

# SENATE BILL 1537: HOUSING DEVELOPMENT

Senate Bill (SB) 1537, adopted in 2024, requires cities to grant adjustments to specific dimensional and design standards to encourage housing production and affordability. However, the City requested and received an exemption from the State's Housing Accountability and Production Office (HAPO).

- HAPO approved the City's request for an Exemption in July 2025.
- Under Exemption conditions of approval, the City is required to review and approve adjustments consistent with SB 1537 Section 39 (2)(a) and (b).
- The City will continue to apply its local processes to review adjustment requests in lieu of the Mandatory Adjustment provisions under SB 1537.
- In specific instances when a local adjustment pathway is not available, applicants are legally entitled to request adjustments through a Mandatory Adjustment under SB 1537 Section 38 conditions and criteria. See **Part 6 on page 18** of this handout.

This document has six parts to explain adjustments for housing development:

- **Part 1: Local Adjustment Processes** – what are the various types of local variances?
- **Part 2: Local Adjustment Types & Scope** – how much can you vary from a standard?
- **Part 3: Code Links to Local Adjustment Criteria** – where are the approval criteria for local variances?
- **Part 4: Steps to Request a Local Adjustment** – how do I submit a request for a variance?
- **Part 5: All Local Adjustment Criteria** – what are the specific criteria for each type of local variance?
- **Part 6: SB 1537 - Section 38 Mandatory Adjustments** – when and how can I request a Mandatory Adjustment?

**Contact the Planner on Duty at (503)-635-0290 or [planning@lakeoswego.city](mailto:planning@lakeoswego.city) for more information specific to your project.**

# LOCAL ADJUSTMENTS FOR HOUSING DEVELOPMENT

## PART 1: LOCAL ADJUSTMENT PROCESSES

If you are developing housing in the City of Lake Oswego, you can request flexibility to a variety of dimensional and design standards. This includes those standards under SB 1537, such as required setbacks, lot sizes, building articulation, and window areas. Applicants may apply for one or more adjustments in the same application.

There are several types of local adjustments to dimensional and design standards:

- [Minor Variances](#) allow for small adjustments with little to no impact.
- [Major Variances](#) allow for significant “hardship” adjustments due to special circumstances or conditions.
- [Design Variances](#) allow for adjustments that would result in a superior design or better meet the intent of a regulation.
- There are also adjustments for land divisions like [Planned Development Overlays](#) (new and existing subdivisions) and [Exceptions](#) (for partitions).

See Part 3 for hyperlinks to the adjustment criteria and Part 5 for actual criteria language.

## PART 2: LOCAL ADJUSTMENT TYPES & SCOPE

The following table lists the dimensional and design standards required to be adjusted by SB 1537, and notes the local process(es) and extent of the adjustment. [Note: This table does not include all standards applicable to housing development and reflects City code language which may vary from that in SB 1537.]

Whether or not a standard applies to your project, to what extent, and which local adjustment process is available will depend on: zone; designation in a Design District or Overlay; project type; nonconformity status; if you’re proposing new construction, a remodel, or an addition; and, whether a new or approved land division is part of the project scope.

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STANDARD	SB 1537 MINIMUM	LOCAL PROCESS TO ADJUST	POTENTIAL LOCAL ADJUSTMENT
<b>Floor area maximum</b>	No minimum listed	Minor Variances	15% <a href="#">LOC 50.08.002.2.d</a>
		Design Variances	Variable, based on site <a href="#">LOC 50.08.003.2</a>
		Approved PD – Existing Lot	Variable, based on request (PD Modification, Minor Variance, Design Variance, or Major Variance)
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Side &amp; rear yard setbacks</b>	Up to a 10% reduction	<b><i>When applicable to street side yards, the City currently prohibits adjustments to Special Street Setbacks (LOC 50.04.002). Apply for a SB 1537 Mandatory Adjustment directly.</i></b>	
		Exceptions – Land Divisions	15% <a href="#">LOC 50.04.003.2</a>
		Planned Development Overlay – New Subdivisions -----	10%-100%, with restrictions <a href="#">LOC 50.07.007.4.d.ii</a> -----
		Approved PD – Existing Lot	Variable, based on request (PD Modification, Design Variance, or Major Variance)
		Minor Variances	20%-50%, based on type of minor variance <a href="#">LOC 50.08.002.2</a>
		Design Variances	20%-100%, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Lot dimensions</b>	Up to a 10% reduction to size, width, and/or depth	Exceptions – Land Divisions	10% <a href="#">LOC 50.04.003.2</a>
		Planned Development Overlay – New Subdivisions	Lot Size: 20-25%, with restrictions Lot Width/Depth: No stated limit <a href="#">LOC 50.07.007.4.d.ii</a>
		Minor Variances	Lot Width: 6.25%-10% <a href="#">LOC 50.08.002.2</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>

