

**Mayor**  
Honorable Tom Ellis



**City Manager**  
Jason A. Tuck, ICMA-CM

Revised 2/2/26

## 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 January 2026.
- 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.

Contact the Planner on Duty at (503)-783-3800 or [planninginfo@happyvalleyor.gov](mailto:planninginfo@happyvalleyor.gov) for more information specific to your project.

### LOCAL ADJUSTMENT PROCESSES

If you are developing housing in the City of Happy Valley, 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:

- Variances: Class B or Class C [in 16.71](#)
- Modifications to Design Standards in [16.40.030](#)
- Exceptions to Design Standards for Multi-Family in [16.44.010.B.12](#)

- Affordable Housing Adjustment in [16.44.060](#)
- Planned Unit Development in [16.63.130](#)
- Master Plan in [16.65.040](#)

## 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. 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; new construction, remodel, or addition; and, whether a new or approved land division is part of the project scope.

STANDARD	SB 1537 MINIMUM	LOCAL PROCESS TO ADJUST	POTENTIAL LOCAL ADJUSTMENT
<b>Side &amp; rear yard setbacks</b> <i>Section 38 (4)(a)</i>	Up to a 10% reduction	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a> or <a href="#">16.71.040.G</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Planned Unit Development Type II or III	No limit <a href="#">16.63.130.H.2.e</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Common area, open space, landscape set asides</b> <i>Section 38 (4)(b)</i>	Up to a 25% reduction (including Cottage Cluster courtyards)	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II	No limit <a href="#">16.44.010.B.12</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>

		Master Plan Type III	No limit <a href="#">16.65.040</a>
		Exceptions: Landscaping (16.42.030) Type II or III	No limit <a href="#">16.40.030.B</a>
		Exceptions: Shared outdoor recreation areas (16.42.080) Type II or III	No limit <a href="#">16.40.030.B</a>
		Exceptions: Mobile home parks (16.44.045) Type II or III	No limit <a href="#">16.40.030.B</a>
<b>Parking minimums</b> <i>Section 38 (4)(c)</i>		Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Exceptions: Vehicular Parking (16.41.030) Type II or III	No limit <a href="#">16.40.030.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Lot dimensions</b> <i>Section 38 (4)(d)</i>	Up to a 10% reduction to size, width, and/or depth	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Planned Unit Development Type II or III	Various limits <a href="#">16.63.130.H.2.e</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>

<b>Lot coverage</b> <i>Section 38 (4)(e)</i>	Up to a 10% increase	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Total window area</b> <i>Section 38 (5)(g)</i>	Up to 30% reduction, keep a minimum of 12% fenestration per applicable facade	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Window materials (N/ A to bird-safe glazing)</b> <i>Section 38 (5)(f)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Facade materials, colors, patterns</b> <i>Section 38 (5)(a)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Design Review – Multi-Family (façade design) Type II	No limit <a href="#">16.44.010.B.12</a>

		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Facade articulation</b> <i>Section 38 (5)(b)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Design Review – Multi-Family (offsets and façade design) Type II	No limit <a href="#">16.44.010.B.12</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Roof forms and materials</b> <i>Section 38 (5)(c)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Design Review – Multi-Family (roof requirements) Type II	No limit <a href="#">16.44.010.B.12</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Entry and garage door materials</b> <i>Section 38 (5)(d)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Design Review – Multi-Family (garages) Type II	No limit <a href="#">16.44.010.B.12</a>

		Master Plan Type III	No limit 16.65.040
Garage door orientation Section 38 (5)(e)	Full Adjustment	Type C Variance Type III	No limit 16.71.050.B
		Master Plan Type III	No limit 16.65.040
Items below only apply to manufactured dwelling parks, middle housing, multi-family, and mixed-use residential development.			
Bicycle parking (minimum) Section 38 (4)(g)(A)(i)	Reduction in # of spaces, but minimum of 0.5 spaces/unit	Type C Variance Type III	No limit 16.71.050.B
		Type B Variance Type II	20% 16.71.040.C
		Design Review – Multi-Family Type II or III	No limit 16.44.060.F and 16.44.060.B
		Exceptions: Bicycle Parking (16.41.030) Type II or III	No limit 16.40.030.B
		Master Plan Type III	No limit 16.65.040
Bicycle parking (location) Section 38 (4)(g)(A)(ii)	Full adjustment (locked, covered spaces required on/near site)	Type C Variance Type III	No limit 16.71.050.B
		Design Review – Multi-Family Type II or III	No limit 16.44.060.F and 16.44.060.B
		Master Plan Type III	No limit 16.65.040
		Exceptions: Bicycle Parking (16.41.030) Type II or III	No limit 16.40.030.B
Building height maximums, in addition to height	Increase of 1-story (12 feet) or 20% to base	Type C Variance Type III	No limit 16.71.050.B
		Type B Variance Type II	20% 16.71.040.C

