



## Mandatory Adjustments – Section 38, Senate Bill 1537 (2024 Session)

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[Senate Bill 1537](#) (SB 1537 or the bill) was adopted by the Oregon State Legislature and signed into law in 2024. The bill advances tools that will increase housing production, affordability and choice throughout Oregon. This document briefly describes the 'mandatory adjustment' provision of the bill, which allows temporary flexibility on specified land use regulations for qualifying residential developments. Additionally, the [Housing Accountability and Production Office \(HAPO\)](#) prepared a [SB 1537 FAQ](#) with additional information about mandatory adjustments (see pg. 8-15)

Section 38 of SB 1537 requires local governments grant adjustments to specific development and [design](#) standards applied to the development of housing if an application meets certain conditions. An 'adjustment' is a deviation from an existing land use regulation. In order for a residential application to qualify for an adjustment, the applicant must submit the following information to the local government as part of a development application confirming:

- (a) The application is for a building permit or a quasi-judicial, limited or ministerial land use decision.
- (b) The development is on lands zoned to allow for residential uses, including mixed-use residential uses.
- (c) Site information demonstrating that the development proposal, in total on the site, meets the minimum net residential densities of Section 55 (3)(a)(C), including:
  - (i) 17 dwelling units per net residential acre if sited within the Metro urban growth boundary,
  - (ii) 10 units per net residential acre if sited in a city with a population of 30,000 or greater,
  - (iii) 6 units per net residential acre if sited in a city with a population of 2,500 or greater and less than 30,000, or
  - (iv) 5 units per net residential acre if sited in a city with a population less than 2,500.
- (d) The development is both within an urban growth boundary and annexed to a city.
- (e) Site information confirming that the development will create net new housing units that include: single-family, multifamily, mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses, manufactured dwelling parks, accessory dwelling units, or middle housing as defined in ORS 197A.420
- (f) The total requested adjustments do not exceed 10 distinct adjustments (*note: each standard listed in the table below counts as one distinct adjustment, even if the application requests multiple components within that category*)
- (g) A statement of how one of the following criteria apply:
  - (A) The adjustment makes housing development feasible when it otherwise would not be due to cost or delay,
  - (B) The adjustment reduces the sale or rental price per unit,
  - (C) The adjustment will increase the number of units in the application,
  - (D) All units are subject to an affordable housing covenant to be affordable to moderate income (80-120% Median Family Income) households for at least 30 years,
  - (E) 20% of units are subject to an affordable housing covenant to be affordable to low-income households (≤80% Median Family Income) for at least 60 years,
  - (F) The adjustment enables the provision of accessibility or visitability features that would not otherwise be feasible, or
  - (G) The units are subject to a zero equity, limited equity, or shared equity ownership model making them affordable to moderate income households for 90 years.

### **Local Exemptions to Mandatory Adjustments – Section 39**

Section 39 of SB 1537 enables HAPO to grant an exemption to mandatory adjustment requirements if a local government meets certain requirements. The local government must demonstrate that they utilize a process or processes by which all the listed development and design adjustments in the table below may be granted, and the local government has either granted 90% of all requested adjustments in the last 5 years or submits testimony from housing developers demonstrating a flexible adjustment process that accommodates project needs. The HAPO published a [guidance document](#) with more detailed information about the exemption process and how to apply. You can track the status of submitted applications at the [HAPO Mandatory Adjustment Exemption Application Dashboard](#).



## Section 38 – Eligible Development and Design Standards

§ 38	Development or Design Standard	Required Eligible Adjustment Amount
(4)(a)	Side or rear setbacks	Must allow an adjustment up to 10% of required setback distance.
(4)(b)	For an individual development project, common area, open space or area that must be landscaped on the same lot or parcel as proposed housing	Must allow a reduction up to 25%
(4)(c)	Parking minimums	Must be eligible for a full adjustment
(4)(d)	Minimum lot sizes	Must allow an adjustment up to 10%, and including up to a 10% adjustment to lot widths or depths
(4)(e)	Maximum lot sizes	Must allow an adjustment up to 10%, including up to a 10% adjustment to lot widths or depths, if the adjustment results in more dwelling units than would be allowed without adjustment, and the adjustment does not result in reduction of density below the minimum applicable density
(4)(f)	Building lot coverage	Must allow an adjustment up to 10%
(4)(g) (A)(i)*	Bicycle parking (minimum spaces)	Must allow an adjustment to the minimum number of spaces for use by residents, provided the application includes at least one-half space per residential unit
(4)(g) (A)(ii)*	Bicycle parking (location)	Must allow an adjustment to the location of bike parking spaces, provided lockable, covered bike parking spaces are within or adjacent to the residential development
(4)(g)(B)*	Building height maximums (excluding cottage clusters)	Must allow an adjustment in addition to any existing applicable height bonuses; Must allow an adjustment up to the greater of "one story" or 20% of the base zone height
(4)(g) (C)*	Unit density maximums	Must allow an amount necessary to account for other adjustments under this section
(4)(g) (D)(i)*	Prohibitions on ground floors of mixed use buildings against residential uses except for one face of the building facing the street & within 20 ft of the street	Must be eligible for a full adjustment
(4)(g) (D)(ii)*	Prohibitions on ground floors of mixed use buildings against nonresidential active uses that support the residential uses of the building	Must be eligible for a full adjustment
(5)(a)	Facade materials, color or pattern	Must be eligible for a full adjustment
(5)(b)	Facade articulation	Must be eligible for a full adjustment
(5)(c)	Roof forms and materials	Must be eligible for a full adjustment
(5)(d)	Entry and garage door materials	Must be eligible for a full adjustment
(5)(e)	Garage door orientation unless adjacent to or across from school/public park	Must be eligible for a full adjustment
(5)(f)	Window materials except bird-safe glazing requirements	Must be eligible for a full adjustment
(5)(g)	Total window area	Must allow up to 30% adjustment if application includes at least 12% of total façade as window area
(5)(h)(A)*	Building orientation requirements, not including transit street orientation requirements	Must be eligible for a full adjustment
(5)(h)(B)*	Building height transition requirements	Must allow up to 50% adjustment from the base zone
(5)(h)(C)*	Requirements for balconies and porches	Must be eligible for a full adjustment
(5)(h)(D)*	Requirements for recesses and offsets	Must be eligible for a full adjustment

*\*Only applicable to manufactured dwelling parks, middle housing, multi-unit, and mixed use residential.*