<b>Lot coverage</b>	Up to a 10% increase	Exceptions – Land Divisions	15% <a href="#">LOC 50.04.003.2</a>
		Planned Development Overlay – New Subdivisions	Variable, based on Net Developable Area <a href="#">LOC 50.07.007.4.d.ii</a>
		----- Approved PD – Existing Lot	Variable, based on if a PD Modification, Design Variance, or Major Variance.
		Design Variances	100%, based on site <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Common area, open space, landscape set asides</b>	Up to a 25% reduction (including Cottage Cluster courtyards)	Design Variances	Up to 100%, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Total window area</b>	Up to 30% reduction, keep a minimum of 12% fenestration per applicable façade	Design Variances	Up to 100%, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Window materials (N/A to bird-safe glazing)</b>	Full Adjustment	Design Variances	No stated limit, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Facade materials, colors, patterns</b>	Full Adjustment	Design Variances	No stated limit, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Facade articulation</b>	Full Adjustment	Minor Variances (LGVC only)	No stated limit <a href="#">LOC 50.08.003.2.p</a>
		Design Variances	No stated limit, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>

Roof forms and materials	Full Adjustment	Minor Variance (Dormers)	Height of existing dwelling <a href="#">LOC 50.08.002.2.g</a>
		Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
Entry and garage door materials	Full Adjustment	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
Garage door orientation	Full Adjustment	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
Maximum lot sizes	N/A	No maximum lot size	N/A
Parking minimums	N/A	No parking minimums for housing	N/A
<i>Items below only apply to manufactured dwelling parks, middle housing, multi-family, and mixed-use residential development.</i>			
Bicycle parking (minimum)	Reduction in # of spaces, but a minimum of 0.5 spaces/unit	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
Bicycle parking (location)	Full adjustment (locked, covered spaces required on/near site)	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
Building height maximums, in addition to height bonuses (N/A to cottage clusters)	Increase of 1-story (12 feet) or 20% to base height, whichever is greater.	<b><i>The City Charter imposes a 50-ft. building height limit in residential zones. A local adjustment cannot exceed this. Apply for a SB 1537 Mandatory Adjustment directly.</i></b>	
		Exceptions – Land Divisions	15% <a href="#">LOC 50.04.003.2</a>
		Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>

<b>Unit density maximums</b>	Increase in units (not lots) to for other adjustments	<b><i>When applicable, the City currently prohibits a variance to the maximum number of residential units. Apply for a SB 1537 Mandatory Adjustment directly.</i></b>	
<b>No residential uses on mixed-use ground floors (N/A to street-façade(s) or uses within 20 ft. of a street)</b>	Full Adjustment	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>No uses supportive to residential on mixed-use ground floors</b>	Full Adjustment	Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Building orientation requirements (N/A to transit streets)</b>	Full Adjustment	Minor Variances (Flag Lots & LGVC)	No stated limit <a href="#">LOC 50.08.002.2.m</a> & <a href="#">LOC 50.08.002.p</a>
		Design Variances	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Building height transitions</b>	Must allow up to 50% adjustment to base zone	Design Variances	Variable, some restrictions based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Balconies and porches</b>	Full Adjustment	Minor Variance (LOC 50.08.002)	Variable, based on minor variance type <a href="#">LOC 50.08.002.2</a>
		Design Variance (LOC 50.08.003.1-6)	No stated limit <a href="#">LOC 50.08.003(1-6)</a>
		Major Variance (LOC 50.08.004)	No stated limit <a href="#">LOC 50.08.004.2</a>
<b>Recesses and offsets</b>	Full Adjustment	Design Variances	No stated limit, based on request <a href="#">LOC 50.08.003(1-6)</a>
		Major Variances	No stated limit <a href="#">LOC 50.08.004.2</a>

## PART 3: CODE LINKS TO LOCAL ADJUSTMENT CRITERIA

The section provides links to the local adjustment (variance) criteria. See Part 5, below, for the full criteria language for each type of variance process.

[Note: use this [link](#) to access the City of Lake Oswego’s online code, including LOC Chapter 50 Community Development Code.]