<b>bonuses (N/A to cottage clusters)</b> <i>Section 38 (4)(g)(B)</i>	height, whichever is greater.	Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Unit density maximums</b> <i>Section 38 (4)(g)(C)</i>	Increase in units (not lots) for other adjustments	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Planned Unit Development Type II or III	Various limits <a href="#">16.63.130.H.2.e</a>
<b>No residential uses on mixed-use ground floors (N/ A to street-facade(s) or uses within 20 ft. of a street)</b> <i>Section 38 (4)(g)(D)(i)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>No uses supportive to residential on mixed-use ground Floors</b> <i>Section 38 (4)(g)(D)(ii)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Building orientation</b>		Type C Variance Type III	No limit <a href="#">16.71.050.B</a>

<b>requirements (N/A to transit streets)</b> <i>Section 38 (5)(h)(A)</i>	Full Adjustment	Design Review – Multi-Family (entry) Type II	No limit <a href="#">16.44.010.B.12</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Building height transitions</b> <i>Section 38 (5)(h)(B)</i>	Must allow up to 50% adjustment to base zone	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		No city requirement.	N/A
<b>Balconies and porches</b> <i>Section 38 (5)(h)(C)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family (entry and private outdoor areas) Type II	No limit <a href="#">16.44.010.B.12</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan Type III	No limit <a href="#">16.65.040</a>
<b>Recesses and offsets</b> <i>Section 38 (5)(h)(D)</i>	Full Adjustment	Type C Variance Type III	No limit <a href="#">16.71.050.B</a>
		Type B Variance Type II	20% <a href="#">16.71.040.C</a>
		Design Review – Multi-Family (offsets) Type II	No limit <a href="#">16.44.010.B.12</a>
		Design Review – Multi-Family Type II or III	No limit <a href="#">16.44.060.F</a> and <a href="#">16.44.060.B</a>
		Master Plan	No limit



		Type III	16.65.040
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## STEPS TO REQUEST A LOCAL ADJUSTMENT

Adjustments are processed as a standalone land use application or as a component of a broader application. Detailed information about each individual process may be found online [here](#). Below a high level summary of the review processes is provided. A detailed review for a Type II process may be found [here](#) and the Type III process may be found [here](#).

**STEP 1.** Contact City Staff. Contact the Planner on Duty at (503)-783-3800 or [planninginfo@happyvalleyor.gov](mailto:planninginfo@happyvalleyor.gov) for information specific to your project.

**STEP 2.** Pre-Application Conference. Use this [link](#) to access the pre-application conference directions and form. The City will provide tailored notes that summarize the applicable standards, timeline, and procedure.

**STEP 3.** Neighborhood Meeting for Master Plans.

**STEP 4.** Land Use Submittal

**STEP 5.** Completeness Review

**STEP 6.** Public Notice with Minimum 14-day Comment Period

**STEP 7.** Public Hearing (if required)

**STEP 8.** Notice of Decision

**STEP 9.** Further Appeals to City Council and State Land Use Board of Appeals

## ALL LOCAL ADJUSTMENTS (CRITERIA LANGUAGE)

The actual criteria language for each type of variance is provided below. 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.

Class B or Class C Variance. As described in [chapter 16.71](#) of the Land Development Code, applicant's may apply for a variance, "*except that a variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use district*". There are two types of variances (Class B or Class C).

