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# 191942

Emergency Ordinance

## \*Amend Planning and Zoning Code to revise development standards and comply with Senate Bill 1537 to allow adjustments as part of the Housing Adjustment Compliance Project (amend Title 33)

Passed

Amended by Council

The City of Portland ordains.

Section 1. The Council finds:

1. In 2023, House Bill 3414 was introduced to establish a Housing Accountability and Production Office (HAP), and to require local jurisdictions to allow adjustments to a range of development standards. The bill was defeated at the end of the 2023 legislative session by one vote.
2. In February 2024, a revised bill, Senate Bill 1537 (SB 1537) was reintroduced during the shortened legislative session which included the HAPO provisions and the requirement to allow adjustments to a similar range of development standards.
3. On April 17, 2024, SB 1537 was signed by Governor Kotek with Sections 37 through 43 providing the mandatory adjustment requirements and effective dates for local jurisdictions to comply with the bill.
4. Sections 37 through 43 of SB 1537 are to be implemented at local jurisdictions by January 1, 2025 and sunset on January 2, 2032.
5. The bill requires jurisdictions to choose one of three options: apply the statute directly, incorporate the regulations and processes into local codes, or request an exception to the bill at the State by showing that existing regulations allow adjustments to the standards and that the adjustments to the standards are approved at a rate exceeding 90 percent over the past five years. The third option allows jurisdictions to use current regulations and processes to comply with the bill. The City is electing to take this third route.
6. During April through June 2024, Bureau of Planning and Sustainability (BPS) staff reviewed the components of the bill against current zoning

Introduced by

[Mayor Ted Wheeler](#)

City department

[Planning and Sustainability \(BPS\)](#)

Contact

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Requested Agenda Type

Time Certain

Date and Time Information

<b>Requested Council Date</b>
October 30, 2024
<b>Requested Start Time</b>
2:00 pm
<b>Time Requested</b>
45 minutes

Changes City Code

- regulations to determine what regulations would need to be amended in order to meet the intent of SB 1537.
7. On July 23, 2024, notice of the Housing Adjustment Compliance Project Propose Draft and first evidentiary hearing was submitted to the Department of Land Conservation and Development (DLCD).
  8. On July 23, 2024, the Housing Adjustment Compliance Project Proposed Draft of amendments was released.
  9. On July 23, 2024, notice of the Housing Adjustment Compliance Project Proposed Draft and Planning Commission hearing was sent out to the Bureau of Planning and Sustainability's (BPS) legislative list.
  10. On August 27, 2024, the Planning Commission held a public hearing on the Housing Adjustments Compliance Project Proposed Draft. Two people testified in person and 5 people submitted written testimony through the Map App.
  11. On September 10, 2024, the Planning Commission held a work session to consider two amendments. They voted to include the amendments and to forward a recommendation on the amended package.
  12. On October 11, 2024, the Housing Adjustment Compliance Project Recommended Draft was released for public review.
  13. On October 11, 2024, notice of the October 30, 2024 City Council hearing on the Housing Adjustment Compliance Project Recommended Draft was sent to those who presented oral and written testimony at the Planning Commission public hearing.
  14. On October 30, 2024, the City Council held a hearing on the Housing Adjustment Compliance Project and invited public testimony.
  15. The Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the Statewide Planning Goals, Metro Urban Growth Management Functional Plan and the City of Portland 2035 Comprehensive Plan.

NOW, THEREFORE, the Council directs:

- A. Adopt Exhibit A, Findings of Fact Report, as additional findings.
- B. Adopt the commentary and introduction in Exhibit B, Housing Adjustment Compliance Project Recommended Draft, dated October 2024, as legislative intent and further findings.
- C. Amend Title 33, Planning and Zoning of the Municipal Code of the City of Portland, as shown in Exhibit B, Housing Adjustment Compliance Project Recommended Draft, dated October 2024.

Section 2. The Council declares that an emergency exists due to the compliance requirements of Senate Bill 1537; therefore, this ordinance shall be in full force and effect from and after January 1, 2025.

Section 3. If any section, subsection, sentence, clause, phrase, diagram, or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid, or unconstitutional, that shall not affect the validity of the remaining portions.

The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram, and drawing thereof, regardless of if any one or more sections, subsections, sentences, clauses, phrases, diagrams, or drawings contained in this Ordinance, may be found to be deficient, invalid, or unconstitutional.