ADJUSTMENT TYPE	APPLICABILITY	LINK TO APPLICABLE CRITERIA	HANDOUT PAGE # FOR CRITERIA LANGUAGE
Exceptions	Land Divisions	<a href="#">LOC 50.04.003.2.a</a>	8-9
Planned Development Overlay	Creation of New Subdivisions	<a href="#">LOC 50.07.007.4.d</a>	9-11
Planned Development Overlay Modifications	Existing Lots of Record in a PD Subdivision	<a href="#">LOC 50.07.007.4.c.iii</a> and <a href="#">LOC 50.07.003.11</a>	11-12
Minor Variances	Small Deviations	<a href="#">LOC 50.08.002.3</a>	12
Design Variances	Sites within the R-DD, LGVC, and DRDD Overlays	<a href="#">LOC 50.08.003.2-5</a>	12-15
RID Review Design Variances	Sites within Residential Zones	<a href="#">LOC 50.08.003.3</a> and <a href="#">LOC 50.08.003.6</a>	15-17
Major Variances	Hardship Deviations	<a href="#">LOC 50.08.004.3.a</a>	17-18

## PART 4: STEPS TO REQUEST A LOCAL ADJUSTMENT

Adjustments are processed as either a standalone land use application or as a component of a broader application, and are classified as a Minor Development Decisions.

A Minor Development Decision is subject to the following procedure:

<b>STEP 1.</b>	Contact the <b>Planner on Duty</b> for a preliminary discussion: 503-635-0290 or <a href="mailto:planning@lakeoswego.city">planning@lakeoswego.city</a>
<b>STEP 2.</b>	Pre-Application Conference ( <a href="#">LOC 50.07.003.1.e</a> ) Use this <a href="#">link</a> to access the pre-application conference directions and form. Specific to the project, the City will provide tailored notes that summarize the applicable standards, timeline, and procedure.
<b>STEP 3.</b>	Neighborhood Meeting (all land divisions or as required) ( <a href="#">LOC 50.07.003.1.f</a> ).

	City will notify the applicant at the pre-app if a neighborhood meeting is required.
<b>STEP 4.</b>	Land Use Submittal ( <a href="#">LOC 50.07.003.1.a-d</a> )
<b>STEP 5.</b>	Completeness Review ( <a href="#">LOC 50.07.003.1.g</a> )
<b>STEP 6.</b>	Public Notice with Minimum 14-day Comment Period ( <a href="#">LOC 50.07.003.3.a-c</a> )
<b>STEP 7.</b>	Public Hearing (if required by code, referred, or appealed) ( <a href="#">LOC 50.07.003.14.d.i</a> )
<b>STEP 8.</b>	Notice of Decision with 15-day Appeal Period [ <a href="#">LOC 50.07.003.4.h</a> ; <a href="#">LOC 50.07.003.7</a> ; or, <a href="#">LOC 50.07.003.14.d.iii(2)</a> ]
<b>STEP 9.</b>	Further Appeals to City Council and State Land Use Board of Appeals

## **PART 5: ALL LOCAL ADJUSTMENTS (CRITERIA LANGUAGE)**

This part includes the actual criteria language for each type of variance in the same order as Part 3. Please note that these are only the variance criteria. There are additional standards that will apply, which the City will detail at the pre-application conference specific to your site and project.

### **Exceptions for Land Divisions (LOC 50.04.003.2.a)**

If a proposed partition or subdivision would result in any existing structure becoming noncomplying with any regulation of this Code, and the structure was constructed three or more years prior to the filing of the application for the partition or subdivision, the following adjustments are allowed: a 15% deviation from lot coverage, floor area, yard setback or height requirements (adjustment to yard setbacks and height may only be applied to the lot upon which the existing structure is located); or 10% deviation from the lot area, lot width, lot depth, or lot frontage standard; provided the following criteria are met:

i. After taking into consideration any proposed mitigation efforts, the adjustment will not have a significant negative impact on the neighborhood and adjacent properties, in terms of:

- (1) Scale;
- (2) Noise;
- (3) Parking;
- (4) Loss of privacy;
- (5) Buffers from existing properties; and
- (6) Neighborhood character.

- ii. If more than one adjustment is requested, the cumulative effect of the adjustments will not cumulatively have a significant negative impact on the neighborhood and adjacent properties in terms of the criteria listed in subsection 2.a.i of this section.
- iii. City-designated historic resources are preserved in accordance with LOC 50.06.009.
- iv. Any impacts resulting from the adjustment are mitigated to the extent practicable.
- v. If in an RC or RP district, the partition or subdivision shall comply with LOC 50.05.010, Sensitive Lands Overlay Districts.