**Class B variances** may be granted for sections [16.2](#) (Land Use Districts), [16.3](#) (Specific Area Plan Districts and Overlay Zones), [16.4](#) (Community Design Standards), [16.5](#) (Public Facilities), or other development standards as specified in [Title 16](#) per [16.71.040.A](#). Class B allows a variance of up to 20% from any dimensional or development review standard except for lot area which is limited to 10% per [16.71.040.C](#). Class B variances are processed using a Type II administrative procedure, which requires public notice and an opportunity for written comment, per [16.61.030](#). The criteria for a Type B variance may be found in [16.71.040.C-G](#). The general criteria may be found in LDC [16.71.040.C](#), with criteria specific to

vehicular access and circulation in [16.71.040.D](#), parking and loading standards in [16.71.040.F](#), and maximum/minimum setbacks to avoid or reduce impacts to floodplains, significant trees, wetlands, or other natural features in [16.71.040.G](#).

#### [16.71.040 Class B Variances](#)

- C. Variance to Development Standards. The Planning Official or designee may grant a Class B variance of up to 20% from any dimensional or development review standard except for lot area which shall be limited to 10% for a Class B variance if the applicant demonstrates compliance with all of the following criteria:
1. The variance requested is required due to the lot configuration, or other conditions of the site;
  2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development Code;
  3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;
  4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
  5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
  6. In granting the variance, the Planning Official or designee may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.
- D. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to the standards of this title within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:
1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
  2. There are no other alternative access points on the street in question or from another street;
  3. The access separation requirements cannot be met;
  4. The request is the minimum variance required to provide adequate access;
  5. The approved access or access approved with conditions will result in a safe access;
  6. The vision clearance requirements of Chapter 16.50 will be met; and
  7. Variances for street access deviations shall be subject to review and approval by the roadway authority.
- F. Variance to Parking and Loading Standards.
1. The City may approve variances to the minimum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:
    - a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the

- applicant;
  - b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;
  - c. All other Code standards are met.
2. The City may approve variances to the maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:
    - a. The use is not located within the "No Minimum Parking Requirements" overlay zone;
    - b. The use is not subject to Footnote 4 in the City's Parking Table (Table 16.43.030-1);
    - c. The use is not subject to maximum surface parking area requirements (Section 16.43.030.F.7);
    - d. The use is not located within Climate-Friendly Areas (CFA), or within one-half mile walking distance of priority transit corridors;
    - e. The use is not located within the Happy Valley Downtown District, Clackamas Regional Center or Happy Valley Town Center;
    - f. The use is not a commercial or retail use other than automobile sales and repair, eating and drinking establishments, and entertainment and commercial recreation uses.
  3. The City may reduce the number of required bicycle parking spaces pursuant to Chapter 16.71, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
  4. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
  5. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on-or off-street parking areas during non-business hours, provided that traffic is not impeded.
- G. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features. The City may grant a variance to the applicable setback requirements of greater than 20% for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

Class C variances apply to all housing types in all situations applicable to SB 1537 with no limitation on the percentage or amount of variance that may be requested. All housing situations identified in SB 1537 have a reasonable opportunity for approval. The criteria for a Type C variance may be found in 16.71.050.B.6 & 7. Class C variances are processed using a Type III quasi-judicial procedure, which requires public notice and an opportunity for written and/or verbal comment at a public hearing before the Planning Commission, per [16.61.040](#).

#### **16.71.050 Class C Variances**

B. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following

criteria:

6. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
7. For the development of housing, the variance will result in a development that better meets the intent of the standard being varied.

**Modifications to Design Standards.** Section [16.40.030](#) allows for exceptions to be granted to a variety of standards for all housing types for vehicular and bicycle parking (16.41.030), landscaping (16.42.030), shared outdoor recreation areas (16.42.080), and mobile home parks (16.44.045). Per 16.40.030, exceptions are processed as part of the underlying application (a Type II or III review is required). The Type II administrative procedure requires public notice and an opportunity for written comment per [61.030](#). A Type III quasi-judicial procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing before a Hearings Officer, Planning Commission, or Design Review Board, per [16.61.040](#). The criteria for an exception may be found in 16.40.030.B which does not have a limit to the extent of the exception. However, the criteria require a physical constraint and thus the modifications would not be a reasonable avenue for approval in all situations.

