

SB 1537 Amendments
Housing land Use Adjustments
Chapter 157
Zoning

157.215 HOUSING LAND USE ADJUSTMENTS.

- A. *Purpose.* In order to facilitate the timely and cost-effective production of new housing units in the City of Hermiston, an applicant may request up to ten adjustments to local development standards as part of an application to develop housing. The effective date of §157.216 shall be from January 1, 2025 through January 2, 2032 unless further extended by the Oregon Legislature.
- B. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- 1) *ADJUSTMENT.* A deviation from an existing land use regulation. “Adjustment” does not include:
 - a) A request to allow a use of property not otherwise permissible under applicable zoning requirements.
 - b) Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, local tree codes, hazardous or contaminated site clean-up, wildlife protection, or statewide land use planning goals relating to natural resources, or natural hazards.
 - c) A complete waiver of land use regulations or any changes beyond the explicitly requested and allowed adjustment; or
 - d) Deviations to requirements related to the implementation of fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.
 - 2) *DISTINCT ADJUSTMENT.* An adjustment to a development standard listed in subsection (D) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment.
- C. *Eligible Improvements.* An application for a middle housing land use adjustment is limited to a maximum of ten adjustments. The city shall grant a request for an adjustment only if all of the following conditions are met:
- 1) The application is for a building permit or a quasi-judicial, limited, or ministerial land use decision;
 - 2) The development is on lands zoned to allow for residential uses, including mixed-use residential;
 - 3) The residential development is for densities not less than six units per net residential acre;
 - 4) The development is within the city limits of the City of Hermiston or upon land for with an application for annexation is on file;
 - 5) The application is for net new housing units in new construction projects, including

- a) *Single-family or multi-family;*
- b) *Mixed-use residential where at least 75 percent of the developed floor area will be used for residential units;*
- c) *Manufactured dwelling parks;*
- d) *Accessory dwelling units; or*
- e) *Middle housing as defined in ORS 197A.420*

D. Eligible Adjustments. The following development standards are eligible for a housing land use adjustment:

- 1) *Side or rear setbacks, for a reduction of not more than 10 percent;*
- 2) *For an individual development project, the common area, open space, or area that must be landscaped on the same lot or parcel as the proposed housing, for a reduction of not more than 25 percent;*
- 3) *Parking minimums;*
- 4) *Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths;*
- 5) *Maximum lot sizes, not more than a 10 percent adjustment, including not more than a 10 percent adjustment to lot width or depths and only if the adjustment results in:*

- a) *More dwelling units than would be allowed without the adjustment; and*
- b) *No reduction in density below the minimum applicable density.*

- 6) *Building lot coverage requirements for up to a 10 percent adjustment;*
- 7) *For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multi-family housing, and mixed-use residential housing:*

a) Requirements for bicycle parking that establish:

- (1) *The minimum number of spaces for use by the residents of the project, provided the application includes at least one-half space per residential unit; or*
- (2) *The location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development.*

b) For uses other than cottage clusters, as defined in ORS 197A.420 (1)(c)(D), building height maximums that:

- (1) *Are in addition to existing applicable height bonuses, if any; and*
- (2) *Are not more than an increase of the greater of:*

- (a) *One story; or*
- (b) *A 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any.*
- (c) *Unit density maximums, not more than an amount necessary to account for other adjustments under this section.*
- (d) *Prohibitions for the ground floor of a mixed-use building, against:*

- (i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and
- (ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed-use areas or commercial corridors designated by the city.

8) City development standards that regulate:

- a) Façade materials, color, or pattern
- b) Façade articulation
- c) Roof forms and materials
- d) Entry and garage door materials
- e) Garage door orientation, unless the building is adjacent to or across from a school or public park
- f) Window materials, except for bird-safe glazing requirements
- g) Total window area, for up to a 30 percent adjustment, provided the application includes at least 12 percent of the total façade as window area
- h) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multi-family housing, and mixed-use residential housing:

- (1) Building orientation requirements, not including transit street orientation requirements;
- (2) Building height transition requirements, not more than a 50 percent adjustment from the base zone;
- (3) Requirements for balconies and porches; and

E. *Application Requirements.* An application for a middle housing land use adjustment shall be submitted to the City Planning Department and accompanied by a fee as established by resolution of the City Council. The application shall state how at least one of the following criteria apply:

- 1) The adjustments will enable the development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;
- 2) The adjustments will enable the development of housing that reduces the sale or rental prices per residential unit;
- 3) The adjustments will increase the number of housing units with the application;
- 4) All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making the affordable to moderate income households as defined on ORS 456.270 for a minimum of 30 years;
- 5) At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making the affordable to moderate income households as defined on ORS 456.270 for a minimum of 60 years;

- 6) *The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or*
- 7) *All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.*

F. A decision on a housing land use adjustment is a limited land use decision as defined in ORS 197.015(13). The approval process shall be as provided in ORS [197.195](#)(1) - (5). The Hermiston Comprehensive Plan shall not be an approval standard for a limited land use decision. Approval shall be by the Planner following notice of the application and an opportunity to comment as required by ORS [197.763](#). Appeals of the Planner's decision shall be limited to the applicant and made to the City Council as provided for in ORS 197.195(5),

INFILL DEVELOPMENT DESIGNATION.