**Planned Development (PD) Overlay – Creation of New Subdivisions (LOC 50.07.007.4.d)**

i. Underlying Zone.

- (1) In considering an application for a PD overlay, the reviewing authority shall apply the requirements of the underlying zone. The maximum floor area and lot coverage requirements may be applied with reference to the total area.
- (2) If the proposed PD is part of an approved ODPS as described in LOC 50.07.006, requirements of the ODPS approval regarding arrangement of uses, open space and resource conservation and provision of public services will be considered when reviewing the considerations in subsection 4.d.i(1) of this section for the PD.

ii. Dimensional Exceptions.

(1) The reviewing authority may grant exceptions to zone requirements (except for the zone requirements and limitations listed below) if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. The reviewing authority shall consider the factors listed in subsection 4.d.ii(2) of this section in determining whether to approve the exceptions.

(a) No exceptions shall be approved for the following zone requirements:

- (i) The special setback requirements for steeply sloped lots in the R-5 zone [LOC 50.04.001.2.e.i(2)] and R-0, R-2, and R-3 zones [LOC 50.04.001.3.e.iv];
- (ii) Height of building;
- (iii) Use;
- (iv) Open space; and
- (v) Density.

(b) Lot Coverage and Floor Area Limitations.

- (i) The aggregate lot coverage for all of the lots shall not exceed the maximum lot coverage based on the net developable area of the project;
- (ii) The total floor area of all lots shall not exceed the aggregate of the floor areas as determined based upon the respective lot area and the floor area methodology required by the zone.

(2) In making the determination under subsection 4.d.ii(1) of this section, the reviewing authority may consider:

- (a) Whether the applicant has reserved or dedicated more than the minimum amount of open space required by park and open space contributions [LOC 50.06.005];

(b) Whether the requested exception allows the lots to be designed in a manner that provides better access to common open space areas from within and/or outside the PD, better protects views, allows better solar access, maintains or improves relationships between structures, maintains or improves privacy and/or improves pedestrian or bicycle access to surrounding neighborhoods;

(c) Whether the requested exception will allow a more attractive streetscape through use of meandering streets, access through alleys or shared driveways, provision of median plantings, or other pedestrian amenities;

(d) Whether the requested exception will enhance or better protect a significant natural feature on the site, such as a wetland, a tree or tree grove, or a stream corridor;

(e) Whether the requested exception will provide better linkage with adjacent neighborhoods, open space areas, pathways, and natural features; or

(f) Whether the requested exception will allow the development to be designed more compatibly with the topography and/or physical limitations of the site.

(3) Side Yard Setback Exceptions. The reviewing authority may grant exceptions to the minimum side yard setbacks of the underlying zone, without the necessity of meeting the requirements of LOC Article 50.08, Variances, if the requirements of subsection 4.d.ii of this section are met, and:

(a) Proposed lot sizes are less than the minimum size required by the underlying zone; or

(b) Lesser setbacks are necessary to provide additional tree preservation or protection of abutting natural areas;

(c) Side yard setbacks shall not be reduced to less than eight ft. except under the following circumstances:

(i) Structures on abutting lots within the development are separated by no less than 16 ft. when all portions of the structure within the standard setback are no greater than 18 ft. in height.

(ii) Structures on abutting lots within the development are separated by no less than 20 ft. when any portion of the structure exceeds 18 ft. in height within the standard setback area.

This limitation does not affect the underlying base zone yard setbacks when those setbacks are less than eight ft. See Figure 50.07.007-C: Side Yard Setbacks.

(4) In the R-7.5, R-10, and R-15 zones, where the parcel being developed is less than 75,000 square ft. in size, the following additional provisions apply:

(a) Rear Yard Setback Exceptions.

(i) For lots where the rear yard setback abuts open space land, the rear yard setback may be reduced by up to 50% of the base zone requirement.

(ii) For lots where the rear yard setback does not abut open space, the rear yard setback may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

(b) Lot Size Exceptions. Lot sizes may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

iii. Planned Development Standards.