**[16.40.030 Modifications that will better meet requirements.](#)**

B. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

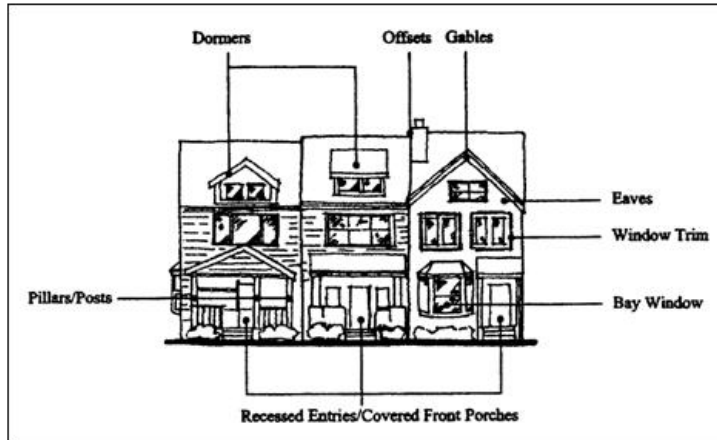
1. The physical characteristics of the site or existing structure (e.g., steep slopes, wetlands, other bodies of water, trees or other significant natural features of the site, buildings or other existing development, utility lines and easements, etc.) make compliance with the standard impractical.
2. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.
3. The modification will result in a development that better meets the intent of the standard.

**Exceptions to Design Standards for Multi-Family.** As described in [16.44.010.B.12](#), exceptions may be granted to a variety of multi-family standards including roofs, entries, building façade design, landscape/hardscape, offsets, private outdoor areas, parking lots, individual storage areas, carports/garages, shared outdoor recreation areas, safety/security, and/or service delivery screening. Per [16.44.010.B.13](#), exceptions are processed as part of the underlying application (Type II or III design review) or separately as a design review II application. The Type II administrative procedure requires public notice and an opportunity for written comment per [16.61.030](#). A Type III quasi-judicial procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing before a Hearings Officer or Design Review Board, per [16.61.040](#). The criteria for an exception to a design standard for multi-family may be found in [16.44.010.B.12](#) which does not have a limit to the extent of the exception.

**[16.44.010 Design standards for multifamily housing.](#)**

B.12. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71 provided at least one of the following circumstances is met:

Figure 16.44.010-5 Example of Architectural Details—Townhomes



- a. The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical (e.g., they include, but are not limited to, steep slopes, wetlands, other bodies of water, trees or other nature features of the site, buildings or other existing development, utility lines and easements, etc.); or
- b. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of design review standards for multifamily developments in Section 16.44.010.

**Affordable Housing Adjustment.** Section [16.44.060](#) offers adjustments to incentivize affordable housing that complies with the income and other restrictions in [16.44.060.B](#). The adjustments include density bonus up to 50%, any amount of reduction in development standards (e.g., coverage, setback, zero lot line and/or reduced parcel sizes, architectural design requirements, public works improvements, and/or parking requirements), approval of a mixed-use component in conjunction with the housing project, other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable cost reductions, and any waiver or reduction of planning application fees, building permit application fees, Transportation SDCs and/or Parks SDCs. The adjustments are processed with the development review application. Type II administrative procedure requires public notice and an opportunity for written comment per [16.61.030](#). A Type III quasi-judicial procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing, per [16.61.040](#). The criteria for an adjustment may be found in [16.44.060.F.1](#).

#### **16.44.060 Affordable housing.**

B. Eligibility for Bonus and Incentives. In order to be eligible for a density bonus and other incentives provided by this section, a

proposed residential project shall:

1. Consist of five or more dwelling units;
2. Be designed and constructed so that at least:
  - a. Twenty percent of the total number of proposed dwelling units are for lower income households, as defined by HUD;
  - b. Ten percent of the total number of proposed dwelling units are for very low income households, as defined by HUD; or
  - c. Fifty percent of the total number of proposed dwelling units are for qualifying residents (senior citizens of any income level) as determined by HUD; and
  - d. Comply with all applicable provisions of this title.

C. Types of Bonuses and Incentives Allowed. A residential project that satisfies all applicable provisions of this chapter shall be entitled to the following density bonus and other incentives. If a density bonus and/or other incentives cannot be accommodated on a parcel due to strict compliance with the provisions of this Development Code, the review body is authorized to waive or modify development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled. The housing developer shall show that the waiver or modification is necessary to make the housing units economically feasible.