## Exhibits and Attachments

 [Approved Amendment to Exhibit B](#) 174.73 KB

 [Exhibit A](#) 734.26 KB

 [Exhibit B](#) 2.86 MB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed as amended by Council  
October 30, 2024

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

The Housing Adjustment Compliance Project amends several sections of the Title 33, Portland Zoning Code, to comply with the provisions of Oregon Senate Bill (SB) 1537. Senate Bill 1537 (SB 1537) was approved by the Oregon Legislature during the 2024 regular legislative session and signed by Governor Kotek in April 2024. The bill requires local jurisdictions to approve requests to adjust, or vary from, a range of development and design standards when the adjustment is associated with the development of housing. As an alternative, the bill allows jurisdictions to continue using their own adjustment or variance process if it can show that the development standards listed in the bill are adjustable and that the jurisdictions track record for approving adjustments over the past five years is 90 percent or greater.

This project amends the zoning code to allow adjustments for a short list of standards that SB 1537 identifies, but for which adjustments are not currently allowed. This will enable the City to use its existing, and successful processes, fees and code criteria rather than creating a second adjustment process specific to SB 1537. The proposed changes amend the zoning code to address the list of standards in SB 1537 for which the zoning code does not already allow adjustments. The vast majority of standards listed in SB 1537 are already adjustable in the zoning code. The amendments remove prohibitions on adjustments to minimum lot sizes in single dwelling zones,

maximum height limits (generally in specific plan districts), bike parking locational standards, and a few standards specific to middle housing options in the single dwelling and RM1 zones.

## **Financial and Budgetary Impacts**

The code project does not amend the budget, change staffing levels, reclassify staff, or authorize new spending or other financial obligations, and there are no significant long term financial or budgetary impacts to the City. The amendments align the City's zoning code with the provisions of SB 1537, and the project is essentially a compliance project with state land use rules. The allowance for additional adjustment requests may increase the number of adjustments submitted as a land use review, or concurrent with other land use reviews, potentially increasing staff workload in land use services. However, there will be a corresponding increase in revenue generated by any increase in requests which are intended to cover the work requirements. Generally, the potential addition in reviews will be handled by existing staff. In the shorter term, there may be a ramp up in education to understand the application of the new rules and processes at Portland Permitting & Development.

## **Economic and Real Estate Development Impacts**

The amendments in this package are intended to bring the City's zoning code in compliance with the requirements made through SB 1537 to allow adjustments to a range of development standards, especially in situations where housing is proposed. The bill was discussed during the legislative session in early 2024 and the result was informed through testimony during the hearings for the bill. The testimony included a wide range of stakeholders including business and community interests and land use advocates. Notice of the code amendment proposal and Planning Commission hearing was sent to the City's legislative list of over 300 recipients and member of the public who had signed up expressing an interest in the project. Recipients include neighborhood and business associations.

The amendments allow more flexibility in certain development options that provide housing, including allowing adjustments to be requested to minimum lot size, maximum height limits, bike parking location and cottage cluster development standards. The intent of the amendments is to encourage real estate development during the current downturn and housing shortage.

## **Community Impacts and Community Involvement**

The amendments in this package are generally intended to bring the City's zoning code in compliance with the requirements of SB 1537 to allow adjustments to a range of development standards, especially in situations where housing is proposed. The bill was discussed during the legislative

session in early 2024 and the result was informed through testimony during the hearings for the bill. The testimony included a wide range of stakeholders including neighborhood and community interests and land use advocates. Notice of the code amendment proposal and Planning Commission hearing was sent to the City's legislative list of over 300 recipients and member of the public who had signed up expressing an interest in the project. Recipients include neighborhood and business associations.

The amendments allow more regulatory flexibility in certain development situations that provide housing, including allowing adjustments to be requested to minimum lot size, maximum height limits, bike parking location and cottage cluster development standards. The intent of the amendments is to encourage housing during the current downturn and housing shortage. One amendment was made based on testimony from pro-growth groups.

## 100% Renewable Goal

n/a

## Document History

Item 946 Time Certain in [October 30-31, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/10/30) (<https://www.portland.gov/council/agenda/2024/10/30>)

City Council

Passed As Amended

Motion to amend Zoning Code Chapter 33.10 in the Recommended Draft to clarify that only some Zoning Code Chapters apply to development in the right-of-way, not all: Moved by Wheeler and seconded by Mapps (Aye (5) - Mapps, Rubio, Ryan, Gonzalez, Wheeler)

Aye (5):

Mingus Mapps, Carmen Rubio, Dan Ryan, Rene Gonzalez, Ted Wheeler