(1) Lots which are located on the perimeter of a development located in an R-0, R-2, WLG R-2.5, R-3, R-5, R-6, R-7.5, R-10 or R-15 zone, and which are adjacent to lots in an R-7.5, R-10 or R-15 City zone upon which are constructed single-family dwellings, may be not less than:

(a) Development in R-0, R-2, WLG R-2.5, R-3, R-5, R-6 zones: 75% of the minimum lot area per unit of the adjacent zone or the minimum lot size of the zone in which the development is located, whichever is less.

(b) Development in R-7.5, R-10, and R-15 zones: 80% of the minimum lot area per unit of the adjacent zone or the minimum lot size of the zone in which the development is located, whichever is less.

(c) Housing types located on the perimeter lots described in subsection 4.d.iii(1) of this section shall be single-family, zero lot line or duplex dwellings, except three attached dwelling units may be placed on three lots which abut at a common point with the middle lot being a corner lot.

(d) In a PD located in an R-0, R-2, WLG R-2.5, R-3, R-5, or R-6 zone which abuts an R-7.5, R-10 or R-15 zone and which does not contain separate lots for the dwelling units, the building setbacks shall meet the requirements of the zone in which the development is located.

**PD Modifications – For an Existing Lot of Record in a PD Subdivision (LOC 50.07.007.4.c.iii & LOC 50.07.003.11.a)**

Following Approval of a PD Overlay [LOC 50.07.007.4.c.iii]:

(1) A subsequent request for modification from the underlying zone requirements for any lots within the planned development shall be processed in the following manner:

(a) PD Modified at Least One Lot Requirement in Subdivision. If any modifications were made to the above zone requirements, then any subsequent request for modification to these zone requirements shall be processed either as:

(i) A planned development modification, pursuant to LOC 50.07.003.11; no variance (LOC 50.08.002 or 50.08.004) is permitted); or

(ii) A residential infill design review (RID), pursuant to LOC 50.08.003.2.e; to the extent RID permits exceptions to certain zone standards, no planned development permit modification is required.

(b) PD Modified None of the Lot Requirements in Subdivision. If no modifications were made from the zone requirements, then any subsequent request for modification to the zone requirements shall be processed as:

(i) A variance pursuant to LOC 50.08.002 or 50.08.004; or

(ii) For qualified residential developments, processed according to the provisions of LOC § 50.08.003.2.e, RID.

Modification of Development Permits [LOC 50.07.003.11.a].

For ministerial or minor development permits, modifications to a development permit are classified as the same type of development as the original permit and shall be reviewed under the applicable review criteria for that classification of development, except that the review criteria shall be limited to those criteria that are affected by the requested modification.

**Minor Variance – Small Deviations (LOC 50.08.002.3)**

a. General. Except as provided in subsection 3.b of this section, the reviewing authority may grant a minor variance from the requirements of this Code if the following criteria are met:

- i. The granting of the variance will not be detrimental to the public health or safety;
- ii. The granting of the variance will not be materially injurious to properties or improvements within 300 ft. of the property;
- iii. The granting of the variance will have little or no negative impact on the streetscape (e.g., pedestrian environment or other aspects of the public realm that contribute to the neighborhood character); and
- iv. The proposed development will not adversely affect existing physical and natural systems such as traffic, drainage, Oswego Lake, hillsides, designated Sensitive Lands, historic resources, or parks, and the potential for abutting properties to use solar energy devices any more than would occur if the development were located as specified by the requirements of the zone.

b. Compliance with State or Federal Law. If the applicant asserts that a variance is necessary to comply with a state or federal law based on the rights of the occupant, and the reviewing authority determines that the request may be related to a state or federal legal right, the reviewing authority may grant a minor variance from the requirements of this Code if:

- i. The applicant and proposed use meet the qualifications for applicability under a state or federal law that may require the City to waive, adjust, or reasonably accommodate land use regulations; and
- ii. The requested variance is necessary to comply with state or federal law requirements for adjustment, waiver, or reasonable accommodation of land use regulations, e.g., federal Fair Housing Act, Americans with Disabilities Act, Rehabilitation Act, Religious Land Use and Institutionalized Persons Act; and
- iii. The variance is the minimum necessary to comply with the applicable state or federal law.