1. Density Bonus. The density bonus allowed by this section is a permitted use within the following planned mixed use (PMU) districts: Mixed-Use Residential Multifamily Dwellings (MUR-M); Mixed-Use Residential Mixed-Use Buildings (MUR-X); Mixed-Use Commercial (MUC); Mixed-Use Employment (MUE); and the Mixed-Use Employment Neighborhood Commercial Subdistrict (MUE-NC). In addition, the density bonus is permitted use within the Single-Family Attached Residential District (SFA); General Commercial (GC) and Neighborhood Commercial (NC) zones; and, shall consist of either:
  - a. At least a 25% increase in the number of dwelling units normally allowed by the zoning district applicable to the parcel as of the date of the project land use permit application;
  - b. Other incentives of equivalent financial value based upon the land cost for each dwelling unit; or
  - c. Any combination of an increase in the number of dwelling units normally allowed by the zoning district and other incentives of financial value equivalent to a 25% increase in the number of dwelling units.

If a developer agrees to construct both 25% of the total units for persons and families of low income and 10% of the total units for very low income households, the developer is entitled to only one density bonus, although the City may, at its discretion, grant more than one density bonus. If a developer agrees to construct less than the percentages of low or very low income housing indicated in subsection (C)(1) above, the City may grant density bonuses or provide other incentives which vary from those prescribed in subsection (C)(1).

2. Other Incentives. A qualifying residential project shall be entitled to at least one of the following concessions or incentives:
  - a. A reduction in the parcel development standards of this Development Code (e.g., coverage, setback, zero lot line and/or reduced parcel sizes, architectural design requirements, public works improvements, and/or parking requirements);
  - b. Approval of a mixed-use component in conjunction with the housing project if nonresidential land uses will reduce the cost of the housing project, and the nonresidential land uses are compatible with the housing project and surrounding existing and planned land uses;

- c. Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable cost reductions;
  - d. A higher density bonus consisting of up to a 35% increase in the number of dwelling units normally allowed by the zoning district applicable to the parcel or up to a 50% increase if the project site is located within one-quarter mile of a commercial center with a grocery store/drug store anchor and within one-quarter mile of a transit route; and
  - e. A waiver or reduction of planning application fees, building permit application fees, Transportation SDCs and/or Parks SDCs.
- D. Continued Availability. The land use permit application for the residential project shall include the procedures proposed by the developer to maintain the continued affordability of the density bonus units in the following manner:
- 1. Projects with City Funding—Thirty Years. Projects receiving a direct financial contribution or other financial incentives from the City, or a density bonus and at least one other concession or incentive as provided by Section 16.45.060 above, shall maintain the availability of the lower income density bonus units for a minimum of 30 years, and shall enter into a development agreement with the City of Happy Valley stipulating said retention. Lower income density bonus units shall mean those affordable housing units for which a density bonus or other financial incentive was granted for the project; or
  - 2. Projects Receiving Density Bonus Only—Ten Years. Projects that receive a density bonus as the only incentive from the City shall maintain the availability of lower income density bonus units for a minimum of 10 years.
- E. Location of Bonus Units. The location of density bonus units within the qualifying residential project may be at the discretion of the developer. However, the inclusionary units shall be reasonably dispersed throughout the development where feasible, shall contain on average the same number of bedrooms as the non-inclusionary units in the development, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality.
- F. Processing of Bonus and Incentive Requests. Proposed bonus and incentive requests shall be included as part of the land use application required for the residential project by this title, including the application of all relevant criteria, particularly for road, sewer and water capacity.
- 1. Findings for Approval. In addition to the findings required for the approval of the pertinent land use applications, the approval of the bonuses and incentives by the review body shall also require the following special findings:
    - a. In the event that the City grants a density bonus, the project would not be a hazard or nuisance to the City at large or establish a use or development inconsistent with the goals and policies of the Comprehensive Plan;
    - b. In the event that the City grants a density bonus, the number of dwellings approved by the land use permit can be accommodated by existing and planned infrastructure capacities;
    - c. Adequate evidence exists to indicate that the development of the property in compliance with the permit would result in the provision of affordable housing in a manner consistent with the purpose and intent of this section;
    - d. In the event that the City does not grant at least one financial concession or incentive in addition to the density bonus, that additional concessions or incentives are not necessary to ensure affordable costs or the sales price or rent for the targeted dwelling units; and
    - e. There are sufficient provisions to guarantee that the dwelling units would remain affordable in the future.

