owner

Applicant (Authorized Agent), if different from Owner: _____

Objective Design Standards (ODS) Not Met (**include at least one standard number**): _____

I acknowledge that applying for this By Right Residential Approval Waiver will result in the project opting out of the By Right Residential Planning Approval process, as defined in Chapter 17.09, and selecting the discretionary Regular Design Review process pursuant to Chapter 17.136 of the Planning Code. I understand this will subject the project to public noticing, appeals, CEQA determination, and any applicable adopted design guidelines, which may include subjective criteria, as well as all other Regular Design Review applicable provisions under the Planning Code.

By submitting this By Right Residential Approval Waiver form, I expressly waive any rights to state or local project streamlining requirements and timelines that would otherwise apply to this project. Furthermore, I understand that if the project does not receive approval through the discretionary Regular Design Review process, the City is obligated to deny the project based on its non-compliance with the Objective Design Standards listed in this Waiver.

I understand that approval of this application does not constitute approval for any administrative review, Conditional Use Permit, Variance, or exception from any other City regulations that are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions appurtenant to the property. I understand that the Applicant and/or Owner phone number listed above will be included on any public notice for the project.

I certify that I am the Applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the Owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I understand that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, it may be necessary for the City to request clarifying information and/or materials after my application has been submitted and reviewed by City staff. I understand that any failure to submit the clarifying information and/or materials in a timely manner may render the application inactive and that periods of inactivity on the applicant's part do not count towards statutory time limits applicable to the processing of this application.

I understand that the proposed project and/or property may be subject to other laws, codes, regulations, guidelines, restrictions, agreements, or other requirements of other public agencies within or outside of the City of Oakland, and that the project and/or property may also be subject to requirements enforced by private parties. I am aware that the City recommends that I become fully aware of any other potential requirements before I submit this application and that I comply with all other requirements prior to commencing the proposed project.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.

Signature of Owner or Authorized Agent

Date

RECEIVED BY:

Date