**Design Variances – R-DD, DRDD, and LGVC Overlays (LOC 50.08.003, Subsections 2-5)**

General Design Variance Criteria (Subsection 3)

The reviewing authority shall only approve a design variance if it determines that the following criteria have been met. In the Downtown Redevelopment Design District (DRD), the following criteria apply only to design variances to the requirements in LOC 50.05.004.8 through 50.05.004.12 and to any other Code provision (other than the above DRD standards) for which a design variance is requested:

- a. The applicant demonstrates that:

	<ul style="list-style-type: none"> <li>i. Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure; or</li> <li>ii. An alternative design will better accomplish the purposes, goals, or objectives of the base district and any adopted plan or overlay district applicable to the property.</li> </ul> <p>b. The applicant demonstrates that the proposed variance will:</p> <ul style="list-style-type: none"> <li>i. Result in a project that is exceptional in the quality of detailing, appearance and materials; or</li> <li>ii. Create a positive unique relationship to other nearby structures, views or open space; or</li> <li>iii. If in the DRD (within R-2 only), the variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style.</li> </ul> <p>c. If the subject property is located in the R-DD zone or the Foothills Mixed Use District, the applicant demonstrates that:</p> <ul style="list-style-type: none"> <li>i. The variance will not create an incompatible relationship between the proposed structure and the scale or character of the neighborhood, the scale or character of the street frontage, or the privacy of properties within 300 ft. of the subject property; and</li> <li>ii. Any significant impacts to properties within 300 ft. of the applicant’s property resulting from the variance are mitigated to the extent practical through building or site design features on the site.</li> </ul>
<p>R-DD (Subsection 2)</p>	<p>For exterior modifications of a single-family or middle housing dwelling in the R-DD zone built before 1960, minimum setbacks may be reduced between two ft. and five ft. if the modification maintains at least 50% of the exterior walls (measured by sq. ft.) and does not increase height by more than 100%. Minimum setback adjustments of two ft. or less are exceptions to the R-DD district standards pursuant to LOC 50.04.003.3.c.</p>
<p>DRDD (Subsection 4)</p>	<p>The reviewing authority shall only approve a design variance to the requirements in LOC 50.05.004.5 through 50.05.004.7 if it determines that the following criteria have been met:</p> <ul style="list-style-type: none"> <li>a. At least one of the criteria in subsections 4.a.i through v of this section: <ul style="list-style-type: none"> <li>i. The variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style;</li> <li>ii. Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure;</li> <li>iii. The variance is necessary to allow a unique building function of a permitted use in the zone;</li> <li>iv. The variance is necessary to allow one or more of the following features where the feature exceeds the minimum requirements of LOC Chapter 50 and other City regulations: <ul style="list-style-type: none"> <li>(1) Renewable energy production (solar, geothermal, or wind);</li> <li>(2) Enhanced indoor air quality;</li> <li>(3) Use of daylight for interior lighting;</li> <li>(4) Protection of views of Lakewood Bay or Mount Hood;</li> <li>(5) Acoustic building performance;</li> </ul> </li> </ul> </li> </ul>

- (6) Water efficiency, such as rainwater harvesting;
- (7) Increased seismic resiliency; or
- v. The alternative design better accomplishes the objectives of the East End Redevelopment Plan or the objectives and principles of the Urban Design Plan.
- b. And the variance:
  - i. Results in a project that is exceptional in the quality of detailing, appearance and materials; and
  - ii. Creates a positive unique relationship to other nearby structures, views or open space, and streetscapes.

LGVC  
(Subsection 5)

The reviewing authority shall only approve a design variance in the LGVCO District if it determines that the application meets criteria in LOC 50.08.003.3.a and 50.08.003.3.b, and also meets the following criteria:

- a. The variance will not adversely affect existing physical and natural systems such as traffic, access, circulation, connectivity, drainage, designated Sensitive Lands, historic resources, or parks, and the potential for abutting properties to use solar energy devices any more than would occur if the development fully met the LGVCO standards; and
- b. The applicant shall present an analysis of alternative designs in relation to variances from LGVCO standards requested to demonstrate that the application avoids the need for variances to the degree practicable; and
- c. The proposed design achieves the listed policies of the Lake Grove Village Center Plan better than would result if the LGVCO standards were fully met after considering each of the following goals and policies, as applicable:

<b>TABLE 50.08.003-1: GOALS CONSIDERED FOR VARIANCE</b>	
<b>Goal Title</b>	<b>Policies</b>
Enhance the Pedestrian Environment and Connectivity Within the Village Center	3.1, 3.2, 3.3, 3.4
Strengthen the Lake Grove Sense of Place and Community	5.1, 5.4
Enhance Village Character	6.1, 6.2, 6.3, 6.4, 6.5
Protect the Residential Character of Adjoining Neighborhoods	7.1, 7.2
Protect Natural Resources and Enhance the Natural Environment Within the Village Center	8.1, 8.2, 8.4, 8.5, 8.6
Support Businesses in the Village Center	9.3, 9.4, 9.6