~~(A) — Purpose. The purpose of the infill development designation is to encourage construction of new residential development in existing, underdeveloped neighborhoods when designated by the Planning Commission. Infill development encourages efficient use of land and helps to utilize existing public facility infrastructure, avoiding costly extensions of new facilities. A property owner may apply to have existing property designated as infill property and obtain deviation from property development standards when following the existing clear and objective development standards is not feasible or will result in sub-standard development.~~

~~(B) — Criteria. When the Planning Commission determines that a property is eligible for designation as an infill property, the city may grant deviations from the city's development standards, including but not limited to: zoning standards, public works standards, access and circulation standards, and other requirements of the city zoning and public works requirements. In order to be considered for designation as an infill property, a property owner or their authorized agent must demonstrate compliance with four of the following eligibility standards:~~

~~(1) — A lot with a single-family or two-family dwelling constructed prior to February 28, 1994;~~

~~(2) — A lot in existence prior to the adoption of the zoning standards adopted in Ordinance 1840 on February 28, 1994;~~

~~(3) — A lot within the city limits, except as provided in subsection (C)(2) of this section;~~

~~(4) — A lot located within the R-1, R-2, R-3, R-4, or RR zone; and~~

~~(5) The property will be used for residential development.~~

~~(C) *Property not eligible.* The following items shall not be considered criteria used to determine eligibility for consideration as infill property:~~

~~(1) A landlocked parcel with no street access or dedicated access easement;~~

~~(2) A parcel outside the city limits unless annexation is applied for simultaneously;~~

~~(3) A wetland is not a development constraint eligible for infill waiver as a wetland is considered a water of the state and under the jurisdiction of the Department of State Lands; and~~

~~(4) Existing residential property within the C-1, C-2, DCO, and NCO zones is not eligible for residential infill.~~

~~(D) *Constraints.* When the Planning Commission determines that a property meets the eligibility standards in subsection (B) of this section, a property owner or their authorized agent must demonstrate that the property is constrained and cannot be developed in the standard manner. Constrained property may include but is not limited to such factors as:~~

~~(1) A lot is not adjacent to existing municipal sewer and/or water lines;~~

~~(2) A lot is serviced by existing municipal sewer and/or water line which is sized below minimum standard pipe size;~~

~~(3) A lot receives access from a street which has no paving, curb, gutter, or sidewalk, and is not adjacent to any existing improvements;~~

~~(4) A lot with a depth of at least 300% of the lot width;~~

~~(5) An existing dwelling situated on the property in such a location that it is impossible to create a second parcel while maintaining the required setbacks for the dwelling and minimum lot width and depth for a new parcel;~~

~~(6) A lot of at least 175% of the minimum lot size in the underlying zone but less than 250% of the minimum lot size;~~

~~(7) A lot of at least 175% of the minimum lot width or depth in the underlying zone but less than 250% of the minimum lot width or depth;~~

~~(8) A property is bounded on at least two sides by development which does not meet current lot size, lot width, lot coverage, or setback requirements;~~

~~(9) A property contains a physical constraint, such as an unusual shape, steep slope, canal, utility easement, alley, or similar feature which makes conventional development impossible;~~

~~(10) A property with an existing dwelling has an assessed land value greater than the assessed value of the improvements; and~~

~~(11) A property contains a dwelling which is no longer functional due to neglect, damage, or other age-related issue.~~

~~(E) *Application procedure.* A property owner or their authorized agent may initiate a request for an infill designation and deviation by filing an application with the city using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The Planning Commission may require other drawings or information necessary to understand the proposed use and its relationship to surrounding properties. The applicant shall pay a fee as established by the City Council at the time the application is filed.~~

~~(F) *Public hearing; recess.* Before the Planning Commission may act on a request for an infill designation and deviation, it shall hold a public hearing in accordance with the procedures set forth in § [157.229](#). At the time of the public hearing, the Planning Commission shall determine if the property meets the eligibility for an infill designation and the appropriate deviations necessary to facilitate development.~~

~~The Planning Commission may recess a hearing on a request for an infill designation in order to obtain additional information or to serve further notice on other property owners or persons who it decides may be interested in the request. Recess or continuance of the hearing shall be in accordance with the provisions in ORS [197.763](#)(6) and (7) for a quasi-judicial hearing.~~

~~(G) *Approval criteria.* Based on the testimony and evidence contained in the record, the Planning Commission shall develop findings of fact to justify either approving or denying an infill designation and deviation as set forth in subsection (H) of this section. The Planning Commission may approve the requests when it is determined the request is in conformance with all the following requirements or can be made to conform through the impositions of conditions:~~