**Planned Unit Development.** As described in [16.63.130](#), the purpose of a planned unit development is to “allow an alternative to the traditional subdivision that encourages conservation of natural features by relating design to the existing landscape; through the efficient use of land and public services ... and the creation of public and private common open space”. Section [16.63.130.H.2.e](#) allows for a reduction in minimum area, width, depth, frontage and setback requirements to a threshold and density transfers are also allowed from environmentally constrained areas to other locations within the development [16.63.130.H.2.a](#). A Type III quasi-judicial procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing before the Planning Commission, per [16.61.040](#). Approved PUDs may be modified through a Type II administrative procedure requires public notice and an opportunity for written comment per [16.61.030](#), if they qualify for a minor modification in [16.66.040](#), or a major modification in [16.66.030](#) would apply.

**16.63.130 Planned unit development.**

H.2.e. Lot Size and Dimensions. Minimum area, width, depth, frontage and setback requirements may be less than development district minimums if in accordance with the general development plan, except that the garage of any structure shall not be located less than 20 feet from a public right-of-way and minimum lot size for single-family detached lots shall not be less than 5,000 square feet within 80% of the net developable area of the subject development. Within the 20% remainder area, lot sizes may decrease by a maximum of 10%. Lots which are located on the perimeter of a proposed development in all residential zones which are adjacent to lots in an R-10, R-15, R-20, or R-40 zone upon which are constructed single-family dwellings, may not be less than 75% of the average lot area per unit of the immediately abutting lots, or the development district minimum lot size of the subject parcel, whichever is less. If adjacent lands are undeveloped or minimum densities on the subject parcel cannot be met due to natural resource protection requirements, this provision does not apply. All PUD development involving clustered development due to natural resource constraints or involving attached housing shall be subject to a perimeter setback equal to the minimum rear, interior side or street side yard setback of the adjacent residential district, as applicable.

**Master Plan** As described in [16.65.040](#), standards in Articles 16.2 (Land Use Districts), 16.3 (Specific Area Plan Districts and Zones), 16.4 (Community Design Standards) and 16.5 (Public Facilities) may be modified through a Master Plan “if the proposal will be consistent with the purpose of the standard for which a modification is requested”. The modification applies to all housing with no limitations. A Type III quasi-judicial procedure requires public notice and an opportunity for written and/or verbal comment at a public hearing before the Planning Commission, per [16.61.040](#).

**16.65.040 Modification of district standards (Article 16.2), and community design standards (Article 16.4), and public facilities (Article 16.5).**

The district standards in Article 16.2, and design standards of Article 16.4, and public facilities of Article 16.5 may be modified through the master plan approval without the need for variances if the proposal will be consistent with the purpose of the standard for which a modification is requested. The following standards shall not be modified:



- A. Residential densities, as allowed under the Comprehensive Plan; and
- B. Industrial and commercial uses, if not otherwise allowed in a residential district, shall not be allowed in a residential district master plan.

## **SB 1537 - SECTION 38 MANDATORY ADJUSTMENTS**

Though there are no known areas where the mandatory adjustment does not apply, this sections 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:**

- 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);
- Site must be annexed to the City of Happy Valley and within the Urban Growth Boundary;
- Site must be zoned for residential use;
- The project must result in *net new housing units* where at least 75% of the floor area is for residential uses;
- Cannot exceed 10 distinct adjustments; and,
- Must comply with applicable criteria.

### **Criteria:**

The applicant must submit a narrative that states *how* at least one of the following criteria apply:

1. The adjustment makes housing development feasible when it otherwise would not be due to cost or delay;
2. The adjustment reduces the sale or rental price per unit;
3. The adjustment will increase the number of units in the application;
4. 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;
5. 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;
6. The adjustment enables the provision of accessibility or visitability features that would not otherwise be feasible; or,
7. 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 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.