- d. For variances to setbacks or site perimeter landscaping and buffering standards, the applicant shall demonstrate that:
  - i. If the requested variance is for a setback or landscaping or buffering required at the perimeter of the site that is adjacent to R-7.5 or R-10 zones, the applicant considered alternative site plans that adjusted internal

- landscaping or other dimensional standards internal to the site and there is no practicable alternative to the requested variance at the perimeter of the site.
- ii. If the requested variance is to a landscaping and buffering standard required around the perimeter of the site and is adjacent to any zone other than R-7.5 or R-10, the applicant considered alternative site plans to adjust internal landscaping and there is no practicable alternative to the requested variance at the perimeter of the site.

**RID Review Design Variances – Residential Zones (LOC 50.08.003, Subsections 3 & 6)**

**General Design Variance Criteria.**

The reviewing authority shall only approve a design variance if it determines that the following criteria have been met. In the Downtown Redevelopment Design District (DRD), the following criteria apply only to design variances to the requirements in LOC 50.05.004.8 through 50.05.004.12 and to any other Code provision (other than the above DRD standards) for which a design variance is requested:

- a. The applicant demonstrates that:
  - i. Compliance with the applicable standard is not practicable due to the physical characteristics of the site or existing structure; or
  - ii. An alternative design will better accomplish the purposes, goals, or objectives of the base district and any adopted plan or overlay district applicable to the property.
- b. The applicant demonstrates that the proposed variance will:
  - i. Result in a project that is exceptional in the quality of detailing, appearance and materials; or
  - ii. Create a positive unique relationship to other nearby structures, views or open space; or
  - iii. If in the DRD (within R-2 only), the variance is necessary to create a complementary relationship with a viable existing structure on an abutting lot that is not designed in the Lake Oswego style.

**RID Review Specific Criteria.**

The reviewing authority may grant a residential infill design (RID) variance for a residential dwelling or accessory structure in a residential zone if it determines that the criteria in LOC 50.08.003.3.a and 50.08.003.3.b, and the additional criteria below have been met. In making these determinations, the reviewing authority shall consider the pattern and character of development of all lots within 300 ft. of the subject site and shall also consider any neighborhood design objectives or guidelines for residential development that have been adopted by the local neighborhood association.

- a. Residential Dwelling or Accessory Structure Size. A variance to the following standards may be approved when a more compatible, positive relationship between the size of a proposed residential dwelling or accessory structure and the scale and character of a neighborhood can be demonstrated in other ways:
  - Floor area;
  - Lot coverage;
  - Yard setbacks;

Building height;

Accessory structures;

Boathouse footprint in the Lake Oswego setback;

Long wall planes; and

Height of accessory structures in the Oswego Lake setback (except as limited by subsection 2.e.xi of this section).

That relationship shall be evaluated by considering the degree to which a proposed design offers features that diminish the perceived scale and improve the perceived character of greater size. That review will include consideration of:

- i. Distance and visibility from street and adjoining properties;
- ii. Topography;
- iii. Building number (more smaller versus one larger, for example);
- iv. Building form(s), massing and orientation; and
- v. Landscaping.

b. Relationship to the Street. A variance to the following standards may be approved when a more compatible, positive relationship between a proposed design and the scale and character of the street can be demonstrated in other ways:

Front yard setback;

Front setback plane; and

Garage door openings.

That relationship will be evaluated by considering the degree to which a proposed design offers features that enhance the perceived scale and character of the street from a pedestrian's perspective. While the scale and character will vary from neighborhood to neighborhood and from street to street, a positive contribution is typically one that enhances the safety and experience of a pedestrian using the street.

That review will include consideration of:

- i. Distance and visibility from street;
- ii. Prevailing patterns of front yard setback, building alignment and spacing (rhythm);
- iii. Topography;
- iv. Preservation of existing trees and features of perceived value to the street;
- v. Perceived building form, proportion, massing and orientation relative to the street;
- vi. Porch and/or entry location and treatment relative to the street;
- vii. Garage distance and visibility from the street;
- viii. Perceived size and scale of garage doors from the street;
- ix. Perceived area and scale of driveways and parking areas from the street;
- x. Fencing or screens; and

xi. Landscaping.

c. Relationship to the Neighbors. A variance to the following standards may be approved when a more compatible, positive relationship between a residential dwelling or accessory structure and the scale, character and privacy of its neighbors can be demonstrated in other ways:

Side yard setback;

Side yard setback plane;

Side yard appearance and screening; and

Long wall planes.