- ~~(1) The property is constrained by internal or external physical features which preclude development conforming to adopted city standards;~~
- ~~(2) Public facilities have the capacity to service the development at the proposed density and are either in place or may be extended at the developer's expense;~~
- ~~(3) Granting of an infill designation will not have a negative impact on the ability of fire and life services to service the property;~~
- ~~(4) Approval of infill development will result in a development that is reasonably compatible with the existing neighborhood and adjacent properties; and~~
- ~~(5) Granting of an infill designation will result in residential development on property that would otherwise remain vacant or developed below the approved density.~~

~~(H) *Approval of infill designation.* In granting approval of an infill designation, the Planning Commission may grant deviations from the city's development standards. Standards which qualify for a deviation include:~~

- ~~(1) Lot width;~~
- ~~(2) Lot depth;~~
- ~~(3) Minimum lot size;~~
- ~~(4) Lot coverage;~~
- ~~(5) Front, rear, and side setbacks;~~
- ~~(6) Minimum street frontage;~~
- ~~(7) Minimum utility sizing standards;~~
- ~~(8) Building height;~~
- ~~(9) Off-street parking standards; and~~
- ~~(10) Street improvement standards.~~

~~When approving an infill designation on a property, the Planning Commission shall adopt conditions it deems necessary to ensure that the property develops in a manner that is~~

~~reasonably compatible with neighboring properties. These conditions may include but are not limited to:~~

- ~~(1) Specifying exterior construction materials;~~
- ~~(2) Requiring landscape improvements;~~
- ~~(3) Requiring fencing improvements; and~~
- ~~(4) Requiring certain architectural features to insure neighborhood compatibility.~~

~~(l) *Notification.* Within five days after a decision has been rendered, the city shall provide the parties to the hearings with written notice of the city's action on the request for an infill designation. A decision on an infill designation may be appealed to the City Council following the procedures in § [157.231](#).~~

Limited Land Use Decisions

Chapter 154

Subdivisions

154.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LOT. A unit of land that is created by a subdivision of land. A lot line or boundary line adjustment is a minor modification to a boundary line between two individual lots or parcels of land. No new lots or parcels are created in a boundary line adjustment. The revised lots or parcels meet the requirements of the city zoning code. ~~The procedure for a lot line or boundary line adjustment is an administrative one through the city staff.~~

154.04 JURISDICTION AND PROCEDURE.

- A. It shall be unlawful for any person being the owner, agent or person having control of any land within the city to divide land by a major or minor partition not in accordance with the laws of the state and the regulations contained herein. The proposed partition shall first be submitted to the Planning Commission for approval or disapproval. After report and approval of the Planning Commission is made and filed, all minor partitions shall be permitted, but all major partitions shall be submitted to the City Council for its approval or disapproval. No plat or map shall be recorded and no lots shall be sold from a plat or map until approved by the City Council and recorded with the county.
- B. The design and layout of all subdivisions shall conform with the requirements of §§ [154.15](#) through [154.21](#). The subdivider shall submit a preliminary plat or map in accordance with the specifications of § [154.35](#) hereof. The final plat or map shall be submitted in accordance with the provisions of §§ [154.45](#) and [154.46](#) hereof.

- C. *A replat as defined in §154.03 of the Hermiston code of ordinances and ORS 92.010(13) shall follow the procedures for a limited land use decision as defined in ORS 197.015(13). The approval process shall be as provided in ORS 197.195(1) - (5). The Hermiston Comprehensive Plan shall not be an approval standard for a limited land use decision. Approval shall be by the Planner following notice of the application and an opportunity to comment as required by ORS 197.797. Approval of the final plat for a replat shall be a ministerial decision requiring approval by the planning commission and city council for determination of compliance with the requirements of §154.46 of the Hermiston code of ordinances.*
- D. *A lot line or boundary line adjustment shall follow the procedures for a limited land use decision as defined in ORS 197.015(13). The approval process shall be as provided in ORS 197.195(1) - (5). The Hermiston Comprehensive Plan shall not be an approval standard for a limited land use decision. Approval shall be by the Planner following notice of the application and an opportunity to comment as required by ORS 197.797.*

Chapter 157

Zoning

157.192 ALTERATION OF USE OR STRUCTURE.

- A. *Definition.* As used in this section, ALTERATION of a nonconforming use or structure includes:
- 1) A change in the use of no greater adverse impact to the neighborhood; and/or
 - 2) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
- B. ~~Minor alteration.~~ A proposal for the *extension*, alteration, or expansion of 10% or less of the gross building volume of a nonconforming use or structure may be approved by the city administration as a minor variance to the provisions of this chapter as a limited land use decision as defined in ORS 197.015(13). The approval process shall be as provided in ORS 197.195(1) - (5). The Hermiston Comprehensive Plan shall not be an approval standard for a limited land use decision. Approval shall be by the Planner following notice of the application and an opportunity to comment as required by ORS 197.797.
- ~~(C) Major alteration.~~ A proposal for the alteration greater than 10% of the gross building volume of a nonconforming use or structure may be approved by the Planning Commission subject to the provisions for conditional use permits.