That relationship will be evaluated by considering the degree to which a proposed design offers features that enhance perceived scale, character and privacy relative to adjoining properties. While the scale, character and privacy of one building relative to another will vary from street to street, and from lot to lot, a positive contribution is typically one that adjusts the location and perceived scale, character and views from or to a new residential dwelling or accessory structure to avoid visual conflict with neighbors. That review will include consideration of:

i. Distance and visibility from adjoining properties;

ii. Preservation of existing trees and features of perceived value to adjoining properties;

iii. Topography;

iv. Perceived building height, form, proportion, massing and orientation relative to adjoining properties;

v. Treatment of elevations exposed to adjoining properties;

vi. Perceived sight lines to and from windows, decks and outdoor living spaces;

vii. Fencing or screening; and

viii. Landscaping.

#### **Major Variances – Hardship Deviations (LOC 50.08.004.3.a)**

The reviewing authority may grant a major variance from the requirements of this Code if:

i. The request is necessary to prevent unnecessary hardship based on the following considerations:

(1) The physical circumstances of the property involved;

(2) Whether a hardship was created by the person requesting the variance;

(3) The economic impact on the applicant if the variance is denied; and

(4) Other factors deemed relevant by the reviewing authority.

ii. Development consistent with the request will not be injurious to the neighborhood in which the property is located or to property affected by the request based on the following considerations:

- (1) An analysis of the physical impacts such development will have, such as visual, noise, traffic and the increased potential for drainage, erosion and landslide hazards;
- (2) The perceptions of residents and owners of property in the neighborhood concerning the incremental impacts occurring as a result of the proposed variance; and
- (3) Other factors deemed relevant by the reviewing authority.

iii. The request is the minimum variance necessary to make reasonable use of the property.

## **PART 6: SB 1537 - SECTION 38 MANDATORY ADJUSTMENTS**

In the tables above, there are three standards to which local adjustments (variances) are prohibited:

- 1) Reductions to Special Street Setbacks as they apply to certain street side yards throughout the city;
- 2) Building height increases that exceed 50 feet in a residential zone per City Charter, Chapter X, Section 46(A); and,
- 2) Increases to maximum allowed density for residential units.

This part explains when and how an applicant for housing development can request an SB 1537 Mandatory Adjustment where there is no eligible local adjustment process.

### **Eligibility:**

- 1) The development must include housing at a *minimum* of 17 dwelling units per acre (equates to 2,562 sq. ft. of lot area or less per unit):

<b>Minimum Units Required by Zone to Qualify for State Mandatory Adjustment</b>			
<b>Zone</b>	<b>Min. Lot Size of Zone</b>	<b>Min. Units Required Based on Min. Lot Size</b>	<b>Equivalent Housing Type</b>
R-0/R-2	None	1	Single-family or greater
R-3	3,375 sq. ft.	2	Duplex or greater
R-5/R-DD	5,000 sq. ft.	2	Duplex or greater
R-6	6,000 sq. ft.	2	Duplex or greater
R-7.5	7,500 sq. ft.	3	Triplex or greater
R-10	10,000 sq. ft.	4	Quadplex or greater
R-15	15,000 sq. ft.	6	Cottage clusters and Townhomes
Commercial	None	1	Single-family or greater

- 2) Site must be annexed to the City of Lake Oswego and within the Urban Growth Boundary;
- 3) Site must be zoned for residential use;

- 4) The project must result in *net new housing units* where at least 75% of the floor area is for residential uses;
- 5) Cannot exceed 10 distinct adjustments; **and**,
- 6) Must comply with applicable criteria.

**Criteria:**

Per SB 1537, the city must allow up to a 10% reduction to a street side yard Special Street Setback, a building height increase of 20% or 1-story (if limited by Charter), and an adjustment to maximum unit density where a cap prohibits additional units after other variances are approved.

The applicant must submit a narrative that states *how* at least 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 year;
- E) 20% of units are subject to an affordable housing covenant to be affordable to low-income households ( $\leq 80\%$  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.

**Process:**

A SB 1537 Mandatory Adjustment request is processed as a Minor Development Land Use Application, either as a stand-alone land use application or as part of a broader application. See Part 4, above, for the process to request Minor Development Land Use approval.